



Regional Cooperation Council

STUDY

**ON THE EXISTING SYSTEMS OF
JUDICIAL TRAINING IN THE
WESTERN BALKANS**

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^{1*} This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence

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Foreword

Background

The Regional Cooperation Council (RCC) was established as a regional cooperative framework for the participants in South East Europe with the goal of promoting their cooperation and European and Euro-Atlantic integration. The South East Europe (SEE) 2020 Strategy “Jobs and Prosperity in a European Perspective” adopted in November 2013 reflects the strong commitment of the SEE economies to enhance their national efforts through focused bi-lateral and multilateral activities in areas that can benefit from a shared approach. The regional cooperation is also an essential element of the association and stabilization processes in the WB and it helps the region to address shared challenges such as energy shortages, pollution, transport infrastructure, cross-border criminal activity and other.

The Strategy defines concrete targets in five separate growth Pillars: Integrated, Smart, Sustainable, Inclusive and Governance for Growth. The Governance for Growth pillar is considered to be a cross-cutting component and a prerequisite for the achievement of the Strategy’s objectives and for the effective implementation of all foreseen measures and instruments across all other pillars.² The effective public services, anti-corruption and justice are the core dimensions of this pillar. The improvement of the functioning of the judicial system in SEE in line with the principles of independence, impartiality, efficiency and accountability is a precondition for the rule of law, democracy and human rights development. This is also required for achieving a progress in the EU association and integration. The focus of the SEE 2020 Strategy is to achieve high and sustainable economic growth as well as visible progress in the implementation of relevant European standards. The broad vision for sustained development of SEE is in line with the strong inspirations of all economies from the region towards European integration. The integration of Western Balkan (WB) remains on the EU agenda despite the existing more distant prospect of further enlargement. In that regard the respect to rule of law is one of the major factor in assessing the capacities, conditions, strengths and weaknesses in the accession procedure. The new approach of “fundamentals first”³ adopted by the European Commission (EC) in the process of EU enlargement requires significant efforts on the rule of law area, including security, fundamental rights, democratic institutions and public administration reform, as well as on economic development and competitiveness. These remain not only the fundamentals for meeting the Copenhagen and Madrid membership criteria⁴ but also cornerstones for economic growth and political stability.

In connection to the implementation of SEE 2020 Strategy and with consideration of EU policies and enlargement strategy the RCC developed the Regional Action Plan (RAP) in Justice Dimension 2014-2016, addressing three main areas: 1. Efficiency of courts, quality of justice and competence of judges and prosecutors; 2. Cross-border judicial cooperation in business-related legal and judicial areas; 3. Alternative Dispute Resolution (ADR). The RAP reflected the national priorities for each WB economy and defined key measures for achieving developments and concrete results in the field of Justice.

The establishment of an efficient system for the organization of training of judges, prosecutors and other staff of the judicial system is important tool and condition for raising the professional capacities within the judiciary. The RCC recognized the role of Judicial Training Institutions (JTI) and the organization of judicial training for raising the quality of justice and court efficiency. Within the framework of the implementation of the SEE 2020 Strategy the RCC supported the establishment of the SEE JTI Network in April 2016 for facilitating the regional cooperation in the field of justice and judicial training.

² South East Europe 2020; Jobs and Prosperity in a European Perspective; 3.5.Governance for Growth, November 2013

³ EC Enlargement Strategy and Main Challenges 2013-2014, 16.10.2013, COM(2013) 700 final

⁴ 2016 Communication on EU Enlargement Policy, 09.11.2016, COM(2016) 715 final

In 2016 was elaborated a Report on best practices in training of judges and prosecutors in EU Member States and European JTI⁵. The report provides a comprehensive analysis of existing best practices for the organization of Training Needs Assessment (TNA) and training evaluation and current situation in WB JTIs and set of recommendations for further improvement of methods and methodologies for planning, assessment and development of training activities.

The purpose of this Study is to support the implementation of the SEE 2020 Strategy and the RCC Strategy and Work Programme 2017-2019 in connection to the activities related to the elaboration of WB JTIs institutional needs assessment in order to map cross-border/regional projects in the area of judicial training in the region. The decision for the elaboration of this Study was taken during the last meeting of WB JTIs held in Brussels in July 2017. The Consultant was mobilized in October 2017 for the preparation of the Study.

The scope of the Study will be on the analysis of the existing systems of judicial training in WB, available financial and human resources and existing procedures and practices for training organization, recent reforms and necessary changes of the regulatory framework and other relevant elements of the training process. The Study will also assess the human and technical capacities needed for improved implementation of regional training events. Another important task will be to map all ongoing projects supporting judicial training field in the region in order to enable better planning and coordination for avoiding overlapping and duplication and for ensuring long-term sustainability of project results. The Study will provide recommendations in regard to the JTIs needs and ongoing regional and national projects.

The findings and recommendations of the Study is planned to support the enhancement of the independence and competitiveness of JTIs in the WB economies (Albania, Bosnia and Herzegovina, Kosovo*, The Former Yugoslav Republic of Macedonia, Montenegro and Serbia). The results of the Study should facilitate the more active cooperation for developing and implementing joint training initiatives and projects for ensuring the organization of quality training on topics of common interest and increased impact of project assistance.

Description of applied methodology for the elaboration of the Study

The preparation of the Study of the WB6 JTI needs assessment and mapping of the regional projects in the area of judicial training in the WB requires a good knowledge of existing systems and practices in the field of training and a serious research for studying the compliance of main principles, standards and practices applied by the judicial training institutions in the Region with the EU standards and good practices.

We made a survey focusing on different aspects of the functioning of the institutions based on preliminary defined common criteria in order to assess the current situation in the sector and to elaborate a set of recommendations for further improvements and project coordination. All WB JTIs were addressed to fill in a Questionnaire⁶ elaborated for the purposes of this Study. Interviews with representatives of JTIs and other legal professionals involved in the implementation of projects in the field of training in WB were also conducted. The comparative assessment was focusing on the following points:

- Existing systems and methodologies for Training Needs Assessment (TNA), training programming, organization of training, selection of participants, selection of trainers, Training of Trainers (TOT), elaboration of training materials and training monitoring and evaluation;
- Existing systems for de-centralized training and distance-learning;
- Existing tools for legal research;

⁵ Authors: Kristian Turkalj, Rule of Law expert and judge Iris Govic Penic

⁶ See Annex I

- Survey of past and current projects and other donor programmes supporting the training institutions;
- Statistical data about training activities (including training abroad);
- Recent institutional changes and their impact on the functioning of the judicial training institutions;
- Main problems, obstacles and challenges listed by different institutions.

In addition, we made an overview of the ongoing regional and national projects in the field of training focusing on the elaboration of concrete proposals for future activities and implementation of regional projects involving all WB judicial training institutions.

Judicial training systems, principles and standards

Short review of existing systems of judicial training

Judicial training is a crucial element of the process of formation of an independent, impartial, accountable and competent judicial system and contributes to the creation of proper conditions and professional standards for functioning of the judiciary with respect to rule of law principle. The development of policies, standards and good practices for the organization of judicial training was a complex process within the EU and had a strong influence on strengthening mutual confidence and building European legal culture among EU Member States.

The establishment of institutions for the organization of professional training of judges and prosecutors has a long history in Europe. There are different systems existing in different EU Member States. The EU has no grounds for interfering in the organization of national training systems established on the basis of respective legal and judicial traditions. Judicial training systems are closely linked to the organization of judicial system and vary very widely. The applied mechanism for recruitment of judges and prosecutors is the main factor having influence on the training system. In 17 Member States there are national training structures providing Initial and Continuous Training. In several EU Member States a single institution is responsible for training of judges and prosecutors (Austria, Belgium, Bulgaria, the Czech Republic, France, Germany, Greece, Italy, Portugal, the Netherlands, Poland, Romania, Slovakia and Slovenia). In other countries training is organized by specialized JTI for training separately judges and prosecutors (Spain) or by the Ministry of Justice (MoJ), the council for the judiciary or court services. This Study will only refer to main types of training systems and their characteristics, as follows:

- National institutions providing Initial and Continuous Training, where the Initial Training is an essential element of the process of recruitment of candidates for judicial and prosecutorial positions

France, Portugal and Spain are the best examples for existence of a system for Initial Training of candidates for positions of judges and prosecutors. They have serious contribution to the development of training standards, culture and good practices as well as to the establishment of conditions for enhanced cooperation between different training and judicial authorities for raising the professional capacities of magistrates in Europe. The achievements of their national training institutions continue to support the conduct of training around Europe on the basis of commonly respected principles and standards.

In 1959 in France was created the National Centre for Judicial Studies, which became the French National School for the Judiciary in 1972. The French School is responsible for the organisation of the entry examinations/competitions of candidates for positions of magistrates, their Initial and Continuous Training and international cooperation in the field of training. The duration of the Initial Training is of 31 months combining training of 11 months at the School

and 20 months in the courts, lawyers' offices, private companies, public administrations etc. The Initial Training is part of the system of recruitment and selection of judges and prosecutors. The goal of the training programme is to build not only professional but also personal aptitude of future magistrates for becoming judges and prosecutors.

The Centre for Judicial Studies in Portugal was established in 1979 as an independent legal entity responsible for Initial and Continuous Training of judges and public prosecutors. The theoretical and practical part of the Initial Training with duration of 22 months aims at developing qualities and professional skills fundamental for performing judicial duties. Upon completion of this part of the Initial Training, trainees are appointed for a probationary period of 18 months and perform their duties under the supervision but with full responsibilities for their acts. After this period the judges and prosecutors are granted tenure.

In Spain the judicial training activities started in 1947. In 1997 was established the Spanish School for the Judiciary, which is one of the most advanced in Europe in terms of the used training methodologies, techniques and technical facilities. The Initial Training in Spain lasts for 2 years (1 year in the School and 1 year internship) with an emphasis on building up knowledge based competencies, functional competencies and personal competencies.

Similar system of training exists in Romania organized by the National Institute of Magistracy. There are two ways of admission to the magistracy – based on examination of candidates at the Institute and the admission examination of law school graduates having at least 5 years law practice. The successful candidates of the admission to the training Institute become judicial trainees and follow 2 years Initial Training programme. At the end of the first year of their training the candidates choose the position of a judge or a prosecutor and continue the programme under the guidance of internship coordinators.

- National institutions providing Initial and Continuous Training of judges and prosecutors

In several EU Member States the respective national bodies (JTIs, High Judicial Council or other) develop training curricula for Initial Training of newly appointed members of the judicial and prosecutorial system (Austria, Belgium, Bulgaria, Italy, Sweden). The aim of the training is to develop practical skills and adequate professional knowledge for performing judicial duties.

- National training systems focusing on Continuous/in-service training of magistrates

The system for the organization of judicial training depends on the concrete conditions and regulations providing for the status of judges and prosecutors. In countries where the access to judicial profession is based on requirement for prior professional legal experience, the Continuous Training is the only type of training provided.

In regard to the organization of activities for professional qualification of judges and prosecutors there are different approaches and good practices. The importance of judicial training for raising the quality and efficiency of justice is largely recognized within the EU. Continuous Training exists in all Member States (the system in Malta and Cyprus has specifics) but is not equally developed. In some countries this type of training is mandatory (for ex. France, Denmark – 5 days per year; Hungary – compulsory for specialized judicial functions).

Relevant EU principles and standards

The objective of the Amsterdam treaty for creation of an “area of freedom, security and justice” placed the judicial training in the focus of the efforts for improvement of judicial

cooperation and proper application of Community law.⁷ The EU Member States made concrete steps for ensuring uniform approach in developing policies in the field of training. In 2000 the European Judicial Training Network (EJTN) was established for coordination of training activities between national JTIs and promotion of training programmes with European dimension.

The importance of judicial training is recognized in international instruments such as the United Nations (UN) Basic Principles on the Independence of the Judiciary, adopted in 1985 as well as Council of Europe (COE) texts adopted in 1994⁸ and 1998⁹.

There are some basic principles guiding the status and functioning of the JTIs and the organization of judicial training in EU:

- Judicial training is right and obligation of members of the judiciary¹⁰;
- Training is essential for the objective, impartial and competent performance of judicial functions;
- The State has a duty to provide the judiciary or other independent body responsible for organizing and supervising training the necessary financial means and to meet the cost of training;
- Judicial training should not be limited to technical legal training but should take into account specifics of judicial profession;
- Judicial training is a matter of public interest and the independence of the authority responsible for the elaboration of training programmes and training delivery must be preserved;
- The judiciary should play a major role in the organization of training or can be itself responsible.

In accordance with paragraph 2.3 of the European Charter on the Statute for Judges any authority responsible for supervising the quality of training programme should be independent of the Executive and the Legislature and at least half of its members should be judges. The CCJE recommends that same authority should not be responsible for training and appointing, promoting and disciplinary of judges¹¹.

The judicial training in EU is developed in line with commonly recognized standards:

- Training should be carried out by judges and experts in each discipline;
- Trainers should be selected among best in their profession by the body responsible for training;
- Judicial training should be practice-oriented;
- Training methods should be determined and reviewed by respective training authority;
- In-service training is indispensable and every professional should have access to such training in the event of career change;
- The Continuous training is an ethical duty of judges but the Member States have to make available the necessary resources, time and other means for raising the professional qualification of magistrates;

The CCJE provides specific recommendations related to the Initial and Continuous Training referring to the need for all judges to acquire extensive knowledge before taking up their judicial duties. Training on ethics and professional conduct, administration of courts,

⁷ Communication from the Commission to the European Parliament and the Council on judicial training in the EU, 29.06.2006, COM(2006) 356 final

⁸ Recommendation No R (94) 12 on the independence, efficiency and role of judges

⁹ European Charter on the Statute for Judges

¹⁰ CCJE, Opinion No 4 on appropriate Initial and in-service training for judges at national and European level; 27.11.2003, CCJE (2003); Op. No 4

¹¹ CCJE, Opinion No 1 (2001) on standards concerning the independence of the judiciary and the irremovability of judges

Information technology (IT), foreign languages, social sciences and Alternative Dispute Resolution (ADR) are important for building up professional capacities of members of the judiciary.

In regard to the training evaluation the CCJE recommends the following:

- Training programmes and methods should be regularly assessed;
- The participation in training should not be subject of qualitative assessment but the participation itself may be taken into account in the process of performance evaluation of judges and prosecutors;
- Performance of trainees can be evaluated if the Initial Training is a phase of the recruitment process.

The organization of training on European Law is a key priority in EU. The active coordination of training activities and the cooperation within the EJTN and other existing initiatives contribute to the harmonization of programmes and judicial training methods in line with best practices and European standards.

Recent developments

The rule of law is a common value for the EU combining Union law and national legal systems. The creation of a European judicial culture fully respecting subsidiarity and judicial independence is in the core of the efficient functioning of the European judicial area. In that regard the judicial training plays an important role for enhancing the mutual confidence between Member States, legal practitioners and all citizens.

The training on Union-related issues became an important objective with the Stockholm Programme from 2010¹² defining the strategic guidelines for legislative and operational planning within the area of freedom, security and justice. In 2011 a new dimension to European judicial training was adopted¹³ with the aim to enable half of legal practitioners in the EU to participate in European judicial training activities by 2020 through the use of all available resources at local, national and European level, in line with the objectives of the Stockholm Programme. This ambitious goal requires active cooperation between Member States, national judiciaries and JTIs for developing training plans and activities for integration of the European Law in the national training and for enhanced mutual trust and cooperation.

Building trust in EU-wide justice is the new dimension to European judicial training. The proper application of the European Law is of paramount importance for national judiciaries. The national courts have the task to safeguard the rights and obligations of all EU citizens. The recognition of judicial decisions, judicial cooperation in civil and criminal matters as well as proper execution of judgments require very good understanding of national legal systems as well as knowledge of European Law. In that regard the organization of specialized training on European Law and its effective implementation became a key priority in defining training policies and initiatives within the EU. The Europe 2020 Strategy¹⁴ points out the need “to give a strong impetus to the strategic framework for cooperation in education and training involving all stakeholders”. The involvement of large number of legal practitioners (judges, prosecutors, court staff, lawyers and other legal professionals) in practice-oriented training on EU *acquis* is defined as a key factor for development of a genuine European judicial culture and for enhancing the mutual trust and cooperation between Member States. The priority training areas listed in the strategic documents are: the body of the EU *acquis*; including

¹² European Council, The Stockholm Programme – an open and secure Europe serving and protecting citizens (2010/C 115/01)

¹³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions,” Building Trust in EU-wide Justice, A new dimension to European judicial training”, 13.09.2011, COM(2011) 551 final

¹⁴ Europe 2020- Strategy for smart, sustainable and inclusive growth, COM(2010) 2020 final

substantive and procedural law; judicial cooperation instruments and the corresponding jurisprudence of the Court of Justice of the EU (CJEU).

The organization of exchange programmes for legal practitioners is defined as an important objective and tool for supporting the efficiency of training and its practical impact. Such short exchange programmes (for up to two weeks) are especially important for future judges and prosecutors during their Initial Training to help them better understand and fully engage in the European aspect of their professions.

The use of modern technologies in support of training is also essential for ensuring access to training and information, for reducing the cost of training and raising the efficiency of programmes. The promotion of e-learning and the development of distance-training systems significantly facilitates the organization of training at national and European level and supports the implementation of joint programmes, co-funding, participation of larger groups of legal practitioners and proper assessment of training results and impact.

The development of language skills is another priority area requiring attention in the planning of judicial training. Such training should be part of continuous training programmes developed by national JTIs as a precondition to effective contacts between legal professionals from Member States for improved and enhanced judicial cooperation.

The integration of EU Law in the Initial and Continuous Training curricula of national JTIs is required for reaching the defined strategic objectives. The Member States are required to ensure at least one week training on EU *acquis* and instruments for all judges and prosecutors during their career. The Commission encourages national judicial schools to reinforce their cooperation and to work on the development and implementation of common training.

The new policies and dimensions of the judicial training raise the role of judicial training providers within the EU. There are specialized European training bodies organizing training of legal practitioners in the field of EU law: the Academy of European Law (ERA); the European Centre for Judges and Lawyers of the European Institute of Public Administration (EIPA); the European University Institute of Firenze, Italy (EUI), the College of Europe and other. The training institutions contribute to the delivery of high quality training for significant number of legal professionals in order to raise their familiarity and knowledge of EU Law.

In this context the EJTN has a crucial role for coordination of training activities, development of common curricula and exchange of good practices and training methodologies. The mandate of the network is to build a genuine European area of justice and to promote knowledge of legal systems for enhancing the understanding, confidence and cooperation between judges and prosecutors within the EU Member States. The EJTN is also a platform for larger dissemination of experiences in the field of judicial training. Most of the training institutions from EU accession states, other EU states and EU institutions have a status of observers (including WB JTIs except Kosovo* at the moment).

In June 2016 the institutions responsible for training of judges and prosecutors in all EU Member States adopted nine fundamental judicial training principles:

1. Judicial training is a multidisciplinary and practical type of training, essentially intended for the transmission of professional techniques and values complementary to legal education;
2. All judges and prosecutors should receive initial training before or on their appointment;
3. All judges and prosecutors should have the right to regular continuous training after appointment and throughout their careers and it is their responsibility to undertake it.

Every Member State should put in place systems that ensure judges and prosecutors are able to exercise their right and responsibility;

4. Training is part of the normal working life of a judge and a prosecutor. All judges and prosecutors should have time to undertake training as part of the normal working time, unless it exceptionally jeopardizes the service of justice;
5. In accordance with the principles of judicial independence the design, content and delivery of judicial training are exclusively for national institutions responsible for judicial training to determine;
6. Training should primarily be delivered by judges and prosecutors who have been previously trained for this purpose;
7. Active and modern educational techniques should be given primacy in judicial training;
8. Member States should provide national institutions responsible for judicial training with sufficient funding and other resources to achieve their aims and objectives;
9. The highest judicial authorities should support judicial training.

These principles are the common basis for further development of training institutions within the EU. They are the framework for judicial training activities defined on the basis of serious achievements and constant effort of all relevant bodies and institutions at national and EU level for further improvement and development. All principles are a strong foundation for the organization of quality training not only within the EU but also in all other economies willing to adopt and follow the EU standards and good practices in the field of judicial training.

On 8th November 2017, the members of the International Organization for Judicial Training (IOJT) adopted a declaration on judicial training principles. The declaration defines the principles as a common base and the horizon uniting JTIs throughout the world, regardless of the diversity of judicial systems. The following guiding principles have been declared:

1. Judicial training is essential to ensure high standards of judicial competence and performance. Judicial training is fundamental to judicial independence, the rule of law, and the protection of the rights of all people.
2. To preserve judicial independence. The judiciary and judicial training institutions should be responsible for the design, content, and delivery of judicial training.
3. Judicial leaders and the senior judiciary should support judicial training.
4. All states and countries should:
 - (i) Provide their institutions responsible for judicial training with funding and other resources to ensure sufficient to achieve their aims and objectives;
 - (ii) Establish systems to ensure that members of the judiciary are enabled to undertake training.
5. Any support provided to judicial training should be utilized in accordance with these principles, and preferably in coordination with institutions responsible for judicial training.
6. It is the right and responsibility of all members of the judiciary to undertake training. Each member of the judiciary should have time to be involved in training as part of their normal judicial work.
7. All members of the judiciary should receive training before or upon their appointment, and should also receive regular training throughout their careers.
8. Acknowledging the complexity of the judicial role, judicial training should be multidisciplinary and include training in law, skills, social context, values, and ethics.

9. Training should be delivered primarily by members of the judiciary who have been trained for this purpose.

10. Judicial training should reflect best practices in professional and adult training program design. It should be practical, employing a wide range of up-to-datemethodologies.

The IOJT's Declaration on judicial training principles includes explanatory commentaries providing additional justification and guidance for their implementation.

Judicial training in the Western Balkans Region

The radical socio-economic changes in the WB region during the last decades were fundamental for the adoption of state policies for conduct of reforms in all spheres of public life. Despite specifics, in all WB economies the judicial reform and related major institutional and legislative changes were considered as a high priority and a key aspect for building the states on the principles of separation of powers and rule of law. The establishment of an independent, impartial, effective and accountable judicial system proved to be a challenge and one of the most critical part of the overall reform process. This is a complex long-term process requiring significant improvements of the organizational and legislative framework in order to set up the legislative basis and respective institutions in line with European standards and relevant principles and good practices. The successful conduct of reforms was also subject of significant transformation of public attitudes and change of the entire perception of the role of the judiciary from being an instrument of state power to becoming a guarantee for respect of the rule of law principles and ensuring access to justice and transparency of court proceedings.

In all WB jurisdictions can be observed significant efforts for the establishment of an independent and professional judicial system. The enhancement of professional capacities of members of the judiciary was seen as an important element of the reform process. Each RCC participant had its own path for building up well-functioning judicial system and institutions based on existing conditions, legal tradition and specific political situation. At the same time there were many common elements and uniform approaches in conducting the reforms arising from the common background and past developments as well as knowledge and understanding of applicable standards and good practices in the field of justice and judicial reform.

The establishment of judicial training centers for the organization of professional training of judges, prosecutors and other judicial and prosecutorial staff was one of the most serious achievements of the judicial reforms in all WB region.

History and recent developments

Summary of the analysis of the existing systems of the judicial training in the WB

The review of the existing systems of judicial training in the WB made for the purposes of this Study confirms a high degree of compliance with relevant international standards and good practices. The common background and existing legal traditions can be seen as one of the factors determining the observed similarities in the structuring and development of the JTIs in Albania, Bosnia and Herzegovina, Kosovo*, The Former Yugoslav Republic of Macedonia, Montenegro and Serbia. Despite internal specifics, there are uniform approaches and elements relevant for all training institutions in the region.

The importance of the organization of judicial training was recognized by all WB jurisdictions at the end of 90s. With the support of international donors and organizations were established Judicial Training Centers in all six covered by this Study. During that period the same

tendency could be observed in other countries from South East Europe – Bulgaria, Croatia and Romania, where JTIs were also established.

Common element of this early period is the active involvement of the professional associations of judges and prosecutors in the establishment of the respective training institutions (Judges Association in Bulgaria, The Former Yugoslav Republic of Macedonia, Serbia, and Montenegro). This was a crucial factor for commitment and ownership of members of the judiciary contributing to the effective introduction of the new approaches for the organization of practice-oriented training for raising the professional capacities of judges and prosecutors.

The assistance of many different international partners and donors was fundamental for building up the training policies and methodologies on a sound foundation in line with existing foreign practices and standards. The organization of variety of capacity building activities for the managing bodies and staff of respective JTIs supported the development of specific knowledge and abilities in the field of training and created a new culture and familiarity with the applicable rules, standards and practices for the organization of judicial training.

The organization of training in all economies from the region supported the conduct of comprehensive judicial reforms and establishment of independent judiciary build on the principle of rule of law, which is the key European value.

The inspirations for EU integration were further accelerated by raising the capacities of local judiciaries. The role of JTIs was always pointed out as a crucial factor for achieving a good progress towards judicial independence, impartiality and efficiency.

The process of reforms in all public spheres led to transformation of the initially established judicial training centers- JTC (mostly having a status of NGOs) into public independent institutions. Specifics of this process can be observed, but this general tendency is in place.

The WB JTIs have a status of independent institutions responsible for Initial and Continuous Training of judges and prosecutors. They are at a different stage of institutional development but the legislative framework and organizational structures provide for proper execution of functions related to raising the professional capacities of members of the judicial and prosecutorial system.

Each participant has its own dynamic related to the EU integration process but this is one of the main goals and elements defining the scope of the judicial training activities. The new approach of “fundamentals first” and the existing strategic plans in all WB economies define new priorities and requirements for further improvement of the administrative and training capacities in all WB JTIs. The enhancement of the regional cooperation is also one of the cornerstones for future reforms.

Recent reforms, impact, challenges

One of the main characteristics of the development of judicial training activities is the high degree of flexibility for ensuring adequate response to existing needs, priorities and reform actions. The process of judicial reform in WBs imposed some changes in the normative framework related to the status and functions of most of the training institutions in the region.

Significant reforms were recently implemented in Montenegro and Kosovo* with the adoption of new laws regulating the establishment of independent training institutions. Serious amendments to the applicable legislation introduced new tasks and responsibilities for the School of Magistrates in Albania. The Serbian Judicial Academy is facing some challenges related to the existing procedure for recruitment and appointment of candidates for judges and prosecutors and role and place of the Initial Training in the process. All these

developments have an impact on the functioning of the JTIs and require immediate action for ensuring long-term sustainability of reform efforts and training results.

Overview of JTI's needs

The field of training is in a process of constant development. The main judicial training principles adopted by EJTN are only one example for the importance of these activities. All JTIs need to commit to the adoption of management policies, practices and new methodologies for supporting the practical implementation of the principles. This is of utmost importance for all WB JTIs and will help to establish a sound basis for the organization of quality training.

The need of continuous enhancement of the administrative and training capacities of JTIs is justified by all relevant stakeholders. The establishment of effective organizational structures and internal mechanisms for training organization, monitoring and evaluation is a precondition for quality of training activities contributing to the strengthening of the professionalism of members of the judiciary.

The adoption of new comprehensive methodologies for TNA, TOT, selection of trainers, mentors and participants, elaboration of training programmes and training monitoring and evaluation will not only strengthen the capacities of respective institutions but will be crucial for supporting the improvement of the judicial system and quality of justice.

The survey made for the purposes of this Study provided information for some urgent needs of different WB JTIs requiring expertise and donor support. The main objective of the Study is to define areas for potential regional cooperation. In more details the relevant analysis and recommendations are given further below.

Judicial training in Albania

Legal framework, status and management bodies

The School of Magistrates of Republic of Albania was established by law in 1996¹⁵ for the organization of Initial Training of candidates for judicial and prosecutorial positions and Continuous Training of judges and prosecutors. The School started its operation in 1997 as an independent public institution having a financial and academic autonomy. The latest legislative changes from 2016 provided for the status of the School as part of the governance institutions in the justice sector together with the High Judicial Council, High Prosecutorial Council, High Justice Inspector and the Justice Appointments Council. According to the Albanian Constitution, judges can be appointed by the High Judicial Council after completing their training at the School of Magistrates.

The main decision making body of the School of Magistrates of Albania is the Steering Council. The composition of the Council includes representatives of different judicial bodies and institutions (out of them 2/3 are members *ex-officio*) as follows:

1. Chief Justice of the Supreme Court, who is the Chairperson of the Steering Council;
2. The Prosecutor General, who serves as a Deputy Chairperson;
3. Chairperson of the High Judicial Council;
4. Chairperson of the High Prosecutorial Council;
5. One experienced judge appointed by the general meeting of all judges;
6. One experienced prosecutor appointed by the general meeting of all prosecutors¹⁶;

¹⁵ Law on the School of Magistrates of the Republic of Albania, No 8136/31.07.1996 amended in 2005, 2005, 2014 and 2016

¹⁶ The members elected from judges and prosecutors cannot be at the same time members of the High Judicial Council or of the High Prosecutorial Council

7. Two representatives assigned by the Minister of Justice;
8. State Advocate General;
9. Chairperson of the National Chamber of Advocacy;
10. One representative of the Ministry of Education and Sports with outstanding experience in the field of law;
11. Director of the School of Magistrates;
12. The full-time trainers in charge of the Initial and Continuous Training, as well as two full-time trainers of the School of Magistrates;
13. Two trainees from different academic years elected by secret voting by the Assembly of Candidates for Magistrates attending the Initial Training.

Other independent managing bodies of the School of Magistrates are the Director of the School, the Pedagogical Council and the Disciplinary Commission.

Organization of training

The law provides for different types of training depending on available resources and funding. The School is responsible for the organization of Initial Training of candidates for positions of judges and prosecutors and Continuous Training of magistrates, legal advisors/assistants, state advocates and chancellors. Based on obligations defined by laws or at the request of interested institutions and depending on available funds and capacities, the training institution may also conduct training of civil servants of the judicial and prosecutorial system and of other legal professionals.

The Initial Training has duration of 3 years combining theoretical and practical professional education. There is a two-part entrance examination. During the first year all candidates follow a theoretical training programme focusing on different law areas/subjects. The training during the second year is practice-oriented under the guidance of School trainer and judge or a prosecutor with high qualifications. The third year of the Initial Training is a professional internship year when candidates deal with less complicated cases under the guidance of a judge or a prosecutor.

The Sector of Professional Training within the Initial Training Department is in charge of the preparation of the training programme. The internal regulations define the steps for the planning and elaboration of the content of the training for each academic year.

The training plan for the first year (including number of training hours per semester, training schedule and evaluation methodology) is drafted by the Scientific Secretary on the basis of the proposals made by relevant trainers on every subject. The responsible trainer for the Initial Training has the task to review and approve the training plan.

The training plan for the second year includes the respective matrix for every course and the information about the distribution of candidates in the justice institutions and the methods for monitoring and evaluation of their performance.

The organization of the Initial Training during the third academic year is based on a plan listing the objectives of training programme, the procedures for assignment to professional internship, the evaluation methodology and necessary documentation. The Director of the School of Magistrates is responsible to present the training plans to the Pedagogical Council and upon receiving its opinion – to submit the plans to the Steering Council for approval by 30th of September each year.

Article 33 of the Law on the status of judges and prosecutors in Albania¹⁷ provides for the conditions for the organisation of the professional internship of candidates for magistrates

¹⁷ Law 96/2016

during the third year of the Initial Training. The High Judicial Council and the High Prosecutorial Council are responsible for the assignment of candidates to different courts and prosecutor offices based on:

- Availability of judges and prosecutors as mentors;
- Infrastructure of the court and prosecutor's office;
- Availability of appropriate premises and work space for candidates;
- Opportunity to become familiar with a greater number of laws and cases during the practice.

The School of Magistrates is conducting a TNA in order to elaborate the Continuous Training curriculum. The TNA methodology is focusing on the identification of concrete needs of judges and prosecutors from different court instances and considers different sources of data and information as follows:

- Organization of regional meetings with magistrates from first and appeal court instances;
- Elaboration and submission of TNA questionnaires and analysis of the results and proposals;
- Analysis of the recommendations provided in the evaluation forms at the end of each training event;
- Recommendations of trainers or/and facilitators based on the discussions during the training;
- Consultations with international partners and donor organizations;
- Opinions of other institutions having role in the justice reform or closely related to the justice sector;
- Analysis of governmental priorities related to the adoption of new legislation, national startegies and obligations arrising from the process of European integration and approximation of the national legislation with the *EU acquis*;
- Jurisprudence of the European Court of Human Rights (EctHR) and European Court of Justice (ECJ) as well as the Albanian High Court and the Constitutional Court;
- Recognition of obligations deriving from ratified international instruments and respective training needs of practicing judges and prosecutors.

The School submits the thematic programme for Continuous Training to the High Judicial Council and the High Prosecutorial Council upon its approval by the Steering Council.

Currently the School of Magistrates has 27 full-time employees including the Director and 7 permanent trainers. Half of staff is directly involved in the organization of training. The procedure for appointment of permanent trainers is transparent and merit-based. They are selected among the most prominent professionals with more than 15 years of professional experience as jurists, judges, prosecutors, advocates. There is a requirement for prior teaching experience of at least 10 years as full-time lecturers in the university system or as trainers at the School of Magistrates.

The Law on the status of judges and prosecutors provides for the secondment of sitting judges and prosecutors to the School to perform duties as permanent trainers for a period of up to 5 years. Upon termination of their work at the School they are entitled to return to their positions in the courts/prosecutor offices.

The participation in Training of Trainers (TOT) programmes is required for all trainers.

All permanent trainers are members of the Pedagogical Council of the School and take part in the elaboration of training programmes, selection of trainers and evaluation of candidates of

the Initial Training during the first and second academic year in accordance with the rules for the functioning of the Pedagogical Council.

The selection of participants in the Continuous Training is based on the Law on the Status of Judges and Prosecutors in the Republic of Albania and the Internal Regulations of Magistrates School. In accordance with Article 5 of the Law the magistrates have a right and obligation to participate in Continuous Training. All judges and prosecutors can select 10 topics of interest as a first priority and another 10 as a second. The courts' presidents and the heads of prosecutor offices from first and appeal instances are involved in the elaboration of lists of participants on the basis of the individual requests of magistrates. The High Judicial Council and the High Prosecutorial Council approve the list of participants proposed by the Director of the School for a period of at least one year (but no longer than 3 years) and the Magistrates School then proceeds with the submission of invitations.

There is a legal requirement determining the limits for overall duration of training as follows:

- Not less than 5 full days per year and not less than 30 full days during five years
- Not more than 40 full days per year and 200 full days during five years

All judges and prosecutors have the right and obligation to participate in in-service training programmes in case they are relevant for their concrete function and delivered and certified by the School of Magistrates or any other national or international training institution acknowledged by the Judicial or Prosecutorial Council. The Councils have the legal obligation to cooperate with the School for conducting the TNA and developing the training curricula and programmes.

The School is obliged, under Article 50 of its Rules of Procedure, to keep all records of participation in training sessions, such as:

- The list of invited persons in each activity;
- The list of participants attending the training;
- The list of participants granted a certificate. This list is also reflected in a separate register with serial numbers. All certificates also remain in the personal files of judges and prosecutors maintained by the Councils.

The School also keeps data on types of training, topics of training sessions and all other relevant data for each training event (including date, the venue of activity, the experts, facilitators or moderators, as well as the financial support, if any).

There is a signed Memorandum of Understanding (MOU) between the School of Magistrates and the MoJ for the organization of training of court administration and court secretaries.

The School is working on the introduction of modern technologies and methodologies for the organization of training by setting up distance-learning platforms (VidyiOne+ and Moodle). The advantages of e-learning allowing improved access to training and reduced cost make this type of training very attractive. The School is in a process of development of some elements of distance-training courses. At this stage the training institution is planning to develop a classroom training session combined with online participation of judges and prosecutors as well as online presentations of recorded lectures.

Since June 2016 the School of Magistrates has a status of EJTN observer providing for different possibilities for participation of Albanian judges and prosecutors in training activities organised by EJTN.

The School supports the participation of judges and prosecutors in specialized training abroad. The average number of participants in such activities is relatively small (no more than 10 each year) but the relevance and importance of such exchange is highly appreciated. So far,

Albanian judges and prosecutors have been part of training on cybercrime, human rights, anti-discrimination, patents and other organized mainly in EU Member States. The enhancement of regional cooperation in the area of judicial training is also seen as a good opportunity for advancement of professional qualification of magistrates and for establishment of contacts with their colleagues from the WB region.

Infrastructure

Currently the School of Magistrates has one training room with a capacity of 25-30 seats for the organization of the Initial Training; one training room with a 35 seats for the organization of Continuous Training with facility for simultaneous interpretation, a mock trial classroom and another training room with 15 seats. The School has all necessary technical equipment for the organization of training. Each training room is equipped with a smart table, video projector and laptop for trainees.

The process of reforms and the new functions assigned to the School will definitely require a sustainable solution for ensuring proper conditions for the organization of training for all categories of magistrates and other professional staff in the justice sector. The School does not dispose with training rooms and facilities for delivering training of larger number of candidates for magistrates as well as state attorneys, legal assistants and chancellors. The training and administrative staff of the institution also lack space for performing their duties.

Recent reforms in the normative framework and institutional organization

The Justice Strategy 2017-2020 and its Action Plan were adopted in November 2016. The justice reform process was launched with the Constitutional amendments setting up the foundation for a serious reorganization of the justice sector. The main objective of the reform is to increase the independence, impartiality and transparency of the central judicial bodies (High Court, the governing bodies of the judiciary and the General Prosecutor's Office). Around 40 legislative texts, including amendments to codes, are under preparation.

The on-going justice reform in Albania and the adoption of new legislation imposed some important new tasks for the organization of training of additional categories of legal professionals as follows:

- Candidates for positions in the State Advocacy in accordance with the Law on State Advocacy (for both Initial and Continuous Training);
- Candidates for legal assistants/councilors (during the first year of the Initial Training and for Continuous Training) as provided for by the Law on the organization of the Judicial Power in the Republic of Albania;
- Chancellors in accordance with the Law on the organization of the Judicial Power in the Republic of Albania and the Law on the organization and functioning of the Prosecutor's Office in the Republic of Albania (for both Initial and Continuous Training);
- The vetting law states that the School shall organize an exam for the legal advisors at the Constitutional Court and legal assistants of High Court and administrative courts and Prosecution Office that are not magistrates, in order to reconfirm their position and to have the possibility to have the status of the magistrate;
- The School of Magistrates shall offer an obligatory training program for judges and prosecutors, who have not passed successfully the assessment made by the Commission, for a period of one year.

Key challenges and needs

One of the main objectives of the Justice Reform Strategy¹⁸ is the consolidation of the recruitment, Initial Training, Continuous Training and profilization of magistrates. The large scope of the Strategy imposes new obligations and significantly increases the role of the School of Magistrates in providing training of judges, prosecutors, legal assistance, chancellors and other categories of legal professionals and judicial staff.

The School needs to work on the methodologies for the adoption of specialized training programmes for all categories of staff in order to comply with legal requirements. The significant raise of responsibilities creates some objective difficulties for fulfillment of all functions in accordance with the applicable legislation. The School of Magistrates lacks sufficient human resources and adequate infrastructure¹⁹. The increase of state budget with 15% in 2016 was a positive step but not sufficient for overcoming the dependence on foreign financial support. The EC also points out the need to step up the training of judicial administrative staff.

The assessment made for the purposes of the present Study confirms the urgent need of support for strengthening the institutional capacities of the School of Magistrates for ensuring full-scale implementation of the applicable new legislation as well as quality training for all target groups defined by laws. The new functions and responsibilities require sufficient human resources and funding for covering all tasks and significantly improving the quantity and quality of training.

The main objective of the judicial training is to provide practical knowledge and specific professional skills for performing judicial and prosecutorial duties. The purpose of training is to build on existing strong legal knowledge for developing practical abilities for law interpretation and application. The quality level of the university legal education has to be seriously considered in the elaboration of the Initial Training Programme in order to create proper conditions for establishing standards and guarantees for high quality training. In some cases, the judicial training serves to compensate lack of theoretical legal knowledge and to upgrade to the necessary level the knowledge of candidates. Same is applicable to already appointed judges and prosecutors who may need more in-service training on the substance of the material and procedural law.

Albania receives a strong support for the consolidation of its justice system. The Instrument for Pre-accession Assistance (IPA II) 2014-2020 aims at strengthening the independence, transparency, efficiency, accountability and public trust in the justice system in line with the European standards and the EU *acquis*. The focus of this assistance is on the implementation of systemic changes and the enhancement of effective case management through improvement of professional skills and technical infrastructure²⁰. The School of Magistrates is listed among national justice institutions requiring technical assistance for programming of training curricula, organizing entry examination and evaluation of candidates, establishing criteria for determining levels of legal competence and other.

The main challenges refer to strengthening of the financial sustainability of the School. The availability of adequate financial resources for achieving the objectives of the recently adopted justice strategy 2017-2020 is a key factor for success of the reform actions. The School of Magistrates has a crucial role for conducting reforms related to raising the professional competence and capacities of members of the judiciary and other legal professionals from the justice sector. The training institution needs financial stability as a guarantee for full-scale implementation of relevant law provisions related to the organization of training of future and sitting magistrates, administrative staff of courts and prosecutor offices and other categories of staff. The tendency for increase of the budget for the overall

¹⁸ Assembly of Republic of Albania, Ad hoc Parliamentary Committee , Strategy on Justice System Reform, 24.07.2015

¹⁹ EC Albania 2016 Report, 09.11.2016, SWD(2016) 364 final, 2016 Communication on EU Enlargement Policy COM(2016) 715 final

²⁰ IPA 2016 Action Programme for Albania

justice sector is positive²¹ but there are still significant needs for adequate national funding. The EU Report for Albania for 2016 indicates the need to improve the budget planning capacities of the School, which remains dependent on foreign financial support. The annual state budget for 2017 allocated to the School of Magistrates is 91.000.000 ALL (out of them 56% are for administrative costs and 44% - for training activities). 7.228.000 ALL or 8% of the total budget for 2017 are provided by donors. The increase of the budget of the School would allow covering all expenses arising from the justice reform laws (performance of the Initial Training; training of about 25 in-service magistrates after the transitory evaluation; development of distance-learning courses).

The EU reports for Albania point out the limited training on EU *acquis*. The School introduced additional training on EU *acquis* but needs to introduce a comprehensive training curriculum on the EU *acquis*.

The new tasks and obligations of the School of Magistrates require significant increase of human resources within the JTI. The strengthening of the professional capacities of relevant staff of the School would be crucial for improving the quality of training and training impact. The organization of specialized management training and other capacity and team building activities would support the efficiency of staff performance and overall improvement of training activities of the School.

The School needs proper infrastructure and facilities for organizing all types of training. The reconstruction of the existing building or the construction of new premises would establish adequate conditions for the practical organization of judicial training in line with applicable legislation and justice reform strategy. Full-scale introduction of e-learning will raise the quality and efficiency of training. The School needs expert assistance and specialized training on the maintenance of the e-learning system as well as for the elaboration of e-learning modules and the practical organization of distance-training.

Summary recommendations including the possibilities for regional cooperation and donor support

- The successful implementation of justice reform actions and related new functions and activities assigned by laws to the School of Magistrates require the adoption of state policies and active support for strengthening the institutional and training capacities of the School.
- The adoption of a comprehensive approach in developing plans for future assistance would contribute to better coordination of actions in line with other on-going reform activities. It is of utmost importance to guarantee that all activities supporting the School of Magistrates are synchronized and well-coordinated with other reforms in the judiciary and justice sector.
- The future support to the School shall be based on a complex analysis of the applicable legislation in the light of the justice reform with detailed description of financial and other practical implications of all assigned new functions and responsibilities. Training on budget planning and statistics shall be organized. The organization of regional training would be a very good opportunity for exchange.
- The state needs to find a proper solution for ensuring adequate conditions for the organization of training activities. The cost effectiveness shall be always considered in discussing the possible options for improvement of the infrastructure and material conditions. The organization of de-centralized training and introduction of distance-learning shall be used by the School more often.
- The enhancement of the institutional capacities of the School of Magistrates is crucial for the smooth reform process and the organization of quality training. The new tasks

²¹ “The budget for the overall justice sector for 2016 is 14% higher than in 2015 at EUR 91.7 million, which represents 0.85% of GDP and 2.83% of the state budget”; EC Albania 2016 Report, SWD(2016) 364 final

require a revision of the organizational structure and serious functional analysis in order to optimize the functioning of the institution. New staff will have to be appointed on the basis of a serious assessment of current staffing table and justification of specific functions that need to be covered. The organization of judicial training is a specific function requiring very good planning, cooperation, good internal and external communication and flexibility. The definition of criteria for selection of staff is important for making a proper selection. The School of Magistrates has done already such analysis and is working on the modification of the organizational structure of the institution for meeting the new tasks and obligations.

- The School of Magistrates is one of the central public institutions within the justice sector. The proper management of the School is essential for achieving the objectives and goals of the on-going reform. The arising responsibilities will create additional workload for all management bodies of the School. Additional capacity building activities for the members of the management bodies (including the Steering Board, the Director, the Pedagogic Council and the training staff of the School) will improve the functioning of the institution. The distribution of functions and the establishment of mechanisms for delegation of duties will improve the interaction between different bodies and internal structures. Such training can be organized as part of regional programmes and activities.
- The legislative framework is in line with European standards in the field of training. The practical implementation is important for achieving good results and positive impact. The additional tasks of the School require strong professional capacities within the institution for the organization of training. The main focus shall be on the practical aspects of the programmes. In that regard the secondment of sitting judges and prosecutors as permanent trainers shall remain a priority for ensuring quality and practice-oriented Initial and Continuous Training.
- TOT will be crucial for building skills and teaching capacities for using modern methodologies and techniques in the organization and delivery of judicial training. Special attention shall be paid on developing training abilities. Good knowledge and understanding of the common adult training methodology will help to upgrade the training capacities of the School. Not only trainers but all other staff involved in the TNA, training planning and organization shall take part in TOT programmes. We strongly recommend the organization of such TOT also at a regional level, which will raise the cost efficiency and practical relevance of the programme.
- Additional efforts for the elaboration of a comprehensive training programme on EU Law can be encouraged. . Such training courses can be developed and organized also within the regional cooperation. All available sources and existing programmes will have to be considered in order to avoid duplication of actions and/or overlapping of activities. Good practices need to be shared between WB JTIs and if possible, access to data and training programmes has to be ensured. Currently the training on EU Law is part of the Initial and Continuous Training organized by the School of Magistrates and good practices can be shared in the framework of the regional cooperation.
- Continuous monitoring and evaluation of the activities of the School will be important for timely and efficient planning in line with justice reform strategic objectives.

Judicial training in Bosnia and Herzegovina

Legal framework, status and management bodies

The Stabilization and Association Agreement (SAA) between Bosnia and Herzegovina and the EU entered into force on 1 June 2015. In July 2015 was adopted a Reform Agenda aimed at tackling the socio-economic situation and advancing the rule of law and public administration reforms. Regular political and economic dialogue takes place between the EU and Bosnia and Herzegovina. The status and existing shortcomings in the judiciary are

subjects of discussion in the Structured Dialogue on Justice. There is a Justice Sector Reform Strategy for 2014-2018 defining concrete objectives for achieving a proper functioning rule of law system. In this context the enhancement of professional skills and practical knowledge of judges and prosecutors is one of the most serious steps for ensuring quality of justice and more independent, efficient and accountable judicial system.

Training for the judiciary in Bosnia and Herzegovina is provided by the Judicial and Prosecutorial Training Centres (JPTC) of the two Entities – the Federation of Bosnia and Herzegovina and Republika Srpska. The laws establishing the training institutions were adopted in 2002.

The Centre for Judicial and Prosecutorial Training of Federation of Bosnia and Herzegovina was founded on April, 10th 2003. The Centre is a legal entity based in Sarajevo and has a status of a public institution with following functions:

1. Organization of induction training to persons considering a career as a judge or prosecutor under the direction and supervision of the High Judicial Council;
2. Organization of advanced professional training for judges and prosecutors under the supervision of the high Judicial Council.

The Government of the Federation of Bosnia and Herzegovina has the obligation to provide the annual budget for training activities. The only relation with the Ministry of Justice is that Minister of Justice of Federation of Bosnia and Herzegovina is delegating two legal education experts, after the consultations with professional organizations and academic community to a Steering Board of the Centre.

The JPTC of Republika Srpska was established by law in 2002 as a public body responsible for the organization of Initial Training under the direction and supervision of the High Judicial Council of persons considering career as judges or prosecutors and organization of advanced/continuous training of judges and prosecutors under the supervision of the Council.

The Government of Republika Srpska is obliged to provide appropriate premises, equipment and an annual budget for the work of the Centre.

The management body of the two JPTCs is the Steering Board consisting of nine members as follows:

1. One Supreme Court judge elected by the general session of the Supreme Court;
2. One Deputy Public Prosecutor elected by the collegiums of the respective Public Prosecutors Offices;
3. Two distinguished legal professionals, having expertise within the field of training, appointed by the Minister of Justice after consultations with professional associations, law faculties and other law-related bodies;
4. Three judges (one of them minor offences court judge) elected by the members of the Association of Judges of the Entity;
5. Two prosecutors elected by the Association of Prosecutors of the Entity.

The Director of the JPTCs is responsible for the execution of the decisions of the Steering Board and for management of the training institution. The law provides for holding regular meetings between Directors of the JPTC of the Federation of Bosnia and Herzegovina and Republika Srpska and the corresponding training body in Brcko District for coordination of joint training programmes and other common activities.

Organization of training

The survey made for the purposes of this Study provided information about the current practice for the TNA and planning of training programmes.

The JPTC of the Federation of Bosnia and Herzegovina is undertaking different steps for defining the training needs of members of the judiciary. The applied TNA methodology includes contacts with courts and prosecutor offices, analysis of reports of domestic and international organizations, continuous monitoring of developments of legislative drafting and changes in legislation, problems observed in the implementation of applicable laws as well relevant recommendations related to the justice reform.

The TNA organized by the JPTC of Republika Srpska is based on the analysis of proposals for training subjects submitted by all courts and prosecutors' offices and other relevant institutions and international organizations. The High Judicial Council approves the programmes adopted by the Steering Board of the Centre.

Currently the JPTC of the Federation of Bosnia and Herzegovina has 15 employees, out of them 4 lawyers working in the Department for programme and education activities. The Centre makes a public announcement for selection of trainers. The Steering Board takes a decision based on the information of the received applications of candidates and their Curricula Vitae and proposes for approval of the High Judicial Council a list of trainers for a period of 4 years. The Centre can also work with *ad hoc* trainers if specific expertise and professional experience is needed.

The number of staff working in the JPTC of Republika Srpska is 12 and 5 of them are directly involved in the training organization. There is a list of trainers elected for a period of 4 years considered as permanent trainers at the Centre who are judges, prosecutors, legal experts, lawyers, university professors, psychologist and other specialists in different areas covered by the training programmes.

The selection of trainers is carried out according to the criteria set out in the Rules on the selection, rights and obligations of trainers: professional experience and knowledge, scientific work, ability to develop training scenarios.

The performance assessment of trainers is done by analyzing the evaluation forms submitted by all participants at the end of training events.

TOT is part of the activities of the JPTCs in Bosnia and Herzegovina.

The selection of participants is done in coordination with court presidents and heads of prosecutor offices. The JPTC of the Federation of Bosnia and Herzegovina receives applications from judges and prosecutors approved by court presidents and heads of prosecutor offices after the publication of the annual Continuous Training Programme.

The JPTC of Republika Srpska receives the registration forms for participation in training from court presidents and chiefs of prosecutor offices, based on individual requests of judges and prosecutors and concrete needs of respective courts and prosecutorial offices.

There are electronic databases maintained by the JPTCs for all training participants, topics and trainers. The JPTCs have good communication with the High Judicial and Prosecutorial Councils for exchange of data and information about the training participation.

The annual state budget for 2017 allocated to the JTIs is as follows:

- For the JPTC of the Federation of Bosnia and Herzegovina: 694 023 BAM (63% for training activities and 37% for running administrative costs);
- For the JPTC of Republika Srpska: 180 000 EUR (20% for training activities and 80% for administrative costs).

The Centers receive funding from different donors and project activities. During the last 7 years the JPTC of the Federation of Bosnia and Herzegovina received two direct financial contributions: First one of 200 000 EUR from GIZ for the implementation of the Project “South Eastern Europe Reform on Enforcement procedures” and the second of 26 000 EUR provided by the COE for the on-going JUFREX Project on Freedom of Expression.

The indicated average annual amount of donors contributions to the JPTC of Republika Srpska is 15 000 EUR.

Infrastructure

The JPTC of the Federation of Bosnia and Herzegovina has two training rooms and one translation booth in the middle. The larger training room has a capacity for 50 participants and the smaller one – for 25-30 participants. If the training is with simultaneous translation, the location of the translation cabin makes the use of the second training room impossible because of the noise/echo. There is also a small training room equipped with 14 computers for training on the Case Management System.

The Centre owns a very modest library with little more than 1000 titles (including manuals and similar publications). Refreshment of library is more than necessary. Facilities for legal search are not available in the premises. Library is open for everyone in judicial community, but no interest is shown.

The JPTC is using Moodle as distance learning platform. At the moment, there are 3 active courses: a Training of Trainers for heads of court departments, Human Trafficking and Gender Equality. Unfortunately the feedback is very poor.

The Centre also offers distance learning courses set on HELP (Council of Europe) platform.

The JPTC of Republika Srpska has several training rooms with different capacities: one for 90 participants; second for 30 participants; computer training room with 20 seats and training room with sets for simultaneous translation for 20 participants. There is a library. The list of books and publications is published on the web site of the Centre.

The JPTC is supporting the introduction of e-learning. So far, there were 3 training events for judges and prosecutors through the e-learning courses available on the COE website. One distance-training course on gender equality was also developed within the framework of a project supporting the High Judicial and Prosecutorial Council.

Recent reforms in the normative framework and institutional organization

There are no recent reforms and formal legislative changes affecting the functioning of the training institutions. The overall path towards European integration defines areas of primary relevance in the development of the judiciary involving also the JTIs. The improvement of the organization of training and training methodologies is required for meeting the conditions and recommendations of the EU.

Key challenges and needs

Despite some visible progress made for ensuring accountability and integrity in the judiciary with the adoption by the High Judicial and prosecutorial Council of a set of guidelines on conflict of interest, drafting of integrity plans and disciplinary measures, there are many areas requiring significant efforts for addressing the EU recommendations.²² The practical implementation of the adopted guidelines, the introduction of more qualitative criteria for

²² EC Bosnia and Herzegovina 2016 Report; 09.11.2016, SWD(2016) 365 final

appointment and appraisal of judges and prosecutors, as well as of ethical and disciplinary matters has a direct impact on the training organization and delivery.

The institutional and training capacities of the JPTCs need to be further enhanced.

The conduct of comprehensive TNA is a core activity defining the scope and objectives of training programmes and requiring very good understanding of the specific TNA methodologies that might be applied. The EU Reports state that the JPTCs in Bosnia and Herzegovina have not yet undertaken a regular, comprehensive and analytical TNA. The survey made for the elaboration of present Study demonstrates the willingness of the relevant staff to work on this issue and continue to upgrade the knowledge and tools for raising the quality and efficiency of TNA and training itself.

The training institutions are facing the serious challenge to address numerous needs and target groups in order to support the improvement of the overall functioning of the judicial system. This is especially important for all judges and prosecutors handling complex cases. The harmonization of court jurisprudence is also a critical point where adequate training can serve for unification of the practical implementation and interpretation of laws and for improvement of quality of judicial acts.

The huge backlog of cases is one of the serious problems in the judiciary. The proper training could build specific knowledge and capacities.

The court administration and court management practice also need further improvement. The elaboration and introduction of comprehensive training programmes for training of the administrative staff of courts and prosecutor offices as well as specialized regular training on court management will strengthen the institutional capacities and overall functioning of the judiciary. The improvement of the efficiency, competence and quality is a key strategic issue.

Summary recommendations including the possibilities for regional cooperation and donor support

- Further strengthening of the institutional and training capacities of the JPTCs of the Entities in Bosnia and Herzegovina and improvement of coordination between them is needed for addressing all elements of the justice reform requiring training.
- Introduction of a comprehensive TNA methodology in line with European standards and best practices is strongly recommended as a basis for development of quality training curricula for induction and in-service training of judges, prosecutors and members of the administration of courts and prosecutors' offices. In that regard the enhanced regional cooperation will be very important for exchange of good practices and expertise.
- The JPTCs need to consider different options for funding and access to training activities based on the results of the TNA. Regional joint training on topics of common interest can be of great interest for members of local judiciary.
- The improvement of language skills of members of the judiciary (and of the staff of the JPTCs, if applicable) would allow for more active cooperation with other foreign JTIs and organizations for the organization of joint training events, exchange of participants, organization of internships etc. Available resources at a regional level need to be used (i.e. e-learning language courses, available training materials, exchange of trainers and training programmes).
- The development of specialized training on court administration and court management will support the national efforts for raising the independence, impartiality and effectiveness of the judicial system. Such programmes can be elaborated in cooperation with the WB JTIs in line with European standards.

- The improvement of training methods and delivery is crucial for a better quality and relevance of training. Regional initiatives for the organization of regular TOT programmes will be very important and cost efficient solution.
- The adoption of a system for training monitoring and evaluation will contribute to the improvement of training activities and to more serious impact of training. In that regard the regional cooperation will be very useful because of the existence of such systems in some of the JTIs.

Judicial training in Kosovo*

Legal framework, status and management bodies

During the last years Kosovo* made a visible progress for reaching the applicable standards and best practices in respect to rule of law with the adoption of new legislation regulating the structure of the judicial system and its administration as well as many new laws in different legal fields. Since 1st of January 2013, new laws on courts and on prosecution are in force. New laws on the Kosovo* Judicial Council (KJC) and Kosovo* Prosecutorial Council (KPC) were adopted. The new legal framework contributes to the independence, effectiveness, accountability and impartiality of the judicial system with the establishment of legal ground for the introduction of rules, systems and good practices for the administration of justice and functioning of the judiciary.

On 1 April 2016, the EU-Kosovo* SAA entered into force as a comprehensive framework for closer political dialogue and economic relations.

One of the milestones for successful legal and justice reform is the existence of a system for professional training of members of the judiciary. The relevance and need of judicial training was recognized back in 2000 with the establishment of a specialized JTI. The process of re-appointment of judges and prosecutors held in 2010 required additional efforts for building their professional capacities. In this specific context, the Kosovo* Judicial Institute (KJI) played a crucial role to provide quality training to appointed and potential judges and prosecutors with the delivery of Continuous and Initial Training.

The KJI was established in 2000 by the Organization for Security and Cooperation in Europe (OSCE). On 24 April 2006 was promulgated the Law on KJI (Law No 02/L-25) regulating the status and mandate of the Institute as an independent institution responsible for the organization of Initial and Continuous Training of future and sitting judges and prosecutors as well as training of other professionals working in the judiciary. The KJI was also responsible to implement other activities as a professional and research institution for the development of the judiciary in line with the European standards (Article 2, paragraph 2.2, b.). Until 2017 KJI was the central judicial training institution delivering different type of training programmes supporting the process of selection, recruitment, evaluation, promotion and career development of judges, prosecutors and court administration.

On 25 February 2017, the Law No. 05/L-95 on the Academy of Justice entered into force. The Academy of Justice is a legal successor of the KJI and carries out its functions in compliance with the Constitution and relevant laws and by-laws. The Academy is an independent public institution for the organization of training of judges, prosecutors, and administrative staff of courts and prosecutors' offices and other categories of legal professionals as defined by law.

The Managing Board, Programme Council and the Executive Director are the managing bodies of the Academy.

The composition of the Managing Board is a guarantee for independence of the JTI in the interest of the judicial and prosecutorial system. The Managing Board has 9 (nine) members as follows:

1. President of the Supreme Court;
2. Chief Prosecutor;
3. Three members appointed by KJC (one Basic Court judge, one judge from Court of Appeal and one member of KJC Secretariat);
4. Three members appointed by KPC (one prosecutor from Basic Prosecution, one prosecutor from appeal Prosecution and one member of KPC Secretariat);
5. One member appointed by the MoJ.

The Managing Board is responsible for the approval of relevant by-laws, training strategies, working plans and programmes as well as approval of trainers and mentors.

The Executive Director leads the Academy and represents the institution.

The Programme Council is a professional body consisting of 7 (seven) members having responsibilities related to the elaboration of training programmes, selection of trainers and mentors, advancement of training methodologies and improvement of training quality.

Organization of training

The Academy of Justice is responsible for the organization of Initial and Continuous Training of judges and prosecutors. The JTI is in charge of organizing training of the administrative staff of courts and prosecutors' offices and other categories of legal professionals defined by law.

The recent legislative changes introduced some important novelties in the organization of the Initial Training. According to the law, all newly appointed judges and prosecutors have to attend 12 (twelve) months Initial Training at the Academy of Justice. At the end of the programme, all judges and prosecutors will be assessed. The main objective of this programme is to develop professional, personal, and interdisciplinary competence, as well to build specific practical capacities and skills for performing judicial and prosecutorial duties. The Initial Training is a combination of theoretical and practical training, where modern training methodology and techniques are largely used. The existent distance-learning platform is also used for the purposes of this training.

The first pilot Initial Training was launched in 2005. Since 2008, 5 generations of trainees have been attending the Initial Training at KJI. Currently the training of 6th generation is ongoing.

The high importance of the Continuous Training is determined by serious legislative changes that are in place, lack of legal commentaries, the need of a unified case-law and court jurisprudence, the reforms in the organizational structure of courts and prosecution offices and increased obligations related to the European integration process and international legal cooperation. The Academy of Justice has a solid experience in the organization of in-service training.

The applied methodology for TNA is in line with best existing practices. The process of TNA includes:

- Elaboration and submission of TNA questionnaires to all judges and prosecutors and analysis of their proposals;
- The comments and recommendations in the Evaluation forms collected after each training session;
- Recommendations of KJC, KPC, Supreme Court, Prosecution Office, Judges Association and Prosecutors Association;
- Meetings with judges and prosecutors, court presidents and chief prosecutors of prosecution offices;
- Recommendations of institutions/international organizations;

- Organization of meetings with trainers for discussing the scope of necessary training;
- Working reports of judges and prosecutors;
- Recommendations of the Office of Performance Evaluation of judges and prosecutors;
- Analysis of the institution's agenda for drafting and amending of the laws;
- Strategies and documents approved by the institutions which contain recommendations and requirements for the judiciary and the rule of law;
- Print and electronic media monitoring;
- Programme for the implementation of SAA;
- European Commission Reports for Kosovo*.

The draft training programme is developed by training experts (judges, prosecutors, other professionals and staff of the Academy). The Managing Board approves the programme upon review of the Programme Council. The recommendations of KJC and KPC are always included in the programme.

Currently, the Academy has 25 employees working in two departments (Programme Department and Administration and Finance Department). The number of staff directly involved in training is 13.

There are two permanent trainers who are civil servants with permanent working relations with the Academy of Justice. Their role is to work on the organization and delivery of training within the Initial and Continuous Training Programme. The law provides as well for the appointment of permanent trainers who are sitting judges and prosecutors for a period of up to three years. The candidates are proposed by the Judicial and Prosecutorial Councils. The Managing Board takes a decision for their appointment.

All temporary trainers are selected by the Managing Board based on rules set out in the internal regulations in an open and transparent competitive process. All interested judges, prosecutors and other professionals apply by providing short description of practical problems related to the concrete module/subject, explanation of the foreseen training methodology and detailed training plan for the respective module/training subject. The Executive Director establishes a Commission for the evaluation of the documentation for the selection of temporary trainers and preparation of a list of candidates who meet the criteria. After consulting the Programme Council, the Executive Director submits the list of trainers for approval to the Managing Board.

The KJI was organizing regular TOT in order to develop practical training skills and abilities for the application of adult teaching methodologies. The Academy of Justice is planning to further advance the TOT programmes for achieving better quality and impact of training.

Continuous judicial training is voluntary. Exceptionally, on request of the KJC, KPC, court presidents and chief prosecutors, some training may be obligatory for judges, prosecutors or administrative staff, depending on their performance at work. The selection of participants is made among applicants for different courses. The Academy of Justice elaborates and publishes the yearly training programme together with the application forms at the end of each calendar year. Judges and prosecutors apply and the Academy sends invitations through court presidents and chief prosecutors. There is an electronic database for all judges and prosecutors and register of their participation. The Academy is following the data in order to guarantee a good balance and effectiveness of training by considering the profiles of applicants and the relevance of training for performing their duties.

There is no formal mechanism for exchanging information between the Academy of Justice and other institutions that administer and manage the judicial / prosecutorial system, apart from the fact that the KJC and KPC representatives are members of the Steering Council of

the Academy. Information on participation in trainings is regularly sent on a weekly basis, and in any case according to specific requirements, to the Judicial Council and Prosecutorial Council, court presidents and chief prosecutors.

The Academy of Justice is making efforts to enable the access to the Academy's internal database from the KJC and KPC, court presidents and chief prosecutors, in order to provide all necessary information regarding participation of judges and prosecutors in training.

The Academy is organizing training on court management with the support of donor organizations. The existing comprehensive programme for training of the administrative staff of courts and prosecutors' offices consisting of 7 (seven) modules (each of them with several sub-modules) will be launched in 2018.

In 2015 was introduced a distance-training platform. The following training courses are currently available:

1. Anticorruption (Investigation and tracing corruption and Corruption according to domestic legislation and international instruments)
2. Legal English
3. Information Technology
4. Court Management and Leadership
5. Stages of Indictment and pleading of guilt
6. Training on knowledge and basic practices of accounting for judges working in cases of insolvency
7. Stress Management
8. Justice for Children (civil and criminal aspect) for judges and prosecutors
9. Mediation (civil and criminal aspects)

In 2018 the Academy is planning to introduce nine (9) more training courses on distance learning platform.

The annual budget for 2017 is 663 884 EUR. Out of this budget, the amount of 206 285 EUR was allocated for training activities.

The donors' funding for 2017 is in the amount of 14 400 EUR. There are also additional donor programmes supporting some activities.

With the support of an EU-funded project was introduced a specialized internship programme for Kosovar judges and prosecutors. Visits to the Netherlands, Portugal, Bulgaria, Croatia and Germany were organized. There were MOU signed with several EU Member States for cooperation and exchange. The Academy enabled the participation of 2 judges and prosecutors in training organized by the French School of Magistracy (ENM). Within the scope of the cooperation with ENM three candidates of the French school had a three weeks internship in Kosovo*. A joint roundtable "The implementation of the ECHR and legal safeguards for protection against discrimination" with the School of Magistrates of Albania was also organized.

Infrastructure

The Academy of Justice conducts its activities in a rented facility (premises) as it doesn't have its own building. This building has one large training room for approximately 35-40 people, 2 other rooms for 20-25 persons and a room with information technology equipment for the distance learning training and for IT training for 18-20 people. All training rooms are equipped with translation booths and simultaneous translation equipment.

The Academy of Justice has a specialized Programme for Research and Publications aiming to provide practical and technical support to all beneficiaries (judges, prosecutors, trainees, trainers etc.) for research and provision of necessary legal resources. In this regard, the

Academy offers professional support and ensures access to information. There is a Library compatible with highest library standards and operating also on electronic platform – library cataloguing system, which enables to conduct legal research. The Library's collection is more than 1600 titles that include academic books from various local and international publishers, compilations of national laws, commentaries on national legislation, magazines, handbooks, legal terminology dictionaries, bench books on the courts case law, as well as encyclopedia. The library possesses books available in Albanian, in Serbian and in English languages. Besides hardcopy materials, there is also electronic library database providing electronic versions of legal sources. This database has in total 460 articles including compilations of laws, commentaries, articles of various scientific magazines, handbooks, manuals and other legal materials. This database is functional and easy accessible for beneficiaries.

Recent reforms in the normative framework and institutional organization

The major recent reform is the transformation of the KJI into Academy of Justice with the adoption of the Law on the Academy of Justice (in force since February 2017). The process of transformation is still ongoing with the elaboration of the necessary normative framework and internal regulations.

The new law introduced some significant changes related to the procedure for recruitment, selection, appointment and career development of judges and prosecutors in line with other relevant legislation regulating the functioning of the judiciary and status of judges and prosecutors. A new model for the organization of Initial Training is in place (now after the appointment of judges and prosecutors for a period of 12 months).

Key challenges and needs

The EC 2016 Report for Kosovo* pointed out some serious concerns and challenges related to the rule of law and functioning of judicial system. Despite all important positive steps undertaken by authorities (i.e. adoption of Constitutional amendments, adoption of most of the secondary legislation necessary for the implementation of the previously adopted 2015 justice package laws, appointment of most of the members of key institutions, reduction of backlog of court cases) the administration of justice remains slow and inefficient. This is a great challenge for the Academy of Justice to make an assessment and to provide training in order to raise the professional capacities within the judiciary thus improving the overall functioning of the judicial and prosecutorial system.

The Academy of Justice shall provide regular training in parallel with the institutional transformation. In that regard the organization of capacity building activities for the institution will certainly support the smooth transition and implementation of the new law.

The newly appointed Executive Director of the Academy needs a specialized management and professional training for being able to take over all responsibilities in a fast and efficient manner. It could be same for new members of Managing Board. Donor support and participation in regional activities will be very important in that regard.

The elaboration of a new Initial Training Programme is required in order to address the specifics of the new recruitment model and to ensure high practical impact of training content.

There is a need to strengthen the financial resources for the judicial sector with an emphasis on the enhancement of the professional capacities of judges, prosecutors and administrative support staff for ensuring proper functioning of the judicial system and the administration of courts. The introduction of the comprehensive training programme for the administrative staff is an excellent step forward. Other specialized advanced training is also needed for supporting the implementation of the strategic objectives for reduction of backlog of cases and

improvement of court administration (like training on Alternative Dispute Resolutions, mediation and other).

The capacities of judges and prosecutors need to be further strengthened with the organization of specialized training on economic crimes, public procurement and EU Law. Special expertise is needed in support to this action. The regional cooperation can support this activity.

Summary recommendations including the possibilities for regional cooperation and donor support

- Organization of capacity building activities for the management and staff of the Academy is of utmost importance for timely and proper implementation of the new law on the Academy of Justice.
- Analysis and advancement of TNA methodology and training programming is needed for addressing the new tasks and responsibilities assigned by law for the organization of Initial and in-service training for different target groups.
- Secondment of permanent trainers – sitting judges and prosecutors, will help to develop and organize quality Initial Training of newly appointed judges and prosecutors. The elaboration of training materials is important element of the training.
- Adoption of a comprehensive system for training monitoring and evaluation will raise the quality of training and would allow the conduct of post-training evaluation of the impact of courses. Regional exchange of experiences will be beneficial.
- The Academy will need expert support for the elaboration and adoption of institutional strategic plans.
- Specialized training on organized crimes, terrorism, criminal offences committed in the public procurement procedures, money laundering and informal economy, trafficking in human beings, case management and other will need further strengthening . The active regional cooperation and assistance is highly recommended as well as identification of available sources and channels for access to information and training in all these areas.

Judicial training in The Former Yugoslav Republic of Macedonia

Legal framework, status and management bodies

In 1999 the Association of Judges established the Center for Continuous Education for the organization of professional training of judges and prosecutors. The Center was a non-governmental organization (NGO) funded by different donors (USAID, ABA/CEELI, Open Society Foundation, US DOJ and other).

The SAA process was related to the implementation of some technical assistance projects supporting the organization of judicial training. The judicial reform strategy adopted in 2004 defined the establishment of a public JTI as one of the key priorities.

The Law on Academy for Training of Judges and Prosecutors was adopted in January 2005²³ regulating the organization and delivery of Initial Training of candidates for positions of judges and public prosecutors and Continuous Training of judges, prosecutors and judicial and prosecutorial administrative staff.

²³ Law on the Academy for Training of Judges and Public Prosecutors, Official Gazette No 13/2006

The Academy for Training of Judges and Prosecutors “Pavel Shatev” (ATJP) started its activities on 22 November 2006. The Academy is an independent, autonomous institution managed by the Managing Board in which all institutions having tasks in the administration of the judiciary are represented.

The Managing Board is composed of 9 (nine) members:

- Four members and their deputies proposed by the Judicial Council (judges from different court instances – Supreme Court, courts of appeal, basic courts and one from the Administrative Court or Higher Administrative Court)
- Four members and their deputies proposed by the Council of Public Prosecutors (one from the Public Prosecutor’s Office, one from higher public prosecutor’s offices, one from basic public prosecutor’s offices and one from the public prosecutor’s office for organized crime and corruption)
- One appointed by the Minister of Justice

The Director of the ATJP participates in the work of the Managing Board without right to vote.

The Managing Board is responsible for the adoption of the Statute and other acts of the Academy as well as for the overall management of the Academy. The Board takes decisions for the appointment of the Director and Programme Council as well as for the establishment of the Commission for Entry Examination and of the President of the Final Exam Commission. The Managing Board determines the lists of trainers and mentors and adopts training programmes for all types of training organized by the ATJP.

The Director directs the work of the Academy and represents the JTI before national and international institutions. The Law and the Statute of the ATJP define the tasks and obligations of the Director and her/his Deputy.

The Programme Council is a professional body composed of 7 (seven) members (judges, prosecutors, senior civil servants from the MoJ and other prominent lawyers). There are legal conditions in place for the appointment of members referring to the length of required professional experience (six years for judges and prosecutors and four – for MoJ representatives) and academic background for law professors and lawyers. The Council decides on the draft training programmes and monitors their implementation.

Organization of training

The ATJP is responsible for the organization of Initial and Continuous Training. In accordance with Article 3 of the Law on the ATJP the Academy conducts admission and professional training of future judges and prosecutors, continuous professional training and improvement of competences of the already appointed judges and prosecutors, as well as other legal professionals in line with international standards and principles.

The Academy has important function for the organization of Initial Training as part of the process of recruitment and selection of candidates for judicial and prosecutorial positions. The aim of the training is to develop practical and theoretical knowledge of candidates as a prerequisite for respecting the rule of law and protection of human rights and freedoms thus ensuring the quality of justice.

The Academy is in charge of the organization of the Entry Exam. The Law on the ATJP provides detailed regulation of the conduct of the examination. All successful candidates acquire a status of participants in Initial Training.

The Initial Training has duration of 24 (twenty four) months and has two phases:

- 1.) First phase – theoretical training in the Academy for a period of 9 (nine) months;
- 2.) Second phase – practical training in the courts and public prosecution offices and other institutions, lasting 15 months.

The goal of the Initial Training Programme is to develop wide range of general knowledge of the domestic and international law and EU Law with an emphasis on the practical implementation and existing court jurisprudence. The aim of the training is to build practical capacities for legal reasoning and writing and professional understanding and familiarization with the social, economic and cultural legal aspects of the social environment. The second phase of the programme supports the development of practical abilities for proper execution of judicial and prosecutorial functions.

Upon completion of the Initial Training, all successful participants acquire the status of candidates for judges and prosecutors. Until their appointment they work under the supervision of mentors in the courts and prosecutors' offices where they've been participating during the second phase of the programme. The appointment is based on the ranking of candidates.

The Continuous Training is mandatory for judges and prosecutors and voluntary for other training beneficiaries as provided for by law. The main objective of the training is to broaden the knowledge and competences of judges and prosecutors and to strengthen their independence and integrity.

The process of TNA includes consultations with relevant bodies and institutions. The ATJP send letters to all courts and prosecutor's offices, ministries and other related institutions asking for their feedback and proposals of training topics. The information provided by participants in all training events during the course of the respective academic year is also analyzed. The Academy elaborates a comprehensive list of topics on the basis of the results of the TNA and sends the document to the Higher Prosecutor's Offices, Courts of Appeal, Supreme Court and Public Prosecutor's Office for receiving their opinion. All ATJP trainers also make recommendations for the elaboration of the Continuous Training Programme. The Managing Board takes the final decision on the programme.

At the end of each calendar year, the Academy send the training schedule for the first six months of the following year to all court presidents, heads of prosecutor's offices and other institutions for further dissemination among training beneficiaries. All interested judges, prosecutors and other professionals apply through respective managing bodies. Based on applications, the Academy prepares the list of participants for each separate training event. There is an electronic database for all judges, prosecutors, judicial assistants and other categories of training participants with data about their training participation, work experience and other relevant information.

Recently has been introduced a good practice of informing relevant bodies (court presidents and heads of prosecutors' offices) about training participation of judges and prosecutors who applied for concrete training events in all cases of their failure to attend training. This will help to better plan the training attendance and to establish a mechanism for timely exchange of information.

The Academy is supporting the organization of language courses (French at the moment, English in the past). Training on court management is also conducted. The JTI has a status of EJTN observer and has active cooperation with many regional and international JTIs and other organizations.

The selection of trainers is based on the applications of all interested candidates. The Academy is compiling a list with names and field of professional interest and expertise. The selection of trainers for each topic is made out of this list. The law provides for the conditions

for the selection of trainers and sets some limitations depending on the type of training programme and profile of the trainer. Members of the Managing Board, of the Commissions for Entry Exam, Verification and final examination can't be engaged as trainers during the Initial Training in order to guarantee the transparency and objectivity of their work. There is also language skills requirement to use actively one of the official EU languages. The Academy can hire *ad hoc* trainers specialized in non-legal areas.

The evaluation of trainers' performance is done at the end of training by all participants who are filling in evaluation forms. So far, the Academy is not doing any evaluation of the impact of training. Within the framework of the ongoing IPA project "Further Support for Independent, Responsible, Professional and Efficient Judiciary and Improvement of the Probation Service and Alternative Measures" will be introduced such method.

The ATJP is organizing regular TOT, which is mandatory for all new trainers at the Academy. The practice is to conduct TOT once per year with an emphasis on training methods for planning of training, presentation and time management. Specialized TOT sessions on specific training subjects (i.e. ECHR, Anti-discrimination) are also organized.

Currently the ATJP has 18 full-time employees including the Director who is a judge by profession. Five of them are directly involved in the organization of training.

The annual state budget for 2017 is 38 415 000 MKD (after reduction with 2 710 000 MKD from the initially allocated amount). The Academy had to ask for reallocation of funds in order to cover the cost of the training.

In 2017 the COE made a donation of 47 221.79 EUR for a period of two years and for the organization of 5 training events.

Infrastructure

The Academy is using relatively small premises in a private block of flats. There are two training rooms – one for 25 participants and the second – for 30-40 participants where normally the Initial Training is conducted. Due to the lack of sufficient space, some training is delivered in the premises of the Skopje Court of Appeal or Public Prosecutor's Office. The training rooms are equipped with equipment for simultaneous translation. There are 20 computers available for the purposes of training. The Government is committed to ensure new adequate premises for the Academy by 2020.

The Academy has a practice for the organization of de-centralized training. There were steps undertaken for introduction of e-learning but there is no functioning distance-training system. There is a library with serious collection of books and publications without facilities for legal research. The financial constraints are factor creating difficulties for maintaining subscriptions to relevant legal databases.

Recent reforms in the normative framework and institutional organization

In July 2007 the Government of the Former Yugoslav Republic of Macedonia adopted the Plan 3-6-9 for proposing reforms in line with relevant EU and COE recommendations. It was announced during the RCC Joint Meeting of the Working Group on Justice and Western Balkans' JTIs held in Brussels on 6-7 December 2017 that a new Judicial Reform Strategy was adopted. There are changes in the Law on the ATJP foreseen for ensuring a more efficient mechanism for recruitment and appointment of judges and prosecutors.

Key challenges and needs

The quality of training depends on the institutional sustainability and applied training methodologies. The constant advancement of the professional capacities of the employees of the respective JTI is crucial for the effective functioning of the training institution. The field of training requires high degree of commitment and flexibility for acquiring new knowledge, skills and abilities and for developing strategic plans and visions for future actions.

The good Internal and External Communication is important for improving the overall organization of training. The Academy needs to continue the existing good practices for establishing good coordination and cooperation with relevant domestic and international organizations. In that regard the delegation of duties and involvement of all training and professional staff of the Academy in the process of training planning and organization is important. Team building activities and management training for ATJP staff will support the further enhancement of the capacities of the Academy in the context of the arising obligations related to the EU integration process.

The Academy needs strong support from national authorities for providing appropriate conditions and funding. In line with existing standards, the state shall cover as a minimum the cost of the Initial Training as well as other type of mandatory training defined by law.

One of the serious challenges is the need to depoliticize the appointment of judges and prosecutors in practice. The Academy has important functions related to the process of recruitment, selection, Initial Training and appointment of candidates for positions of judges and prosecutors. The possible political and other interference in the process shall be strictly opposed. In that regard training and capacity building is also required.

Despite the existence of a formal merit-based criteria and requirement for all first-time appointees in the judiciary to have graduated from the Academy, the amendments to the Law on the ATJP from 2015 provided for some changes affecting the transparency and objectivity of the appointment procedure.

The Academy needs to take effective measures for addressing the common weaknesses in the system related to the low quality of court decisions, level of specialization, court organization and management, respect to the Code of Ethics and professional conduct etc. The training programmes shall be focused on practice-oriented content for developing professional skills of magistrates in line with European standards. Legal reasoning and drafting, court administration and case management, professional conduct and judicial ethics shall be always included as training topics in the Initial and Continuous Training Programme.

The process of TNA has to be further developed. The Academy needs to play a pro-active role in the process for setting up training priorities on the basis of a serious assessment of concrete needs of members of the judiciary. More comprehensive approach for conduct of the assessment would support the development of quality training programmes corresponding to real needs and addressing specific issues related to the functioning of the judiciary and interpretation of laws.

Summary recommendations including the possibilities for regional cooperation and donor support

- The ATJP needs to further enhance its institutional and training capacities focusing on the team building and staff training in order to ensure quality performance. In that regard the regional cooperation can contribute to the organization of joint activities.

- The TNA methodology has to be advanced in line with best standards and good practices.
- The Initial Training Programme needs to be further improved in order to ensure adequate formation of necessary practical skills and knowledge for performing judicial and prosecutorial duties. The Academy has the important obligation to train future judges and prosecutors and the relevance and quality of training has a direct impact on quality of justice immediately after the appointment of candidates.
- The ATJP needs to develop internal capacities for more active cooperation with domestic and international partners, donors and organizations as a guarantee for better impact of provided assistance and organized actions. The level of absorption of the results of the assistance needs to be further increased.
- The Academy needs to continue working on the development of training methodologies for raising the quality of training. More often TOT can be organized for building up specific training capabilities of ATJP trainers. Such training can be organized within the framework of the regional cooperation between WB JTIs.
- The secondment of sitting judges and prosecutors to serve as permanent trainers at the Academy is highly recommended. The selection shall be made between candidates with high professional reputation, personal integrity and proved professional competence.
- The introduction of a system for training monitoring and evaluation is crucial for the improvement of quality of training. Regional initiatives can be organized in support of this action.
- Full-scale introduction of distance-training mechanism is needed. This will have a very positive impact on the training organization. Cooperation and exchange of experiences with JTIs from the region will be beneficial.

Judicial training in Montenegro

Legal framework, status and management bodies

The Judicial Training Center (JTC) of Montenegro was established in 2000 as an NGO for training of judges. In 2006 following the adoption of the Law on Training of Judiciary it became part of the Supreme Court administration with a limited number of staff (only four) responsible for the organization of in-service training of judges.

The transformation of the JTC into an independent self-sustainable public institution in line with the recommendations of the Action Plan for the Negotiations on Chapter 23 and the Judicial Reform Strategy 2014-2018 was a significant reform step. The new judicial training institution (the Center) was established by the Law on the Center for Training in Judiciary and State Prosecution Service adopted in September 2015²⁴. The Center has a status of independent public entity funded by the state budget and other sources. The Law provides for the main competences related to the organization of mandatory Initial Training for candidates for judges and prosecutors (Article 39-44) and Continuous Training for judges, prosecutors and other legal professions. Article 6 of the Law provides for the training as a right and a duty of judges and prosecutors.

The new JTI is built upon the achievements of the former JTC, which is a guarantee for smooth transformation and institutional continuity. In fact, most of the members of the managing bodies of the Center have been working for the JTC and can continue to provide contribution and support to the development of judicial training activities in Montenegro.

²⁴ The Law on the Center for Training in Judiciary and State Prosecution Service adopted entered into force on 17 October 2015

The Statute of the Center was adopted in February 2016 in line with the applicable law provisions.

At this stage, all management bodies of the Center are constituted as follows:

- Steering Committee
- Chairperson of the Steering Committee
- Programming Council with its two Boards
- Director of the Secretariat of the Center

The Steering Committee consists of 7 (seven) members as follows:

1. One Supreme Court judge;
2. One prosecutor from the Supreme State Prosecution Office, who is not a member of the Prosecutorial Council;
3. One representative of the Judicial Council with at least five years of professional experience, who is not a Supreme Court judge or a member of the Judicial Council;
4. One representatives of the Prosecutorial Council with at least five years of professional experience, who is not a state prosecutor in the Supreme State Prosecution Office or a member of the Prosecutorial Council;
5. One MoJ representative with at least ten years of professional experience;
6. One representatives appointed from among law professors;
7. One representative of the Bar Association.

The law foresees a reduction with 50% of the workload of members who are judges and prosecutors, upon their request in order to ensure their active involvement in the management of the JTI.

The Chairperson of the Steering Committee is managing and representing the Center. During the mandate the Chairperson is released from performing professional duties as a judge or a prosecutor.

The Programming Council has in total 10 (ten) members who are also members of the two Boards – one for the Initial and another – for the in-service training. The role of the Programming Council is to adopt the training programmes, to monitor their implementation, to decide on the hiring of trainers and to perform other duties in line with the normative framework.

Organization of training

The Law on the establishment of the Center regulates the mandatory Initial Training for judges and prosecutors after their initial appointment with the purpose to acquire practical and theoretical knowledge and skills. The training programme is focused on the applicable procedures and legislation at the level of misdemeanor courts, basic courts and basic state prosecution offices, Commercial Court and Administrative Court where trainees will start their work as judges and prosecutors.

The duration of the Initial Training is of 18 months for candidates for judges for the basic courts and prosecutors in basic state prosecution offices (6 months theoretical training and 12 months practical training).

The Initial Training for candidates for misdemeanor court judges is 9 (nine) months (3 months theoretical and 6 months practical training).

The Initial Training for candidates for judges of the Commercial Court of Montenegro lasts for 6 (six) months, out of which 20 lessons per month are theoretical training.

The Initial Training of candidates for judges of the Administrative Court lasts for 4 (four) months, out of which 20 lessons per month are theoretical training.

The evaluation of trainees is done by trainers and mentors during the entire course.

The Law provides for a minimum of two working days per year in-service training (Article 45, par. 2). The content of the Continuous/in-service Training Programme is developed by considering the professional experience of different target groups in line with the provisions of Articles 45-51. The Law defines the scope of training for each category: judges and prosecutors with less or more than 4 (four) years of experience; court presidents and heads of prosecutor offices; in-service training in case of promotion or change of the particular area of law; in-service training of judges and prosecutors evaluated with grade “Unsatisfactory”. Joint training programmes are also regulated.

The applied TNA methodology refers to the submission TNA questionnaires to all courts, prosecution offices, Judicial and Prosecutorial Councils, Bar Association and Bailiffs Association. The Center also makes an analysis of the existing obligations related to the implementation of the Action Plans for the Judicial Strategy 2014-2018 and EU accession negotiation process.

The selection of participants is made on the basis of the existing Rulebook. The final decision about training participation lies with the collegium of judges and prosecutors in each court/prosecution office after submission of applications by interested judges and prosecutors. The Center determines the number of participants from different courts/prosecution offices. There is a record of training attendance.

The trainers of the Center are selected after public announcement. The Programming Council is in charge of selection procedure. The organization of TOT is part of the training activities. So far, such specialized TOT was conducted with the assistance of different international organizations and projects.

The Center organizes specialized training for Court Presidents or Heads of State Prosecution Offices which includes organization and internal management, case management, management of human resources, alternative dispute resolution, public relations and other areas significant for their work. Currently the JTI is cooperating with the EIPA/Luxembourg for the elaboration of specialized program curricula.

In cooperation with the COE HELP the Center is organizing e-learning courses. With the support of the US Embassy are provided English language courses.

The annual state budget allocated to the Center is in the amount of 2% of the total budget allocated for the judiciary and prosecution service. The approximate amount provided by donors and project activities is 300 000 EUR.

The Center has 10 (ten) employees. Out of them 6 (six) are directly involved in the organization of training.

Infrastructure

At the moment the training institution is renting the premises. There are two training rooms. One of them has facilities for simultaneous translation.

Recent reforms in the normative framework and institutional organization

The adoption of the new Law in 2015 establishing the Center for Training in Judiciary and State Prosecution Service as an independent public judicial training institution is a radical change requiring serious efforts for building up sustainable institutional mechanisms and capacities for the organization of different types of training and supporting the overall process of justice reform.

Key challenges and needs

Additional support may be considered for building the institutional capacities of the Center for the organization of quality judicial training in line with best standards and good practices. Well-coordinated donor support will continue to be important for ensuring the smooth transition and further development of the institutional structure and training capacities of the JTI. The exchange of experiences and practices at a regional level will be also of great benefit for the Center in order to analyze lessons learned by other institutions in the WB region.

The new functions and obligations require a sustainable solution and support for securing adequate premises and conditions for the organization of training. This problem is also addressed in the last EU report for Montenegro for 2016²⁵.

The important role of the Center for the organization of Initial Training of selected candidates for judges and prosecutors require strong state support and adequate funding in line with European standards. The Center continues to depend on donor support for the funding and delivery of continuous training. The sustainability of training activities depends on the financial independence and stability.

The new functions and types of training introduced by law require the adoption of more advanced TNA methodology and capacity building activities. The existing good practices can be further developed.

Summary recommendations including the possibilities for regional cooperation and donor support

- The administrative capacities of the Center need to be further enhanced in order to meet all obligations arising from the implementation of the Law from 2015. The organization of joint activities and exchange programmes at a regional level can support the capacity building process. Technical assistance and expertise will be also needed for conducting an institutional and functional analysis and defining strategic plans for future development.
- The new status of the JTI is related to new functions requiring enhancement of staff capacities. The elaboration of an institutional and functional analysis is needed for defining the necessary steps for the establishment of a proper organizational structure and internal mechanism for institutional organization as a guarantee for efficiency and quality performance. Experiences of other WB JTI need to be studied. Expert support will be needed for ensuring compliance with relevant standards.
- The capacity building of management bodies of the Center (Chairperson, Steering Committee, Programming Council and Director of the Secretariat) is very important. The organization of specialized training on leadership, strategic planning, financial planning, communication and management is encouraged as a guarantee for ensuring good management and efficiency. .
- The role of the Chairperson of the Steering Committee is very important. Having in mind the broad obligations would be better if the Chairperson deals more with

²⁵ EC Montenegro 2016 Report, 09.11.2016, SWD(2016) 360 final

strategic and not operational management. The establishment of functioning internal mechanisms for delegation of duties would support the efficiency of the work.

- A proper solution and adequate premises shall be provided by the Government. Different options can be discussed. The most economical way would be to use a public building or to share premises with some other institution (preferably within the judiciary or justice sector).
- The organization of Initial Training is a new task for the training Center. Best existing systems and practices shall be studied. Expert support is needed for building up professional capacities for planning and organization of such type of training.
- The selection and TOT is important for development of quality training. The Center shall develop capacities for the organization of TOT on a regular basis. The introduction of a system for monitoring and evaluation is also very important for achieving better quality and relevance of training programmes and training delivery. Foreign (including regional) experience will serve as a basis for adoption of systems and good practices.
- The existence of a system for selection of trainers, selection of participants and elaboration of training materials based on standards and adopted methodologies will raise the quality of training. Expert support will be needed for the development of the systems and for sharing the existing European standards and good practices. Such activities can be organized at a regional level.

Judicial training in Serbia²⁶

Legal framework, status and management bodies

The Judicial Academy of Republic of Serbia was established in 2010 with the adoption of the Law on Judicial Academy in 2009²⁷. The Academy is a successor of the Judicial Training Center, founded in 2001 by the Serbian Government, the MoJ and the Serbian Society of Judges.

The main purpose of the establishment of the Justice Academy is to contribute to professional, independent, unbiased and efficient performance of judicial and prosecutorial function as well as to the professional and efficient performance of duties of judicial and prosecutorial staff (Article 2).

The MoJ supervises the legality of work of the Academy.

The Law provides a detailed regulation of all functions of the training institution related but not limited to:

- Organization and conduct of the entrance exam for the Initial Training;
- Organization of Continuous Training of judges and prosecutors;
- Organization and conduct of training of lecturers and mentors;
- Organization and conduct of professional training of judicial and prosecutorial staff;
- Establishment of cooperation with local, foreign and international institutions, organizations and associations on matters concerning its activities;
- Publications and publishing activities as well as research and cooperation with scientific institutions and other.

The managing bodies of the Academy are the Steering Committee, the Director and the Programme Council.

²⁶ The survey is made on the basis of available written materials. The Judicial Academy did not provide answers to the Questionnaire elaborated for the purposes of this Study.

²⁷ The Law on Judicial Academy, Official Gazette of the RS, no. 104/2009, further amended in 2015

The Steering Committee consists of 9 (nine) members: four members appointed by the High Judicial Council from the ranks of judges, two of whom are appointed at a proposal of the Association of Judges; two members appointed by the State Prosecutors' Council from the ranks of prosecutors, one of whom is appointed at the proposal of the Association of Prosecutors; and three members appointed by the Government, one of whom is the State Secretary in the Ministry responsible for judiciary, in charge of professional advancement of those employed in judiciary and one is from among the employees of the Academy.

The Steering Committee has a number of competencies related to the adoption of the Statute and other internal acts of the Academy, election of the Chairman of the Committee and the Director of the Judicial Academy, adoption of Rulebooks for the entry and final exam of the Initial Training as well as the training programmes before their submission to relevant Councils for approval.

The Director of the Judicial Academy is its executive body representing the JTI and responsible for the coordination and organization of the work.

The Programme Council is a professional body with 11 (eleven) members appointed by the Steering Committee responsible for the determination of all types of draft training programmes. The Council has a role in the selection and appointment of trainers and mentors.

Organization of training

The Judicial Academy is organizing Initial and Continuous Training.

The purpose of the Initial Training is to develop practical and theoretical knowledge and skills for ensuring independent, professional and efficient performance of judges and prosecutors upon their appointment. The organization of training is an essential element of the procedure for recruitment and selection of candidates for judicial and prosecutorial positions. The Academy is announcing a public competition for the selection of candidates to be admitted to the Initial Training and organizes an entry exam consisting of written and oral examination and a personality test.

The Initial Training lasts for 24 (twenty four) months focusing mostly on the conduct of internship where trainees are assigned to mentors at the basic courts and public prosecutor's offices. Trainees are assigned to real cases and periodically change the subject matter for obtaining relevant knowledge and practical experience. Only twice per month, the Initial Training trainees attend workshops on different legal topics. The evaluation of their performance is done by the mentors and the trainers. The final exam consists of a simulation of court case (mock trial).

The Academy is facing some serious challenges for ensuring common standards in the conduct of the Initial Training Programme. All trainees are usually spread in different courts and there is no strictly defined theoretical part of the training when all participants are trained together. Currently, the ongoing IPA project provides assistance for improvement of the internship programme and training evaluation.

The organization of Continuous Training aims at strengthening the professional and efficient performance of judicial and prosecutorial function. The training is voluntary with the exception of cases of change of specialization, significant changes of regulations, introduction of new working methods as well as in cases when newly appointed judges and prosecutors have not attended Initial Training at the Academy.

The Law requires the submission of the framework annual Continuous Training Programme for the following calendar year by 1st December each year. The TNA organized by the Judicial Academy includes the submission of questionnaires to all courts and prosecutor offices, analysis of proposals from the Ombudsman, anticorruption bodies, organizations of

minorities etc. The requirements of the EU accession process are also considered in the conduct of the TNA. The ongoing IPA project is supporting the introduction of a comprehensive TNA methodology.

The intensive legislative process implies additional pressure and need of organizing many *ad hoc* training events. Training on the new legislation is a priority for the JTI. Usually the Academy organizes one day training, which might be a short time for achieving good understanding and active discussions between participants.

The selection of participants is made by court presidents and heads of prosecutor offices. The Academy announces all training on the web-site and sends letters to respective bodies. The judges and prosecutors learn about the training upon their approval to participate - only few days before the date of the event. The lack of efficient mechanism for selection of participants creates some difficulties related to the selection of participants who work in different areas or are not able to attend due to existing workload or other obligations.

The selection of trainers is done by the Programme Council taking into consideration the reputation of potential trainers and some other relevant information (i.e. feedback provided by participants in the evaluation forms). The selection is more subjective than objective and not always based on professional competence and practical training abilities.

There are no permanent trainers appointed at the moment.

The position and role of mentors is very important because they supervise the trainees during the internships and implement the Initial Training Programme. Continuous improvement of their capacities is needed.

The Judicial Academy has a Cooperation Agreement with the Faculty of Andragogy for the organization of TOT and Training of Mentors. Such training is organized on a regular basis.

The Judicial Academy initiated some steps for the introduction of a system for training monitoring and evaluation with the support of an EU-funded project. Additional efforts are needed for an efficient system of evaluation, including post-training evaluation of the impact of the programmes.

Currently the number of employees is 38 (thirty eight) – 22 (twenty two) of them are involved in the organization of training. There are no deputy directors. There are plans for significant increase of the number of staff positions up to 60 (sixty). Five positions for permanent trainers are foreseen in line with god practices.

The annual budget allocation is of approximately 229 044 000 RSD. The income from donations is different. For 2016 the amount is 34 152 000 RSD.

Infrastructure

Currently the Academy is using premises in Belgrade with offices and one training room of 80 square meters. There are also regional offices in Nis, Novi Sad, Kragujevac, Vranje and Novi Pazar. The Government has provided a new building for the Academy in Belgrade with total surface of 2800 square metres. The renovation is funded by the EU. The Academy will have 12 rooms for training purposes, such as classrooms, a library, two courtrooms for simulation of trials, classrooms for IT training courses, small chambers for workshops and offices.

In partnership with the COE HELP programme the Academy provides access to the existing e-learning platform. There are plans for introduction of distance-training system at the JTI.

Recent reforms in the normative framework and institutional organization

The establishment of the Judicial Academy and the introduction of the Initial Training as part of the process of recruitment, selection and appointment of judges and prosecutors was a serious change of the existing system for access to the judiciary. The need to enhance judicial independence and quality of performance was among main reasons for adoption of the new model of selection of candidates.

In accordance with Article 40 (par. 8, 9 and 11) of the Law on the Judicial Academy the Judicial and Prosecutorial Councils were obliged to give a priority of graduates of the Academy in proposing candidates for election. Other candidates could be proposed only if there were no Academy's graduates applying for the respective position. With a decision of the Constitutional Court from 6th of February 2014²⁸ these law provisions were declared unconstitutional. As a result, in the period 2014-2016 only limited number of the newly appointed judges and prosecutors were graduates of the Academy (around 10%). The main way for access to the judicial system remains the traditional selection among judicial or prosecutorial assistants.

The current situation has a serious impact on the functioning of the Judicial Academy. The existence of two parallel ways for entrance in the judicial and prosecutorial system creates practical difficulties and contradictions. The Academy has the financial obligation to pay salaries to all non-appointed graduates. The total amount spent exceeds the amount allocated for the organization of training, which raise serious concerns for future financial sustainability. The present practice also affects the relevance of the Initial Training as such and raises many questions requiring immediate actions and strong political will for finding a sustainable solution.

Key challenges and needs

The current existent dual system for access to the judicial and prosecutorial system is the major challenge for the Judicial Academy. This issue shall be addressed for finding a proper solution in line with existing standards.

The Judicial Academy needs additional support for strengthening the institutional and training capacities and ensuring high quality training based on a comprehensive TNA system. The EU 2016 Report also underlines the need of improvement of the professional, financial and administrative capacity of the Academy for becoming "*a proper independent and compulsory point of entry to the judicial profession*".²⁹

The relevance of the Initial Training can be recognized if the quality of the programme is confirmed. The training shall be practice-oriented and organized by considering concrete needs and professional requirements related to the judicial and prosecutorial duties of future judges and prosecutors. The elaboration of a comprehensive Initial Training Programme in line with existing European standards and good practices is a serious challenge requiring strong political support, change in attitudes and traditions and clear understanding of the purposes of this training aiming at developing professional capacities of future magistrates for performing judicial and prosecutorial duties with respect to principles of independence, impartiality and accountability.

The organization of in-service training requires serious expertise for adopting TNA methodology, developing training curricula for all categories of staff defined by law and

²⁸ Case No 497/2011

²⁹ EC Serbia 2016 Report, 09.11.2016, SWD(2016) 361 final

organizing quality training in line with best practices. The Academy shall allocate personnel and financial resources for development of practice-oriented Continuous Training.

The introduction of a mechanism for training monitoring and evaluation of all elements of the training process is a complex task. The Judicial Academy needs additional support for addressing this issue.

Summary recommendations including the possibilities for regional cooperation and donor support

- All challenges and needs listed above would need particular support for achieving good progress and results.
- The administrative and training capacities of the Judicial Academy shall be further enhanced in order to ensure a proper organizational structure and internal mechanisms for the organization of quality training in line with the applicable domestic legislation and relevant standards and good practices. In that regard the cooperation with other WB JTIs and other regional and international donors and organizations will strongly support the process of assessment and development of new policies, systems and training methodologies.
- Special attention shall be paid to the monitoring and evaluation of the entire process of training (TNA, planning, elaboration of training curricula for Initial and in-service training, selection of trainers and mentors and TOT programmes, training delivery and evaluation of training, including post-training evaluation of the impact of the programmes). The Academy received a project support for the implementation of a system for Monitoring and Evaluation of training. This activity can be further implemented at a regional level because of the high relevance and importance of this practice.
- The quality of training could be significantly enhanced by developing practical aspects of the programmes. In that regard the involvement of practicing judges and prosecutors for longer period of time (up to 3 years) as permanent trainers will be a great advantage. The exchange of experiences at a regional level and good understanding of existing systems in other European countries can support the introduction of such practice at the Academy.
- The Initial Training Programme needs further improvement in order to meet the requirements for the functioning of the judiciary on the principles of independence, impartiality, accountability and efficiency. The existing experiences of other WB JTI having similar training systems can be shared. Donor support and expertise is needed for the restructuring and further development of the Initial Training as a guarantee for building practical professional capacities of future judges and prosecutors.
- There is a need to focus more on the organization of Continuous Training. Joint regional training events and other options for access to available programmes, facilities and materials has to be explored. There are topics of common interest. All WB JTI can work on the organization of training by considering their own contributions to different elements of the training organization depending on available resources and capacities.
- The Academy needs to shift the focus from in-service training on new legislation to the elaboration of a Continuous Training Programme addressing also other existing needs within the judiciary. The importance of the training on the new legislation can still be respected by finding different practical solutions for providing information and practical training (i.e. e-learning courses).
- The systems for selection of trainers, mentors and participants shall be based on objective criteria. The role of the Academy as a professional public training institutions needs to be strengthened and respective bodies and staff of the JTI is

encouraged to be more active in taking decisions within the scope of respective competences.

Comparative review of existing systems and good practices

The comparative review of existing systems for the organization of judicial training in the WB region leads to the conclusion that the six WB JTIs included in the Study demonstrate high degree of commitment for development of a sustainable system for the organization of specialized professional training of future and sitting judges and prosecutors as part of the process of their recruitment, selection, appointment and career development.

In all WB economies the judicial training is developed with the active involvement of state authorities, judicial and prosecutorial system, international community and many experts, projects and donors providing continuous support for the development of proper organizational structures and training methods.

The judicial training has almost 20 years long tradition in WB region. This is prove for the importance and relevance of training activities and for the proper actions implemented for building up sustainable policies and national structures.

The WB region has been suffering some serious political clashes and controversy. The field of training has been always free of such tension between different entities. Representatives of relevant national authorities as well as executive bodies of the JTIs are committed to establish good cooperation in support of the further strengthening of the institutional and training capacities of all regional training institutions.

The analysis of the legislative framework and organizational structures of WB JTIs gives a good basis for comparison in order to define the common elements and areas of potential cooperation. Short summary is given below:

Status and institutional structure

Currently all WB JTIs have a status of independent public judicial training institutions established by law.

The Albanian School of Magistrates and the Centers for Judicial and Prosecutorial Training in Bosnia and Herzegovina were initially established as independent bodies.

The case of Kosovo* is more specific. The KJI was initially established in 2000 within the OSCE Mission. The Law on KJI was adopted in 2005 when the Institute obtained a status of independent legal entity. Since February 2017 the Academy of Justice is the public institution responsible for the organization of training as a legal successor of KJI.

In The Former Yugoslav Republic of Macedonia, Montenegro and Serbia the JTCs were initially established as NGOs. The adoption of laws on the establishment of respective training institutions regulated their status as independent public bodies.

The organizational structure of JTIs reflects the assigned functions and competences. The ongoing judicial reforms and serious requirements and obligations arising from the process of European integration have a serious impact on the organization of training. The present survey confirms the need of conduct of institutional and functional analysis in all WB JTIs with the aim to define existing gaps and potential areas for further improvement and restructuring. This is especially important for the JTIs of Montenegro, Serbia and Albania due to the recent legislative changes and developments.

Managing bodies

The comparative analysis confirms the compliance of management structures with relevant European standards. The composition of management bodies (Managing Board/Steering Board/Steering Committee) is in line with the main principles for the organization of judicial training (II.2 of the Study). The composition of the management bodies includes mainly representatives of judicial and prosecutorial system. The number of members is 9 for most of the institutions, except Albania (13) and Montenegro (7). The MoJ has representation, which confirms the commitment of the governments to support judicial reforms and judicial training without a possibility to interfere in the decision-taking process.

The Directors of the JTIs are professionals with high level of expertise in the justice and training field. Most of them have a long-term experience in the field of training, which is a great advantage for the institutions.

Some recent appointments (in Kosovo* and Montenegro) refer to the need of organizing specialized training and capacity building activities for supporting the smooth and efficient performance of managerial tasks and duties.

The analysis of the competences of the managing bodies of the WB JTIs (including the Programme Councils) proves the need of further assistance for strengthening the management and training abilities of members of these bodies. A clear distribution of tasks and functions is necessary as well as more pro-active participation of the entire training staff of different JTIs (directors of units, programme coordinators, trainers etc.) The delegation of powers and duties is not largely implemented by WB JTIs. This may create excessive workload for management and lack of commitment within the staff.

The relations with respective Judicial and Prosecutorial Council/s are important for establishing a well-functioning mechanism for coordination and exchange of data and information. Some positive developments are in place. The participation in training is right and obligation of magistrates. All judges and prosecutors need to have access to training activities. The comparative analysis shows some tendency for Councils to take the lead in defining training priorities especially related to training participation and selection of participants. The role of the Councils is to formulate policies for effective administration and functioning of the judiciary. They certainly have to be part of the process of TNA and training organization. The judicial training is an essential element of the career development of judges and prosecutors (same should be applicable to the administrative staff). We see the role of the Councils more in setting up policies and rules for considering the training results in the process of performance evaluation of judges and prosecutors and their promotion and discipline. At the same time the JTIs have capacities and specific knowledge to perform their tasks in line with the laws providing for their independent status.

Types of training

All WB JTIs are responsible for the organization of Initial and Continuous Training of judges and prosecutors. The duration of training varies depending on local specifics.

There are different systems of organization of Initial Training depending on the existent model for recruitment and appointment of members of the judiciary. In Albania, The Former Yugoslav Republic of Macedonia and Serbia the Initial Training takes place before the selection and appointment of judges and prosecutors. In Kosovo* such system was in place until the adoption of the new Law on the Academy of Justice when the model was changed. The Initial Training in Montenegro is organized immediately after the selection of candidates.

The development of comprehensive Initial Training Programmes is one of the major challenges for all WB JTIs. The training content shall be well-balanced and practice-oriented providing for specific professional tools and methods for performing judicial and prosecutorial duties. The broad knowledge and understanding of social environment is

important for future magistrates. The programme needs to combine legal and other subjects for building up practical skills and experience. The Initial Training needs to be focused on relevant law areas (civil and criminal procedure, material law, jurisprudence of the court levels where trainees will have their appointment). Training on EU Law shall be integral part of the curriculum.

The elaboration of a programme combining theoretical and practical training is a challenge as well. The exchange of experiences would help to find the most appropriate solution depending on concrete conditions. There are positive examples for well-functioning mechanism (like in Montenegro, The Former Yugoslav Republic of Macedonia, and Albania). Serbia needs significant support for re-organizing the system of Initial Training and for introduction of theoretical part requiring the joint participation of all trainees in order to ensure uniform training and same quality of training delivery. The Kosovar* Academy of Justice may need to adjust the Initial Training given the new legislative regulation.

The delivery of interactive practical training is a key factor for impact of the programme. The proper selection of trainers, the secondment of sitting judges and prosecutors as permanent trainers as well as adoption of a mechanism for selection and evaluation of mentors are crucial for the quality and relevance of training. The standards described in paragraph II.2 shall be respected in regard to the organization of training and selection of trainers. The organization of mandatory TOT is important for development of training capacities for application of modern adult training techniques and methodologies. The WB JTIs have experience and are fully aware of the importance of practice-oriented training and proper selection of training methods and trainers. Further efforts in that direction are needed for achieving progress and better quality. There is still common practice to organize lecture type programmes that are not well perceived by participants.

All JTIs from the region are organizing Continuous/in-service Training. The training is based on the analysis of training needs. The process of TNA needs to be further enhanced in all JTIs. The role of the training institutions in defining training priorities is also important for achieving good impact, relevance and quality of training.

The review of information about the organization of Continuous Training made clear that in many cases the training institutions are dependent on the lack of availability of sufficient funds for the organization of training and cooperate mostly with donors and partner organizations. Despite all positives of such cooperation and undisputable importance of donor assistance, should be pointed out that this approach is not effective in a long run. In such situations, the JTIs are not (or not always) in a position to define priorities and to have specific professional requirements in the process of training planning and organization. This also results in lack of commitment and ownership of the programmes delivered with the assistance of or by different donors and organizers.

The adoption of training policies and plans need to be supported by the governments by ensuring proper conditions and funding for the organization of training. The current analysis shows that most of the funds allocated to JTIs cover administrative costs and maximum 1/3 is spent for the organization of training. In some institutions (like in Montenegro) the training activities are fully covered by donors.

The development of specialized comprehensive training curricula on court management and court administration is of high importance for raising the capacities of court managers and entire judicial system for ensuring independence, efficiency, timeliness and quality of justice. The main criticism in all WB region is related to the functioning of the judicial system. The improved mechanisms for case management, allocation of cases, case proceedings and use of technologies would improve the individual performance of judges and prosecutors as well as court personnel and the functioning of the entire system. In some jurisdictions such training curricula have been developed (Kosovo*). Most of the JTIs also provide training on court

management. This can be one of the areas of regional cooperation and organization of joint events, exchange of programmes and materials, ensuring access to e-learning courses, delivering TOT etc.

The introduction of comprehensive training programmes for training of the administrative staff is also needed. Such programme will be implemented in Kosovo*. The survey confirmed the importance and urgent need of addressing this target group. Expert intervention will be needed for the elaboration of the programmes. Different regional training events can be also discussed.

Training on anti-corruption, fight against organized crime, trafficking in human beings, terrorism, anti-discrimination and protection of human rights continue to be among training priorities for the organization of Continuous Training.

The introduction of distance-learning systems is one of the serious challenges. Most of the institutions have such systems in place (Kosovo*, The Former Yugoslav Republic of Macedonia, and Albania) or have access to such training. Further efforts and support is needed for full-scale introduction of this tool. The WB JTIs are strongly advised to agree on the conditions for providing access to existing e-learning courses and for developing such courses in cooperation.

Institutional and training capacities

As stated above, most of the WB JTIs are in a process of significant transformation (Montenegro, Kosovo*) or the current situation imposes new tasks and responsibilities (Albania, Serbia). There are also concerns raised by beneficiaries related to the lack of appropriate conditions and infrastructure for the organization of quality training as required for by law (Albania, Montenegro).

Further strengthening of the institutional and training capacities of all WB JTIs is seen as a high priority and area requiring particular attention and support. The optimization of the organizational structures and adoption of advanced training methodologies for TNA, training planning, programming, elaboration of materials, training delivery and training monitoring and evaluation is crucial for further development of training institutions.

Now is the exact moment for addressing existing gaps and weaknesses and for supporting further advancement of the use of good practices and modern training methods and techniques. All WB JTIs are undergoing some period of transformation or change based on external or internal factors. The applicable legislation shall be enforced in practice. There are many examples for the existence of quality regulations and paper documents without practical implementation or full and adequate application.

The improvement of managerial capacities of management bodies of the JTIs would help to define strategic plans and to implement mechanisms for improved training organization which is required by the societies and international partners.

Training on management, leadership, time management, communication, budget planning and budget management, statistics, public procurement and other relevant subjects will improve the staff performance within the institutions. Project management and monitoring will have to be part of this training for raising the capacities of all WB JTIs for absorbing the technical donor assistance as a guarantee for sustainability of projects' results.

In fact, such activities have been implemented in all training institutions for number of years. Unfortunately there are many examples of lack of continuity and institutional memory. What keeps the process ongoing, are the positive developments that might be observed in all JTIs.

Main challenges and needs

A short summary of findings will be given below:

Applicable to all WB JTIs:

- JTIs need to play more proactive role in the process of training planning, monitoring and evaluation for avoiding possible interference in their professional training-related activities;
- JTIs need to develop advanced comprehensive systems for TNA and training Monitoring and Evaluation (including post-training evaluation of training impact);
- The establishment of new independent JTIs in Kosovo* and Montenegro and the adoption of legislative provisions in Albania, The Former Yugoslav Republic of Macedonia and Serbia as well as the ongoing process of European integration and judicial reform in all of them impose the urgent need of institutional and functional analysis of all WB JTIs for finding adequate measures for further strengthening of their institutional and training capacities;
- The organization of Initial Training and revisions and upgrade of Initial Training Programmes, delivered in accordance with respective applicable law provisions, is a common challenge requiring expert analysis for defining the best approaches in developing the training content, schedule, training methods and methodologies in line with best existing European practices;
- Financial independence and sustainability is needed for ensuring adequate conditions and sufficient resources for the organization of different types of training.

Applicable to different WB JTIs:

School of Magistrates/Albania:

- The Justice Reform Strategy from 2015 defines the consolidation of the recruitment, Initial Training, Continuous Training and specialization of magistrates as a priority. A number of new obligations are assigned to the School of Magistrates referring to the organization of training of different target groups in addition to magistrates (legal assistants, chancellors etc.);
- The School needs to work on the methodologies for the adoption of specialized training programmes for all categories of staff in order to comply with legal requirements;
- Lack of sufficient financial and human resources as well as adequate premises and technical conditions may affect negatively the functioning of the JTI;
- Full-scale enforcement and implementation of the applicable legislation and the organization of quality training for all target groups defined by law requires urgent need of support for strengthening the institutional capacities of the School of Magistrates;
- The quality of university legal education remains law and has to be considered in the elaboration of the Initial Training Programme;
- The organization of EU Law training needs to remain a priority;
- E-learning system has to be introduced.

JPTCs/Bosnia and Herzegovina:

- The EU Reports state that the JPTCs in Bosnia and Herzegovina have not yet undertaken a regular, comprehensive and analytical TNA. The conduct of comprehensive TNA is a core activity defining the scope and objectives of training programmes and requiring very good understanding of the specific TNA methodologies that might be applied;

- The training institutions are facing the serious challenge to address numerous needs and target groups in order to support the improvement of the overall functioning of the judicial system;
- The harmonization of court jurisprudence is also a critical point where adequate training can serve for unification of the practical implementation and interpretation of laws and for improvement of quality of judicial acts;
- The huge backlog of cases is one of the serious problems in the judiciary. The proper training could build specific knowledge and capacities;
- The court administration and court management practice also need further improvement. The elaboration and introduction of comprehensive training programmes for training of the administrative staff of courts and prosecutor offices as well as specialized regular training on court management will strengthen the institutional capacities and overall functioning of the judiciary.

Academy of Justice/Kosovo*:

- The administration of justice remains slow and inefficient. This is a great challenge for the Academy of Justice to make an assessment and to provide training in order to raise the professional capacities within the judiciary thus improving the overall functioning of the judicial and prosecutorial system. In 2018 the Academy will start to deliver training for the administrative staff of courts and prosecutor offices;
- Training (orientation programme) of newly appointed Serb judges, prosecutors and court staff is a challenge. Practical solution shall be found;
- The capacities of judges and prosecutors need to be further strengthened with the organization of specialized training on economic crimes, public procurement and EU Law;
- The elaboration of a new Initial Training Programme is required in order to address the specifics of the new recruitment model and to ensure high practical impact of training content.

The ATJP – The Former Yugoslav Republic of Macedonia:

- The improvement of the Internal and External Communication is important for improving the overall organization of training. Team building activities and management training for ATJP staff will support the further enhancement of the capacities of the Academy in the context of the arising obligations related to the EU integration process;
- One of the serious challenges is the need to depoliticize the appointment of judges and prosecutors in practice;
- The Academy needs to take effective measures for addressing the common weaknesses in the system related to the low quality of court decisions, level of specialization, court organization and management, respect to the Code of Ethics and professional conduct etc. The training programmes shall be focused on practice-oriented content for developing professional skills of magistrates in line with European standards. Legal reasoning and drafting, court administration and case management, professional conduct and judicial ethics shall be always included as training topics in the Initial and Continuous Training Programme.

Center for Training in Judiciary and State Prosecution/Montenegro:

- The Center may receive additional support for building the institutional capacities for the organization of quality judicial training in line with best standards and good practices. Well-coordinated donor support will continue to be important for ensuring the smooth transition and further development of the institutional structure and training capacities of the JTI;

- The new functions and obligations require a sustainable solution and support for securing adequate premises and conditions for the organization of training;
- The important role of the Center for the organization of Initial Training of selected candidates for judges and prosecutors require strong state support and adequate funding in line with European standards;

Judicial Academy/Serbia:

- The current existent dual system for access to the judicial and prosecutorial system is the major challenge for the Judicial Academy. This issue shall be addressed for finding a proper solution in line with existing standards;
- The elaboration of a comprehensive Initial Training Programme in line with existing European standards and good practices is a serious challenge requiring strong political support, change in attitudes and traditions and clear understanding of the purposes of this training aiming at developing professional capacities of future magistrates for performing judicial and prosecutorial duties with respect to principles of independence, impartiality and accountability.

Regional cooperation among JTIs and the role of the RCC

In April 2016 the RCC established the SEE Judicial Training Institutions Network (SEE JTIN) for facilitating the regional activities in the field of judicial training, disseminating information of the regional relevance and supporting the organization of regional seminars and other types of training events for judges and prosecutors.

The aim of the regional cooperation among JTIs is to contribute to the enhancement of the independence and accountability of judiciary with the planning and coordination of projects in the field of training. This will be a serious step for building the professional capacities of judges and prosecutors from the WB region based on shared experience and training expertise of relevant JTIs.

The existing common practices, standards, challenges and needs in the field of judicial training gives an opportunity for more active cooperation between national training institutions. The SEE JTIN is a platform for exchange of experiences and identification of needs of the WB JTIs. So far, the work of the Network was focused on enhancing mutual legal assistance between judiciaries in the region, cross-border cooperation in civil and commercial matters, as well as raising the knowledge of judges on EU case law with the organization of TOT on regional level.³⁰ The present Study aims at supporting the institution building processes of JTIs and to propose measures to improve the overall functioning and independence of WB JTI.

In 2016, the RCC and GIZ started the implementation of the project on “Improving the regional cooperation between WB JTIs”. The RCC continuously cooperates with international and national Civil Society Organizations active in the rule of law and justice reform in the region.

Conclusions and Recommendations

The existing platform for regional cooperation and exchange provides proper conditions for further collaboration and development of plans and joint activities for strengthening the capacities of JTIs and improvement of judicial training systems in WB.

³⁰ See the Annual Report on the Secretary General of the RCC 2016-2017, 16.05.2017

Some of the identified challenges and needs of JTIs can be addressed by means of regional activities and cooperation.

The recommendations listed below are based on the survey conducted by the expert for the purposes of this Study. They are related to different elements having impact on the organization of training and define the framework of possible future regional institutional cooperation among JTIs supported by the RCC for the improvement of judicial training systems as follows:

Legal framework

- Within the framework of the SEE JTIN can be implemented activities for setting up regional and national strategies for the implementation of justice reform actions related to the enhancement of the competences of members of the judicial and prosecutorial system and involving the work of JTIs from the region.

Within the framework of the regional cooperation can be discussed the elaboration of institutional strategic plans of newly established institutions (in Kosovo*, Montenegro).

- WB JTIs would need to enhance the regional cooperation for the elaboration of common unified policies for the elaboration and adoption of the normative framework and relevant internal acts related to the functioning of the JTIs and organization of judicial training.
- The SEE JTIN can be a platform and forum for adoption of recommendations and initiatives for further improvement of the existing legal framework regulating the judicial training in WB. Such approach can contribute to finding proper solutions for solving some pending issues (like the existing dual model for access to the judiciary in Serbia creating obstacles for smooth functioning of the Judicial Academy in terms of organization of Initial Training and appointment of all trainees).

Institutional structure and further strengthening of the institutional capacities

- At present, serious reforms are ongoing in all WB economies affecting also the work of respective JTIs. There are new functions and obligations defined for all JTIs requiring strengthening of their institutional capacities. The RCC can support the conduct of institutional and functional analysis as a follow-up of this Study for the elaboration of comprehensive proposals for organizational restructuring (if necessary) and improved human resources management within the JTIs. Coordination with ongoing projects is required (See Chapter VI).
- Further support and more active cooperation is needed for the organization of capacity building activities focusing on team building, staff training on management, leadership, time management, communication, project cycle management.
- Capacity building activities for members of managing bodies of the JTIs will further improve their functioning and the proper distribution of tasks and duties. This is important for newly appointed management bodies but also for members of the Steering /Management Boards.
- The organization of study visits, internships and exchange programmes at a regional level will support the capacity building of JTIs. The visits will facilitate the planning of joint activities and regional initiatives in the field of training.

Required changes for ensuring independence and quality

- JTIs from the region have a status of independent bodies. It is important to guarantee their autonomy in taking professional decisions related to the content of training. This

is in line with relevant standards³¹ defining that “*Judicial training is a matter of public interest and the independence of the authority responsible for the elaboration of training programmes and training delivery must be preserved*”.

- JTIs shall have a decisive role in the process of selection of participants by establishing rules and mechanisms for planning and regulation of training participation in coordination with relevant bodies (Judicial and Prosecutorial Councils and other institutions if their representatives are beneficiaries of training). Existing good practices and internal rules of the WB JTIs need to be further supported as a guarantee for proper functioning of the training institutions.
- Training methods should be determined and reviewed by respective JTIs. This would raise the quality of training. The enhanced professional capacities within the training institutions would ensure independence and professionalism of the institution. This is a guiding principle implemented in all WB JTIs and needs to be strictly respected.

Types of training and processes and procedures for the planning, organization, monitoring and evaluation of judicial training

- The RCC could support the national JTIs for the revision and elaboration of Initial Training Programmes. This activity shall be well coordinated with ongoing projects (See Chapter VI).
- All WB JTIs are encouraged to improve the conduct of TNA by revising the applied methodologies and introducing additional tools and criteria for assessment. In that regard the organization of regional meetings and discussions will be important for exchange of ideas and good practices. Existing project contribution shall be considered.
- All WB JTIs need to develop and implement a comprehensive system for training Monitoring and Evaluation. Existing systems and practices shall be consulted. The RCC can support the development of such uniform system.
- Within the framework of the regional cooperation can be developed training modules and programmes on topics of common interest for Continuous Training of magistrates based on TNA covering all JTIs and judiciaries.

Infrastructure and technical capacities

- Significant support is needed for the improvement of the infrastructure of most of the WB JTIs. Possible interventions before the responsible national authorities can accelerate the process and to assist for finding solutions. Currently the JTIs in Albania, Montenegro and The Former Yugoslav Republic of Macedonia are in a most difficult situation in terms of available premises and technical conditions for the organization of training.

The more active regional cooperation can contribute to more efficient use of available resources and technical equipment and systems. Some of the WB JTIs, which have better conditions for the organization of training can host regional events (Kosovo*, Serbia). Access to existing systems for distance-learning and legal research can be agreed between WB JTIs (The Kosovar *Academy of Justice seems to have the most advanced systems in place).

Potential areas of regional cooperation:

- Capacity building activities for improvement of management and training organization and delivery through the organization of study visits, internships, exchange programmes, joint discussions and training.

³¹ CCJE, Opinion No 4 on appropriate Initial and in-service training for judges at national and European level; 27.11.2003, CCJE (2003); Op. No 4

- Development of strategic plans and joint initiatives for further enhancement of professional competences of members of the judiciary as part of the ongoing judicial reforms.
- Planning and implementation of regional projects in the field of training (in connection with recommendations in Chapter VI).
- Development of comprehensive TNA methodology and system for training Monitoring and Evaluation in line with existing standards and good practices.
- Exchange of training programmes and training materials and agreed access to available facilities for distance-learning and legal research.
- Development of core training modules and programmes and
- Organization of regional training on different topics as:

TOT
 Judicial reform and judicial independence
 Human rights
 Minority rights
 Access to justice and judicial efficiency
 EU Law
 Legal reasoning and writing
 Court management
 Case management
 Administration of justice
 Fight against organized crime
 Anti-corruption
 Fight against terrorism
 Money laundering
 Trafficking in human being
 Judicial ethics
 Anti-discrimination

List of abbreviations

ADR	Alternative Dispute Resolution
ATJP	Academy for Training of Judges and Prosecutors
CCJE	Consultative Council of European Judges
CJEU	Court of Justice of the European Union
EC	European Commission
ECHR	European Convention of Human Rights
ECtHR	European Court of Human Rights
EJTN	European Judicial Training Network
ENM	French National School of Magistracy
EU	European Union
JPTC	Judicial and Prosecutorial Training Center
JTC	Judicial Training Center
JTI	Judicial Training Institution
IOJT	International Organization for Judicial Training
KJC	Kosovo* Judicial Council
KJI	Kosovo* Judicial Institute
KPC	Kosovo* Prosecutorial Council
MoJ	Ministry of Justice
MOU	Memorandum of Understanding
NGO	Non-Governmental Organization
OSCE	Organization for Security and Cooperation in Europe
RAP	Regional Action Plan
RCC	Regional Cooperation Council
SAA	Stabilization and Association Agreement
SEE	South East Europe
SEE JTIN	South East Europe Judicial Training Institutions Network
TNA	Training Needs Assessment
TOT	Training of Trainers

ANNEX I

QUESTIONNAIRE

Within the framework of the implementation of the **South East Europe (SEE) 2020 Strategy and the Regional Cooperation Council (RCC) Strategy and Work Programme 2017-2019** will be elaborated a **Study on the existing systems of judicial training in the Western Balkans** (WB) with the aim to assess the current structures, procedures and good practices as well as to define areas and needs requiring further assistance. The Study will be prepared in close cooperation with all WB Judicial Training Institutions (JTIs).

The purpose of the Questionnaire is to collect data and information about the **existing systems of judicial training** and all past and current **projects** in the area of judicial training in **Albania, Bosnia and Herzegovina, Kosovo*, The Former Yugoslav Republic of Macedonia, Montenegro and Serbia**. The analysis of the information will serve as a basis for the preparation of the comparative study and the elaboration of recommendations for further actions supporting the institutional development of WB JTIs and the enhancement of the regional cooperation.

In 2016 was established the SEE Judicial Training Institutions Network and the RCC started to serve as a focal point for regional activities in the field of judicial training. The recommendations will be agreed with all members of the Network and will be practically implemented to improve the organizational structure of JTIs and to ensure more active regional cooperation. The Study will present a map of accurate projects in WB in the area of judicial training for adopting uniform approach in planning and implementing projects in line with best European standards and good practices. The RCC will continue to streamline activities in Rule of Law, with the purpose to enhance the regional cooperation in support of national efforts for raising the professional capacities of members of the judiciary and for implementing judicial reforms for improving the efficiency, integrity, independence and accountability of judicial systems and respect of Rule of Law principle.

We kindly ask you to fill in the Questionnaire and to share your opinions, remarks and recommendations by 26th of October 2017. Please send back the Questionnaire to: dormisheva@gmail.com

THANK YOU FOR YOUR COOPERATION!

ANNEX II

Map of ongoing projects in the area of judicial training

Regional projects:

1. EU/COE project “Reinforcing judicial expertise on freedom of expression and the media in South-East Europe (JUFREX)”

Duration: April 2016 – March 2019

Beneficiaries: Albania, Bosnia and Herzegovina, Kosovo*, The Former Yugoslav Republic of Macedonia, Montenegro, Serbia

Objectives: To promote freedom of expression and freedom of the media in line with COE standards, with a specific focus on the judiciary in South-East Europe

Specific objectives:

- To enhance the application of the ECHR and the ECtHR case-law in the field of freedom of expression in the daily work of the judiciary through the interpretation and implementation of the legislation in line with European standards;
- To strengthen the capacities of national training centers, judges' and prosecutors' academies and bar associations to train legal professionals on the ECHR, the case-law of the ECtHR and other European standards on freedom of expression, including TOT;
- To increase the awareness and capacity of judges, public prosecutors and lawyers dealing with freedom of expression issues on COE standards and the case-law of the ECtHR.

Expected results:

- Domestic judgments reflecting the application of Article 10 and ECtHR case-law are increased;
- Training curricula on Article 10 are developed and capacity of the national training institutions with regard to freedom of expression and the media are improved;
- Regional forum of legal professions is established and regularly meets to exchange good practices and provide mutual support for the development of domestic case-law in line with ECtHR case law on media issues, namely Article 6, 8 and 10.

2. EU/COE, Horizontal Facility for Western Balkans and Turkey³²

Duration: May 2016 – May 2019

Beneficiaries: Albania, Bosnia and Herzegovina, Kosovo*, The Former Yugoslav Republic of Macedonia, Montenegro, Serbia

Objectives: To improve implementation of key recommendations of relevant COE monitoring and advisory bodies in the areas indicated in the Statement of Intent signed on 1 April 2014 by the Secretary General of the COE and the EU Commissioner for Enlargement and European Neighborhood Policy.

³² <http://horizontal-facility-eu.coe.int>

In the field of fighting corruption, economic crime and organized crime, three country specific actions were designed to support tailored reform processes more specifically in Albania, Montenegro and The Former Yugoslav Republic of Macedonia with the aim to improve implementation of GRECO (COE Group of States against Corruption) and MONEYVAL (Anti-Money Laundering Measures and the Financing of Terrorism) recommendations

Specific objectives:

- Ensuring justice:

Actions in Albania:

- Supporting effective domestic remedies and facilitating the execution of ECtHR judgments “D-REX” by strengthening the capacity of the School of Magistrates to develop and implement human rights training curricula and materials in line with European human rights standards and by strengthening capacities of legal professionals to interpret and apply the provisions of Article 61 of the ECHR.
- Strengthening the Quality and Efficiency of Justice (SEJ2) by supporting the School of Magistrates for the development of new curricula for judicial and administrative staff and new curricula including topics on the quality of justice in line with CEPEJ (European Commission for the Efficiency of Justice) standards and tools.

Actions in Bosnia and Herzegovina:

- Enhancing human rights protection for detained and sentenced persons by focusing on capacity building of prison and law-enforcement agencies and their staff through a series of training sessions and round tables.

Actions in Kosovo*

- Support to the capacity of the KJC and of courts to improve judicial time management, the collection and management of statistical data and to enhance their efficiency in line with CEPEJ methodology and tools (SATURN Guidelines)
- Building capacities of courts to deliver better justice service in accordance with CEPEJ quality tools such as the Checklist on the quality of justice and the Handbook on conducting users' satisfaction surveys.

The Kosovo* Judicial Institute (now Academy of Justice) is one of the main beneficiaries and partners.

Actions in The Former Yugoslav Republic of Macedonia:

- Increasing judicial capacity to safeguard human rights and combat ill-treatment and impunity “CAPI” by strengthened and sustained in-house capacity of the ATJP to deliver human rights training to judges and prosecutors thus contributing to better interpretation and application of the provisions of the ECHR and the ECtHR case-law as well as by

strengthened capacities of the ATJP to train legal professionals on combatting ill-treatment and impunity.

Actions in Montenegro:

- Raising the accountability of the judicial system by strengthening the capacities of the Judicial Training Centre in line with European standards. A Strategy for the implementation of the 2015 Law on the Centre for Training of Judiciary will be drawn up and introduced by the Centre and a training programme based on the actual needs of judges and prosecutors will be in place. This Action started on 1 November 2016 and will finish on 31 October 2018.
- Fighting ill-treatment and impunity and enhancing the application of the ECtHR case law on the national level by improving the capacities of the judiciary to apply the case-law of the ECtHR. The capacities of the JTI will be strengthened to facilitate human rights training for legal professionals. This Action started on 1 June 2016 and will finish on 28 February 2018.

Actions in Serbia:

- Supporting effective remedies and mutual legal assistance for reducing the number of applications against Serbia before the ECtHR mainly on grounds of violation of the right of trial within reasonable time. Some of the main expected results refer to the enhanced capacities of the Judicial Academy to support legal professionals in addressing systemic human rights violations and to provide training on issues related to mutual legal assistance through training in and application of the methodology developed under the European Programme for Human Rights Education of Legal Professionals (HELP). This Action has 18 months duration from 1 January 2017 until 30 June 2018.
- Fighting economic crime:
 - In the field of fighting corruption, economic crime and organized crime, three country specific actions were designed to support tailored reform processes more specifically in Albania, Montenegro and The Former Yugoslav Republic of Macedonia with the aim to improve implementation of GRECO (COE Group of States against Corruption) and MONEYVAL (Anti-Money Laundering Measures and the Financing of Terrorism) recommendations.
 - Combatting discrimination and protecting the rights of vulnerable groups

3. EU (IPA II Multi-country action programme 2014) and COE joint project iPROCEEDS – Cooperation on Cybercrime under the instrument of Pre-accession (IPA): Project on targeting crime proceeds on the Internet in South-East Europe and Turkey

Duration: 1 January 2016 – 30 June 2019

Beneficiaries: Albania, Bosnia and Herzegovina, Kosovo*, The Former Yugoslav Republic of Macedonia, Montenegro, Serbia and Turkey

Objectives: To strengthen the capacities of the IPA region to search, seize and confiscate cybercrime proceeds and prevent money laundering on the Internet.

Specific objectives:

- To improve or establish public reporting systems (with preventive functions) on online fraud and other cybercrime in each beneficiary;
- To strengthen the legislation in line with data protection requirements;
- To ensure cooperation at the domestic level of cybercrime units, financial investigators and financial intelligence units;
- To review and update indicators for prevention of online money laundering and to elaborate Guidelines on the prevention and control on online fraud and criminal money flows;
- To establish public/private information sharing and intelligence exchange mechanisms on cybercrime at domestic and regional levels;
- Judicial training academies to provide training on cybercrime and electronic evidence and related financial investigations and anti-money laundering measures;
- To strengthen international cooperation and information sharing.

4. COE/ The European Programme for Human Rights Education for Legal Professionals (HELP)

Beneficiaries: HELP Programme supports the COE member states in implementing the ECHR at the national level, in accordance with the Committee of Ministers Recommendation (2004) 4, the 2010 Interlaken Declaration, the 2012 Brighton Declaration and the 2015 Brussels Declaration.

Objectives: To enhance the capacities of judges, lawyers and prosecutors in all 47 member states to apply the ECHR.

HELP is the only pan-European Network of national training institutions for judges, prosecutors and lawyers in all 47 member states. HELP is an e-learning platform on human rights and a human rights training methodology for legal professionals.

The HELP Network promotes the development and promotion of initial and continuous training of legal professionals on standards of the ECHR, as interpreted by the case law of the ECtHR and shares best practices and provides advice on curricula, training materials and training methodologies for legal professionals, identifying priority themes for future training activities.

There are two main types of HELP training resources: a.) distance-learning courses moderated by certified national trainers. The list of courses is available in the catalogue of courses; b.) self-learning resources for any user having an account on the platform including training materials on both ECHR methodology and Key Concepts, as well as handbooks, standard curricula, course outlines, presentations, case studies, and e-learning courses on the different Articles and subjects of the ECHR.

The HELP training methodology takes into account the heavy workload of legal professionals and existing time constraints. The curricula are drafted on a tailor-made basis, meeting specific training needs and allowing flexibility. The methodology and resources are systematically used in all COE capacity building activities on the ECHR,

organized by the member states, including within the framework of the EU/COE joint programmes.

HELP organizes TOT sessions with the aim to increase ownership by national training institutions.

5. The European Human Rights Database for South East Europe published on 22 July 2014

The regional database is a comprehensive portal providing access to the jurisprudence of the ECtHR, case summaries and expert commentaries relevant to South East Europe states (Albania, Bosnia and Herzegovina, Croatia, Kosovo*, Montenegro, Serbia and The Former Yugoslav Republic of Macedonia) in local languages.

The database is the result of cooperation between the AIRE Centre legal team with regional Government Agents representing the respective states before the Strasbourg Court.

The database has been developed with the support from the Foreign and Commonwealth Office through British Embassies in Tirana, Sarajevo, Zagreb, Pristina, Skopje, Podgorica and Belgrade.

Objectives:

- Improving the implementation of the ECHR in the domestic courts of the COE member states, which was a key recommendation of the Brighton Conference, organized under the UK chairmanship in April 2012;
- Strengthening the capacity of the countries of SEE to meet the central rule of law requirements necessary for closer association with, and eventually membership, of the EU, which remains the ambition of the whole region;
- Strengthening regional cooperation amongst the domestic institutions in the field of rule of law and human rights.

The database project catalogues a vast number of judgments of the ECtHR and makes them available in one place, electronically and in a systematic and searchable manner. The database is primarily designed to enable national judges at all levels to incorporate and apply the Convention jurisprudence in their judgments. The database was introduced with the assistance of respective JTIs.

National projects³³:

Albania:

1. EU/COE project “Supporting effective domestic remedies and facilitating the execution of ECtHR judgments (D-REX)”

Three TOT were conducted for 59 trainers in November 2017. Manuals were elaborated following HELP methodology.

2. EU-funded EURALIUS IV project “Consolidation of the Justice System in Albania”

³³ The list of projects is compiled on the basis of a desk research and information provided by WB JTIs except Serbia

Duration: September 2014 – December 2017

Objectives: To assist key Albanian justice institutions (including the School of Magistrates) to bring their performance closer to EU standards and to strengthen the independence, transparency, efficiency, accountability and public trust in the Albanian justice system.

Specific objectives:

- Improving the independence, transparency, efficiency and effectiveness of the Albanian justice system pursuant to a clear and comprehensive reform strategy developed by the MoJ and other actors in the system;
- Improving the organizational, administrative, technical and resource management capacities, as well as management capabilities of the judiciary in order to improve the efficiency of courts and their transparency;
- Aligning the Albanian criminal justice system to EU standards;
- Aligning the Albanian civil and administrative justice system to EU standards;
- Monitoring of selected cases and providing support for the implementation of the reform strategy and the setup of and capacity building in the new institutions.

The project has 10 (ten) activity areas, where Judicial Training is area 10. The objective of this activity is mainly assisting the School of Magistrates in training the candidate magistrates, judges, prosecutors in particular on the legislation within the reform, as well as other training institutions for advocates and notaries. Additionally, it performs training for legal assistants, chancellors and other judicial civil servants and assists the bodies who have taken over new responsibilities for the training of judicial civil servants.

By the end of 2017 the project will organize workshops on the introduction of E-commentary on the Status Law and Governance Law for judges and prosecutors and training of mentors for the 3rd year of Initial Training as well as training on the new amendments to the Civil Procedure Code.

The Final Stakeholders Committee Meeting of the project took place on 10 November 2017.

Bosnia and Herzegovina:

1. HELP Programme (see above)
2. The AIRE Centre Advice on Individual Rights in Europe (UK) project “Underpinning Bosnia and Herzegovina Stability and Integration in Europe through Rule of Law reform” organizing training on human rights for judges and lawyers.
3. OSCE is organizing in 2017 induction courses for newly hired war crimes legal support staff in courts and prosecutor offices.

Kosovo*:

1. EU twining project “Further Support to Legal Education Reform”, implemented by IRZ

Duration: February 2016 – July 2018

Beneficiary: KJI/Academy of Justice

Objectives: To strengthen the rule of law through improving the legal education in Kosovo*.

Specific objectives:

- Advanced training capacities of the JTI by development of interdisciplinary and personal competences in training programmes; improvement of orientation programmes; improvement of training skills and methodologies;
- Enhanced management of KJI/Academy of Justice by enhancement of management and planning skills and of the Information Management System of the Academy.

2. Regional projects are ongoing as well as training activities supported by US Embassy, USAID, GIZ, UNDP, EBRD, EULEX, OSCE, UNICEFF, NICO, and UNHCR/CRPK.

The Former Yugoslav Republic of Macedonia:

- 1. Regional projects are ongoing: EU/COE project “Reinforcing judicial expertise on freedom of expression and the media in South-East Europe (JUFREX)”- TOT on Article 10 of the ECHR conducted; one training and one regional conference on “Freedom of Expression on the Internet” organized. Four more activities are envisaged.**
- 2. Project “Strengthening the capacities of the judiciary for protection of human rights and fight against inhuman and degrading treatment and against impunity:** 2 TOT organized in relation to Article 3 and 6 of the ECHR and 6 cascading training organized. Four more trainings are planned. In 2018 TOT on Article 5 of the ECHR will be delivered as well as trainings on the same topic.
- 3. 2 more meetings on HELP platform will be organized**
- 4. OSCE – by the end of 2017 two legal debates on the commentary on the Law on Prevention and Protection of Discrimination will be organized.**
- 5. UNDP – training on the implementation of the Istanbul Convention will be organized by the end of 2017.**
- 6. Trainings in cooperation with IRZ, UNODC, iPROCEED, EIPA will be organized by the end of 2017**

Montenegro:

- 1. EIPA Luxembourg – European Centre for Judges and Lawyers:** the JTI expects to develop a training programme for court presidents of heads of state prosecutor offices.
- 2. IPA 2014 project “International Cooperation in Criminal Justice: Strengthening the Prosecutors’ Network of the Western Balkans,” implemented by GIZ:** the project supports the organization of training for special prosecutor’s office on organized crime, corruption, financial investigations, money laundering and forfeiting the assets obtained in criminal activities. The project assists in the organization of training related to the Continuous Training Programme for judges and state prosecutors with more than 4 years of experience in the office.
- 3. COE HELP Programme – 4 e-learning courses will be organized**
- 4. GIZ Project “Judicial Cooperation in Civil and Commercial Matters”**

5. **OSCE** – in the period 2017 – 2018 “Hate Crimes – Training for the Judiciary” will be organized. 8 one-day seminars for 200 judges from criminal law departments, magistrates and prosecutors will be organized.
6. **EBRD/IDLO** (International Development Law Organization/Rome) will support training of judges in the field of civil and commercial law – four trainings are requested.
7. **COE project PREDIM** – for enhancing the capacities of the judiciary for prevention of discrimination.
8. **EU-funded CABUFAL** – a project of the Law Faculty of the University of Montenegro for the improvement of the curricula, boosting the international cooperation, strengthening human, technical and library resources, where the JTI is a project partner.
9. **Regional project JUFREX**

Serbia:

1. **EU-funded project “Enhancing Educational Activities and Improvement of Organizational Capacities of the Judicial Academy”,** implemented by British Council.

Duration: March 2016 – March 2018

Objectives: Improvement of the independence and efficiency of the judiciary through adequate measures regarding accountability, impartiality and competence of justice actors in order to achieve and strengthen the rule of law, legal certainty, better access to justice as well as improvement of the protection of human rights and protection of minority.

The enhancement of educational activities and functioning of new structures within the new competences of the Judicial Academy and establishment of the consistent judicial system of Serbia is the purpose of this project.

Specific objectives:

- Ensured easier access to the case law of the ECtHR for relevant target groups for supporting the improvement and unification of the case law among Serbian courts as well as its harmonization with the EU standards;
- Enhancement of educational activities of the Judicial Academy in order to improve efficiency and effectiveness of training;
- Functioning of the new structures within the new competences of the Academy improved.

2. **OSCE – Training of public prosecutors and their respective deputies in the application of the Criminal Procedure Code**

Duration: 24 months – in 2017 – special training of prosecutors of the High Public Prosecutor Offices; in 2018 – special training of prosecutors of the Basic Public Prosecutor Offices

Objective: To cover the transition from the predominantly inquisitorial procedure to the adversary procedure

Specific objectives:

- Evidence gathering process of investigation
- Powers of prosecutors as compared to police
- Enhanced knowledge on criminalistics

3. **JUFREX regional project**

4. **USAID – Serbia Judicial Reform and Government Accountability Project**

Duration: January 2013 – December 2017

Objectives: Strengthening the independence, efficiency, effectiveness and accountability of the law enforcement system

Specific objectives:

- Training curricula on judicial efficiency for court staff and court leadership introduced and delivered at the JA

5. Commercial mediation in Serbia – project implemented by the EBRD

Duration: September 2016 – September 2018

Objectives: To promote the use of mediation in trade disputes in line with the Law on mediation adopted in 2014.

Specific objectives:

- Training of commercial mediation trainers;
- Support to the Mediation Centre at the Chamber of Commerce and Industry
- Mediation skills training for court mediators in cooperation with the Judicial Academy;
- Awareness raising;
- Mediation training and clinic at the law faculties.

Summary comments and recommendations regarding the implementation of projects in the field of judicial training in WB region are given further below:

I. Background

Over the past years many donors, organizations and International Financial Institutions have been providing significant support to all WB economies based on two pillars: Democracy and Rule of Law, and Competitiveness and Growth. There were many projects and programmes implemented by different partners with the aim to streamline the reform process and to build conditions for proper functioning and sustainable development in all sectors. The transition and the development of the legal systems is a key factor for the establishment of a functioning democracy and a society governed by the rule of law. The ongoing reforms are at a different stage in WB economies and a large number of donors are contributing to a variety of projects for strengthening the capacities of relevant national sectors, bodies and authorities. In that regard the reform of the judiciary and further enhancement of the institutional and professional capacities within the judicial system is one of the key areas of project assistance in the WB region. With the adoption of the new approach in the EU enlargement process for “fundamentals first”³⁴ the area of rule of law becomes crucial for the smooth progress on the path towards development and European integration, which is the main inspiration of WB economies.

The main objective of this Study was to assess the current needs of WB JTIs including a map of ongoing regional and national projects in the area of judicial training in Albania, Bosnia and Herzegovina, Kosovo*, The Former Yugoslav Republic of Macedonia, Montenegro and Serbia with recommendations on how to avoid overlapping and enable better efficiency of the projects in the region.

³⁴ Council of the EU, 21 January 2014, 5486/14 PRESSE 15

The map of projects was elaborated on the basis of a desk research and results of the survey made for the purposes of the Study. Representatives of respective WB JTIs provided information about past and ongoing projects and joint activities with donors and international institutions as well as recommendations for further enhancement of regional cooperation and improvement of donor coordination in the field of judicial training.

The list of projects is not exhaustive. The main focus was on the analysis of project activities and programmes providing direct support to JTIs as well as regional projects addressing all or some of WB JTIs as beneficiaries. Projects supporting the institutional development and organization of judicial training are also included in the list.

The process of research and survey of relevant information proved the importance of the adoption of a more comprehensive approach in planning and implementing projects in the field of judicial training as a guarantee for more efficient use of resources and sustainability of projects' achievements and results.

II. Overview

The review of the past and current projects implemented in the field of judicial training confirms the importance of training as an essential element of the functioning of the judicial system. The main areas of project assistance provided so far are:

- Establishment and institutional development of JTIs in WB region**

The comparative review of data regarding projects confirms that the process of transformation and establishment of public judicial training institutions and their capacity building was supported mainly by donors, as follows:

Albania:

COE project “Support to the Sustainability of the School of Magistrates” implemented in the period 2005-2015.

One of the project components (Component 10 “Judicial Training”) of the recently finalized EU EURALIUS IV was focusing on assisting the School of Magistrates in training the future and sitting judges and prosecutors on the legislation within the justice reform, as well as other professionals (lawyers, notaries). Assistance to bodies who have taken over new responsibilities for training of additional categories of staff and training for legal assistants, chancellors and other judicial civil servants was also provided.

Bosnia and Herzegovina:

EU-funded project “Capacity building for judicial reform in Bosnia and Herzegovina” implemented by Human Dynamics in the period September 2013 – July 2016. The project aimed at developing the institutional capacities of the JTIs in the entities, including curricula development, improvement of training delivery and facilitating the introduction of new training techniques. TOT in certain areas of criminal and civil law was also organized.

Kosovo*:

The Kosovo* Judicial Institute (KJI) was established in 2000 by the OSCE. The Law on KJI was adopted in 2005. OSCE and other donors had a crucial role for the capacity building, management and development of the Institute.

EU-funded project “Support to justice” implemented in the period May 2006 – February 2008 for supporting the development of justice institutions in Kosovo*.

EU-funded project “Further support to the justice institutions” implemented in the period February 2008 – September 2009. The main objective of the project was to improve the administration of justice. Support to KJI was also provided.

The EU-funded project “Further support to legal education reform” implemented by IRZ in the period September 2013 – November 2015 supported the law drafting in the field of legal education and provided recommendations in regard to the adoption of the new Law on the Academy of Justice (established in February 2017).

EU twining project “Further support to legal education reform”, currently ongoing, provides support to the Academy.

The Former Yugoslav Republic of Macedonia:

EU-funded project “Technical assistance to support the creation of a training institute for the judiciary” was implemented by CECL from September 2004 to October 2005 for the establishment of the ATJP and development of all types of training programmes (including TOT).

EU-funded project “Further Strengthening of the Institutional Capacities of the Academy for the Training of Judges and prosecutors (ETJP)” implemented by Human Dynamics for a period of 23 months between May 2010 – April 2012. The main focus of the project was on advancement of training programming system (TNA, TOT, training on EU Law), establishment of e-learning system and strengthening the capacities of the Academy as regards its library and website.

Serbia:

EU-funded project “Support to the National Judicial Academy” implemented by Human Dynamics between September 2009 – September 2011 in support to the creation of the Serbian Judicial Academy for strengthening the management and training capacities within the institution and the organization of the first Initial Training. The project contributed to the establishment of team of trainers (TOT) and the introduction of a comprehensive system for training monitoring and evaluation – a mechanism for conducting analysis of candidate judges and prosecutors over time who have been participated in the new programme delivered by the Academy and those who have not, allowing the organization to demonstrate the benefits of training. The project also supported the elaboration of the Continuous Training Programme.

EU-funded project “Enhancing Educational Activities and Improvement of Organizational Capacities of the Judicial Academy”, currently under implementation by the British Council (24 months duration from 2016 to 2018). The specific project’s objectives are: to ensure easier access to the ECtHR case-law and to support the improvement and unification of the case law among Serbian courts and harmonization with the EU standards.

- **Strengthening the quality and efficiency of justice including improvement of training activities**

A large number of projects have been implemented for supporting the national authorities in the process of judicial and justice reform, including support to respective JTIs for improvement of training systems and practices.

Albania:

EU/COE Support to the Efficiency of Justice project to “Increase the efficiency of the Albanian justice system, in line with European standards” implemented in January 2014 – April 2016. Several project activities were related to the capacity-building of the School of Magistrates and review of training modules for judges and court staff as well as development of training curricula for judicial and administrative staff and new curricula including topics on the quality of justice.

Bosnia and Herzegovina:

Project “Underpinning Stability and Integration in Europe through Rule of Law Reform”, implemented by the AIRE Centre Advice on Individual Rights in Europe (UK) and supporting the organization of training.

EU-funded project “Capacity building for judicial reform in Bosnia and Herzegovina”, implemented in the period September 2013 – July 2016. The overall project objective is the improvement of the internal and external organization and the non-judicial staff functions of the Judicial and Prosecutorial Training Centers and the Brcko District Judicial Commission.

The Former Yugoslav Republic of Macedonia:

EU-funded project “Further support to independent, accountable, professional and efficient judiciary and promotion of probation service and alternative sanctioning” including support to the professional training system and the ATJP, implemented in the period January 2015 – December 2016.

Montenegro:

EU-funded “Judicial Efficiency” project is implemented in 2017. 12 interactive workshops organized for all 66 basic courts for assisting the spoke persons of the courts. Guide for professional and successful courts’ communication with public is elaborated.

Serbia:

Serbia Judicial reform and Government Accountability Project, implemented by the USAID in the period January 2013 – December 2017 for strengthening the independence, efficiency, effectiveness and accountability of the law enforcement system. One of the project specific objectives is to introduce training curricula and organize training on judicial efficiency for court staff and court leadership.

- **Development of training curricula and methodologies for the purposes of the Initial Training**

Projects supporting the assessment and elaboration of Initial Training Programmes have been implemented in Albania (COE in 2005), Kosovo* (UNDP in 2011-2013; EU/IRZ in 2013-2015), The Former Yugoslav Republic of Macedonia (EU/CECL in 2004-2005; EU/Human Dynamics in 2010-2012).

- **Development of training plans, curricula and methodologies for the purposes of the Continuous Training**

Projects supporting the assessment and elaboration of Continuous Training Programmes have been implemented in Albania (COE in 2005), Kosovo* (UNDP in 2011-2013; EU/IRZ in 2013-2015), The Former Yugoslav Republic of Macedonia (EU/CECL in 2004-2005; EU/Human Dynamics in 2010-2012).

Comprehensive training modules have been developed within the framework of different projects as an integral part of the respective Continuous Training Curricula (i.e. on the ECHR, EU Law, Communication, Cybercrime, Anti-corruption, TOT etc.)

- **Development of specialized training programmes and implementation of training in priority areas**

There are a variety of training programmes and initiatives implemented in support to all WB JTIs. A large number of donors are providing continuous expertise and assistance for the organization of training for judges, prosecutors and other legal professionals in the WB region in cooperation with the JTIs. (EU, COE, GIZ, UNDP, USAID, US DOJ, OSCE and many other). The positive impact of these activities is the elaboration of training programmes and materials and enhancement of professional knowledge and capacities of members of the judiciary in different law areas. At the same time there are many cases of overlapping of project activities and lack of continuity and sustainability.

A short summary list of main areas of assistance is given below:

- 1.) Training on the ECHR
- 2.) Case-law of the ECtHR
- 3.) EU Law
- 4.) Anti-corruption
- 5.) Fight against organized crime
- 6.) Trafficking in human beings, trafficking in drugs and weapons
- 7.) Free Legal Aid
- 8.) ADR and mediation
- 9.) War crimes
- 10.) Communication
- 11.) Cyber crimes
- 12.) Criminal Procedure
- 13.) Judicial Ethics
- 14.) Court management
- 15.) Court administration
- 16.) Training of court administrative staff

- **Regional projects and activities**

1. COE regional project “Removing the obstacles to the non-enforcement of domestic court judgments/Ensuring an effective implementation of domestic court judgments” – January 2009 – January 2012 implemented in Albania, Azerbaijan, Georgia, Moldova, Serbia and Ukraine.
2. British Embassy, The European Human Rights Database for South East Europe (Albania, Bosnia and Herzegovina, Croatia, Kosovo*, Former Yugoslav Republic of Macedonia, Montenegro and Serbia) published on 22 July 2014. This is a regional database consisting of information on online database of Strasbourg case-law, case summaries and expert commentaries relevant to the region in local languages. The content of the database is:
 - Text of Convention article;
 - Overview of main principles applicable to relevant article;
 - Reports on jurisprudence against each country;
 - Short narratives;
 - Relevant expert commentaries;
 - Links to other materials.Handbook how to use the database is published. The specific objectives of this project are: a.) Improving the implementation of the ECHR; b.) Strengthening the capacities to meet the central rule of law requirements necessary for closer association with the EU; c.) Strengthening regional cooperation in the field of rule of law and human rights.
3. GIZ – Open Regional Fund for South East Europe – Promotion of EU integration through Regional Cooperation. The duration of this project is from 2012 until 2018 (a follow-up of the project implemented from 2012-2015). The main beneficiaries are the EU accession countries from South-East Europe. The aim of the project is to improve the regional dialogues on EU accession between the ministries of foreign affairs; to strengthen the capacities of EU integration authorities to manage the accession process and to address the strategic use of the Instrument for Pre-Accession Assistance (IPA).
4. In 2017-2018 GIZ is implementing regional projects for the elaboration of regional module for EU Law training; TOT and module on the jurisprudence of the ECtHR.
5. Netherlands Helsinki Committee project “Promoting a Victim Centered Approach in Trafficking Cases in Albania and Bosnia and Herzegovina”, implemented in the period 1 June 2013 – 31 May 2017. Through the cooperation with judicial academies the inclusion of trafficking and a victim centered approach in the curricula for judges and prosecutors are promoted. In order to ensure the sustainability of the project, a monitoring system of court cases was developed and implemented. TOT has been organized. In total 160 prosecutors from the region have been trained.
6. European Bank for Reconstruction and Development (ENRD) is implementing in 2017 a regional project for the Albanian School of Magistrates, ATJP-The Former Yugoslav Republic of Macedonia and Academy of Justice Kosovo* on the implementation and enforcement of tax legislation (including e-learning courses).
7. EU/COE project “Reinforcing Judicial Expertise on Freedom of Expression and the Media in South-East Europe (JUFREX)” – April 2016 - April 2019. Main project beneficiaries are Albania, Bosnia and Herzegovina, Kosovo*, The Former Yugoslav Republic of

Macedonia, Montenegro and Serbia. The main objective of this project is to strengthen the capacities of national training centers to promote freedom of expression and freedom of the media in line with COE standards, with a specific focus on judiciary in South East Europe. Specific project objectives are:

- To enhance application of the ECHR and the ECtHR case-law;
- To strengthen the capacities of national training centers to train legal professionals on the ECHR, the case-law and other European standards on freedom of expression;
- To increase the awareness and capacities of judges, prosecutors and lawyers dealing with freedom.

Training materials have been elaborated and curricula on freedom of expression are integrated into JTIs' training plans. Training events are organized on a regular basis.

8. COE Horizontal facility for Western Balkans and Turkey. Period of implementation 36 months from April 2016 until March 2019. The objective of the activities is to ensure justice, fighting corruption, economic crime and organized crime; combatting discrimination and protecting the rights of vulnerable groups;
9. EU (IPA II Multi-country action programme 2014) and COE project, implemented by jPROCEEDS in the period January 2016 – June 2019 for supporting the JTIs from the WB region in the organization of training on cybercrime and electronic evidence and related financial investigations and anti-money laundering measures. TOT was organized in June 2016.

III. Conclusions and Recommendations

The review of the information about past and current projects in the field of training implemented in the WB region leads to some general **conclusions**:

- The WB JTIs receive continuous support for institutional and capacity building for providing quality judicial training;
- There is no mechanism in place for the evaluation of the impact of projects and their long-term sustainability;
- The review of data about past projects shows many cases of duplications of activities;
- There is lack of institutional memory and track record of previous project assistance, which is one of the main reasons for overlapping of activities and repetition of similar actions;
- There are projects with identical or very similar objectives and activities implemented by different partners (or even same) in different WB JTIs, which increases the cost significantly;
- Better coordination and more active regional cooperation could contribute to better efficiency of projects in the region.

In line with the recommendations of the present Study on WB JTIs and on the basis of the overview of the past and ongoing projects in the field of judicial training, the following main **recommendations** can be given:

- All WB JTIs are encouraged to focus on activities for more efficient project planning and implementation. There is a common understanding of the importance and

relevance of foreign assistance in the process of judicial reform, including judicial training as a key area. The existence of proper understanding of the project cycle management would help national institutions and authorities to cooperate in a more efficient and professional way with all international partners and other donors. The correct definition of needs, priorities and actions is crucial for more efficient planning and implementation of projects.

- The introduction of tools for long-term monitoring and evaluation of the sustainability of project results would build a new culture of responsibility and ownership and will further motivate all beneficiaries and implementing partners to work for establishing conditions for practical implementation of project achievements. The practice shows, that in many cases the results of the projects remain within the paper deliverables or stop with the end of the project implementation. The donors are encouraged to adopt a system for post-project evaluation.
- The beneficiaries need to be more actively involved in the process of project implementation. There is a common practice for assigning contact persons and responsible staff but usually they take this obligation as a formal one and as an extra workload and not as part of working tasks.
- The existence of mutual trust and respect between project team and beneficiary is also crucial for achieving efficiency and good results. Finding a good balance between project objectives and beneficiaries' needs is a key factor for smooth and efficient project implementation.
- The implementation of regional activities in areas of common interest is strongly recommended. There are many such areas identified in this Study and joint efforts of JTIs supported by donors can contribute to achieving good results and uniform approach. So far, the implementation of regional projects has been successful and highly evaluated by respective beneficiaries (i.e. COE HELP programme). At the same time the survey conducted for the purposes of this report confirms the expectations and requirements of JTIs to be more involved in the process of project planning in order to provide information about concrete needs and problems.
- The coordination between donors and institutions providing assistance to JTIs is essential for avoiding gaps and/or duplications. There are many good examples for the existence of mechanisms for coordination established by JTIs. High level coordination is also needed for addressing the priorities and deciding about concrete contributions of different partners and donors. This is especially important in the context of the EU integration and accession process where specific needs and requirements are defined.
- The established SEE JTI Network is encouraged to play a very active role for facilitating the regional cooperation in the field of justice and judicial training. All information about past, ongoing and future projects would have to be provided and shared between members. A focal point for project coordination would need to be established.
- The WB JTIs are encouraged to take part of joint projects/activities for adoption of uniform mechanisms and systems for TNA in order to ensure consistency and compliance of data. The information sharing will also help for defining priorities and possibilities for the planning and implementation of regional initiatives and projects.
- On the basis of the findings and conclusions of this Study the following areas of potential project assistance can be recommended:

1. Institutional and functional analysis of JTIs in coordination with the ongoing projects;
2. Institutional and capacity building activities for newly established JTIs and for JTIs assigned with new tasks and responsibilities (in Montenegro, Kosovo* and Albania);
3. Development of comprehensive TNA methodology and system for training Monitoring and Evaluation in line with existing standards and good practices (for all WB JTIs);
4. Development of training modules and programmes of common interest (for all WB JTIs): TOT (focusing on adult training techniques and methods and respective training area/topics); court management; case management; EU Law; legal reasoning and writing; administration of justice; fight against organized crime; anti-corruption; fight against terrorism; money laundering; trafficking; judicial ethics; anti-discrimination. Exchange of programmes and access to existing e-learning platforms shall be also ensured.