



Strasbourg, 31 janvier 2005

RES/LISB/Bu/ Quest (2004) 3 e

Council of Europe Co-Operation Programme to strengthen the Rule of Law

1st meeting of the Bureau of the European Network for the Exchange of Information between Persons and Entities responsible for the Training of Judges and Public Prosecutors

(LISBON NETWORK)

(Web site of the Lisbon Network: www.coe.int/lisbon-network)

Palais de l'Europe (Room 7) Strasbourg, 16 (10h00) – 17 (13h00) December 2004

QUESTIONNAIRE “C” ON THE ROLE OF TRAINING INSTITUTIONS AS REGARDS IN-SERVICE TRAINING OF JUDGES AND PROSECUTORS

Questionnaire “C” on the role of training institutions as regards in-service training of judges and prosecutors¹

RESPONSES COMPLY WITH THE TRAINING PROVIDED TO JUDGES

I. Please indicate the measures taken with a view to enabling judges and prosecutors to exercise their right to in-service training (for example, days of leave for that purpose, etc.);

Judges have a right to attend the minimum training days provided by the LJTC as well as attend other training if offered by the Ministry of Justice, Court Administration or any other international organization. The chief judge takes into consideration a judge's absence from work due to the training but there is no reduction in workload, though.

II. Is in-service training of judges and prosecutors compulsory or optional?

Optional by law. Nevertheless, part of the training is compulsory (regular seminars) and the other part is optional (thematic seminars).

III. If in-service training is not compulsory as a general rule, please specify if there are areas /and/or subject matters in which in-service training is nevertheless compulsory; If so, please give details.

Some compulsory themes are - Changes in laws, disputable interpretation problem, application of international law, argumentative writing, incompleteness in (incorrect usage of) language in decisions, communication skills, etc.

IV. Is the judge or prosecutor free to choose the training actions in which he/she wishes to participate? Does he/she have to justify his/her choice? Is it possible for the judicial hierarchy and/or the training institution to oppose to the wish expressed by the judge or the prosecutor concerned and for what reason?

Judges are free to choose some of the proposed training (thematic seminars). They only have to get an approval from the chief judge of a court.

V. Please identify the committees and / or trainers that develop in-service training programmes and the authority that approves planning;

Latvian Judicial Training Centre (LJTC) is responsible also of the development of all training programs. For that purpose LJTC has the Curricula Development Working Group (CDWG) ing of 8 members - 2 members in each below mentioned groups – (1) civil law and procedure (one judge from the 1st instance court and 1 judge from the 2nd instance court), (2) criminal law and procedure (one judge from the 2^d instance court and 1 academician from the University of Latvia, Law department), (3) administrative law and procedure (one judge from the Supreme court and a lecturer) and (4) international law (EU law and Human rights).The CDWG prepare a draft based on the information gathered from seminar evaluations, they discuss with the program directors

¹ Members of the Lisbon Network are invited to send their replies to the Secretariat by E-mail (valerie.schaeffer@coe.int) for 31 March 2005 at the latest.

and then LJTC forwards it to the Courts' Administration that is the final decision maker and gives the final approval.

VI. Please give the following statistics: number of activities per year (if possible, please specify the average duration of activities); number of training hours offered per year per magistrate; budgetary resources;
See the document in annex 1. It provides the list of activities for the year 2003.

VII. Please specify and describe the in-service training methods (seminars, workshops, traditional lectures, distance learning, audiovisuals);
All above mentioned in the brackets, also mock trials, participation in court hearings (only for young judges who have work experience less than 1 year), round table discussions, e-learning (for legal English).

VIII. Please give details about the training environment (dedicated structures, court buildings, conference centres in hotels and the like);
LJTC has a rental agreement with the Riga Graduate School of Law that provides well equipped seminar premises.

IX. What are the contents of training initiatives (role of cultural and social themes; role of ancillary sciences; management techniques);
General management and court management for chief judges, communication skills with mass media (for those responsible in the courts); communication standards with court visitors; economics, taxes and finances; general communication skills (team work, delegation of tasks, conflict resolution, etc) and others.

X. What are the contents and the modalities of training to support change of functions?
Has not been specifically targeted.

XI. How is the assessment of programmes and methods done (questionnaires, interviews)?
*There is an evaluation form gathered from each seminar (if it is 1-3 day long). If the seminars is more than a week and has more than one section, evaluation is done after each section (i.e. criminal law and procedure, communication skills, etc.)
Information from the questionnaire is summarized and provided as a feedback to lecturers (individually) and to the responsible members of the CDWG.*

XII. What are the modalities of the evaluation of trainers?
*Questionnaire that inquires information on the content in general, balance between the theory and practice, how professional is a lecturer (each), content of training materials provided by a lecturer (was it helpful to understand?), which was to the most interesting or helpful lecture, what topic they would like to have more in-depth, any suggestions to the LJTC (organizational matters, any other ideas).
Just recently we started to send via e-mail the general information (no summarized info on lecturers!!!) gathered from the questionnaires to the participants, sort of feedback that*

gives them some ideas of what was the feeling of all participants. The first reaction from participants is very good; they do appreciate and write back even more. WE highly appreciate this communication and find it very important.

XIII. What is the impact of participation to training on participants' career?
There is no direct impact. There might be in the near future receiving a higher qualification degree (class).

XIV. Is there for each judge and prosecutor a file describing the in-service actions in which he/she participated?
As soon as we (LJTC) will have finalized data base, at the end of each year we will provide the Courts' Administration with the full information on the each judge's participation in the training activities organized by the LJTC.

XV. Are judges and public prosecutors offered individual training programmes concerning their personal professional development?
Not yet.

**Report on training of judges and court personnel organised by the
 LATVIAN JUDICIAL TRAINING CENTRE
 in 2004**

In the year 2004 the total number of training days was 137 (including 8 topical seminars on 7 different subjects).

Within the REGULAR training programme the following groups of judges and court personnel received training:

- 57 judges from the regional courts (4 days x 4 groups),
- 31 district court judges with 1 – 3 year experience (2 days),
- 48 district court judges with 3 – 6 year experience (2 days x 2 groups),
- 61 district court judges with 7 – 10 year experience (2 days x 2 groups),
- 61 district court judges with more than 10 year experience (2 days x 2 groups),
- 12 new regional court judges (10 days),
- 14 regional court candidate judges (15 days)
- 59 judges from the Land registration offices (2 days x 2 groups),
- 20 administrative court judges candidates (2 groups x 15 days),
- 24 administrative court judges (including 5 Supreme court judges from the administrative department) (10 days),
- 30 assistants from the regional courts (2 days x 2 groups),
- 56 assistants from the district courts (2 days x 2 groups),
- 24 assistants from the administrative courts (2 days),
- 13 new assistants from the administrative courts (15 days), and
- 14 secretaries from the administrative courts (1 day x 2 groups).

In total 353 judges, 22 candidate judges and 137 assistants.

In 2004 the regular JTC seminars covered topical issues related to civil and criminal law, EU law and Human Rights law. When possible time was also given to other topics (such as, for example, communication skills, legal psychology, legal ethics), which are necessary for judges in their daily work.

REGIONAL COURT JUDGES

Criminal law division (4 days, 2 groups, 57 participants)

- Cyberspace terminology and its interpretation;
- Cyber crimes;
- Electronic evidence in criminal procedure, polygraph (lie detector) expertise;

- The role of the court/judge in applying compulsory measures – measures of security and other compulsory measures;
- Specifics of minors as participants in criminal procedures;
- Claims against Latvia in the European Court of Human Rights;
- Stress management and practical exercises in stress management;
- Legal psychology. Risks in decision making.

Civil law division (4 days, 2 groups, 52 participants)

- Application of general civil law principles in court decisions in civil matters;
- Data protection of individuals;
- Topical issues in commercial law. Financial instruments;
- Validation of documents concerning public sale of real estate;
- Problems with the interpretation of legal norms in adjudications of civil matters;
- Basic principles of international court jurisdiction in the EU;
- Claims against Latvia in the European Court of Human Rights;
- Stress management and practical exercises in stress management;
- Legal psychology. Risks in decision making.

NEW DISTRICT (CITY) COURT JUDGES (3 days criminal law), 3 days civil law and 3 days EU and Human Rights law, 13 participants)

Criminal law and Criminal procedure

- Criminal procedure in the Regional court of Riga;
- The role of the judge in applying compulsory measures;
- Topical problems on evidence theory in criminal procedures;
- Polygraph (lie detector) expertise;
- Electronic evidence in criminal procedures and civil procedures;
- Different forms of expertise in criminal procedures;
- Circumstances, which exclude criminal responsibility – tendencies, topical issues;
- Methodology of writing court decisions;
- Moot court procedures;
- From the moot court: fact finding, decision writing;
- Analysis of the written moot court decisions.

Civil law and civil procedural law

- Securing of claims, release of security, termination of security;
- Preparation for court hearings;
- Mediation;
- Third parties in the civil procedure;
- Topical issues on matters, which stem from legal family relations;
- Expected changes in the Civil procedural law;
- Translation of legal texts, Judges' creative work;
- Collision of legal norms.

Public International law, Human Rights

- Sources of international law and their impact on national law;
- Practical exercises – case law. Sources of international law;
- General principles of the application of Human Rights law;
- Application of Human Rights in civil matters;
- Application of Human Rights in criminal matters;
- International legal cooperation in criminal law matters within the European Union;
- General application of Human Rights law: prohibition against discrimination;
- Harmonization of legislation – the role of EU law in the Latvian legal system;
- Main areas of law, where EU law will be applicable: free movement of goods;
- Main areas of law, where EU law will be applicable: free movement of labour, services and the right of establishment;
- Data bases and internet resources in the fields of international law and EU law. Juridica
- Legal psychology. Risks in decision making.

DISTRICT (CITY) COURT JUDGES (*seven 2-day seminars, 31 judges with 1 – 3 year experience, 48 judges with 3 – 6 year experience, 61 judges with 7 – 10 year experience, 61 judges with more than 10 year experience*)

Criminal law and criminal procedure

- Agreement procedure in the Latvian Criminal procedural law ;
- Topical issues on complicity in criminal law;
- The judge's role in the pre-trial investigation;
- Cyber crimes.

Civil law and procedure

- Warning procedure– problems and solutions;
- Topical issues on labour disputes;
- Topical problems in Commercial law;
- Data protection of individuals.

DISTRICT (CITY) COURT JUDGES CANDIDATES (*7 days criminal law, 4 days civil law, 3 days Public International law, Human Rights law and 1 day Legal psychology, Professional ethics, 14 participants*)

Criminal law and Criminal procedure

- Basic principles of evidence theory;
- Judges' applications to the Constitutional court;
- Language culture in procedural documents;
- Polygraph (lie detector) expertise;
- Electronic evidence in criminal procedures;
- Topical issues on sentencing;
- Preparation of court cases. Court hearing protocols;
- Participation in a court hearing in the Regional court of Riga, Abrenes iela 3;
- Analysis of the procedure;
- Confirmation of agreement in criminal procedure;
- Diversity of crimes;

- Specifics of different crimes against property; similarities and differences;
- The role of the court/judge in the pre-trial investigation;
- Particular decisions taken during criminal trial and how to appeal them;
- Moot court procedure (criminal case);
- The verdict. Home work – preparation of the verdict;
- Different kinds of expertise and how to use it;
- Analysis of the prepared verdict.

Civil law and Civil procedure

- Participation in Civil law proceedings at the Regional court of Riga. Analysis of the proceedings;
- Principles of Civil procedure, the court's role in the procedure. The Law on Courts;
- Securing of claims;
- Family law related court cases. Divorce. Legal guardians. The financial relationship between spouses;
- Application of rules on coverage of court proceeding costs in court practise;
- Construction of rulings and related practical issues;
- Analysis of written court rulings;
- Civil law Court proceedings in first instance courts. Claims, registration, Bringing action, Suspension, rejection. Court proceedings. Competition. Proceedings about the facts in a case. Adjourning of a case. Appeal and submission of a case to the appellate court;
- Labour law;
- Topical issues in Commercial law.

Public International law, Human Rights

- The International law system (in particular – sources, custom, principles, jurisdiction) Ratification agreements;
- Public International law and EU law in the context of national law;
- Human Rights – the Work of the European Court of Human Rights and the European Convention on Human Rights;
- The International protection of Human Rights system (including acceptability);
- Identification of Human Rights violations;
- Application of Human Rights norms and principles in Latvian court cases: analysis of case law;
- Harmonisation of EU law and Latvian law;
- General principles of EU law: non-discrimination, direct effect, subsidiarity and legality, proportionality, loyalty;
- Case law (I, II). What should a judge do if he suspects that his case has an EU law dimension? What should a judge do if one of the parties uses EU law in his argumentation? When should one request a preliminary ruling from JTC? How should such a request be formulated?

Legal psychology, professional ethics

- Legal psychology. Risks in decision making;

- Ethics, analysis of rules on ethics and future developments.

JUDGES FROM LAND REGISTRATION OFFICES (*two 2-day seminars, 59 participants*)

- The significance of cases in the application of legal norms;
- Latvian court cases on internal flaws of real estate sales contracts and collisions of entries in the land register;
- The right of first refusal and the right to buy out;
- The administrative procedure;
- Implementation of EU legislation in Latvia;
- Application of EU law;
- The administration of the Courts administration (organisational and other matters);
- Compilation of case law on land registration issues;
- Powers of attorney and their translations, problematic issues in relation to powers of attorney for the registration of mortgages;
- Transfer of the right to raise a claim;
- Stress management;
- Registration of mortgage on the basis of a court ruling;
- Application of legal norms and flaws in laws and rights;
- Court cases on land registration matters.

NEW ADMINISTRATIVE COURT JUDGES (*13 days, 24 participants, including Supreme Court judges from the administrative law division. At the seminar on 11 – 13 October, 15 assistants from the administrative courts also participated*)

- The social security system in Latvia;
- Pension guarantees;
- Obligatory Public social security insurance with respect to accidents at work places and work related injuries, employers responsibility to compensate for damage caused on duty;
- Sickness and maternity insurance;
- Unemployment insurance;
- Customs law;
- Introduction to taxes and taxation law;
- Value added tax;
- Real estate tax;
- The role of the European Union in the development of taxation law;
- Methodology of writing court rulings and;
- Discussion – analysis of delivered rulings;
- Enterprise income tax;
- Income tax for private persons;
- The essence and main sources of Competition law. The Competition Council (legal status, tasks, rights);
- Prohibited cartels and cartels, which are considered acceptable. Different forms of prohibited cartels. Methods of collecting evidence. Sanctions. Acceptable agreements and the procedure to allow them;

- Prohibition against abuse of dominant position. The notion of dominant position. Different forms of abuse of dominant position. Responsibility for the abuse of dominant position;
- Control of market player mergers. The notion of mergers. Mergers which are allowed and their procedure;
- Prohibition against unfair competition. Different forms of unfair competition, including breach of advertising rules. Methods to hinder such breaches ;
- Peculiarities of the Competition Council's decision making process;
- Legal psychology. Risks in decision making;
- Discussion on topical case law (municipal administrative acts, administrative acts without legal support, evidence in "road police cases", invitation of third parties to the case and other topical matters from recent case law).

CANDIDATE JUDGES TO THE ADMINISTRATIVE COURT/ 1 group (19 days, 12 candidates)

- Public administration reform and elements of administrative capacity, deadlines;
- The legal person in Public law, public administration as an institutional system and the notion of different state administration branches;
- The notion of Human Rights and sources in Public National and Public International law;
- Chapter 8 of the Constitution;
- Subordination, the "chains" within a homogenous administration, cooperation between public institutions and supervision of administrative decisions ;
- Delegation of state powers, participation of the society and public procurement;
- Introduction to Latvian case law;
- Basis principles of the European Human Rights Convention legal system and the application of the rights catalogue in the administrative procedure ;
- EU, the European Convention and Latvian legal acts in the administrative procedure;
- The administrative procedure in public institutions ;
- The implementation of administrative acts;
- Principles of a fair trial and the respect for standards in the administrative procedure;
- Delegation of state powers, participation of the society and public procurement;
- Internal normative acts;
- The organisation of the civil service in Latvia;
- EU institutions, division of competences and passing of normative acts;
- Sources of EU law;
- Principles of administrative court proceedings ;
- Peculiarities of the court proceedings in the Administrative procedure law ;
- Evidence in the administrative procedure;
- Introduction to Jurisprudence. Methodology of the preparation of court rulings;
- Court proceedings;
- Written proceedings in court;
- European Court of Justice, European Court of Human Rights;
- The preliminary ruling procedure at ECJ;

- Application;
- Preparation of the case for the proceedings;
- Adjudications;
- Cassation;
- Topical issues on public administrative reform;
- Rulings;
- Compensation for losses;
- Introduction to Jurisprudence;
- General principles of law;
- Evidence;
- Comparative court proceedings;
- Submission of a case to the Constitutional court from the Administrative court and its proceedings.

ADMINISTRATIVE COURT JUDGES CANDIDATES (5 days, 8 candidates) AND NEW ADMINISTRATIVE COURT ASSISTANTS (5 days, 13 assistants)*

- Participants in the administrative procedure;
- Introduction to political science
- Participation in court proceedings and analysis, Administrative district court and Administrative regional court
- Evidence in the administrative process;
- General principles of law
- Sources of law
- Application of legal norms
- Collision of legal norms and principles
- Law making
- The notion and sources of Human Rights in National Public law and International law;
- Chapter 8 of the Constitution;
- Basic principles of the European Human Rights convention and the application of the rights catalogue in the administrative procedure

* *This programme will continue from 10 – 21 January 2005.*

REGIONAL COURT ASSISTANTS (4 days, 30 participants)

Assistants to judges at the Criminal law division:

- Introduction. The status, duties, ethics and deontology;
- The system of appeal of verdicts in criminal matters;
- Human Rights law implementation in the criminal procedure;
- Pre-trial preparation of criminal cases. The court hearing protocol;
- Topical issues on evidence theory in the criminal procedure;
- Problems regarding the writing of verdicts in first instance courts and in the appeals instance.

Assistants to judges at the Civil law division:

- Status and duties of the assistants. The record keeping instruction;

- Human Rights law implementation in the civil procedure;
- Reception of claims. Preparation of claims before trial. Different forms of claims;
- Court proceedings in the appeals court;
- Securing of the claim. Grounds and means for securing claims;
- Court announcements and requests. The court hearing protocol;
- Preparation of draft decisions and rulings. Additional rulings. Questions for the Constitutional court;
- Application of conventions on international judicial cooperation. Recognition of court rulings.

DISTRICT (CITY) COURT ASSISTANTS (*2 days, 56 participants*)

- Introduction. The status, duties, ethics and deontology;
- Preparation of court rulings in civil matters;
- Basic principles of evidence theory;
- Pre-trial preparation of criminal cases. The court hearing protocol;
- Preparation of court rulings in criminal matters;
- Reception of claims. Pre-trial preparation of civil matters. Securing the claim;
- Sentencing in criminal matters.

ASSISTANTS FROM THE ADMINISTRATIVE COURTS (*20 part-time days, 22 participants*)

- The administrative procedure in court;
- Areas of law. Law and politics ;
- Transformation of the system. Main problems relating to the sources of law;
- The preliminary ruling procedure at the European Court of Justice;
- EU institutions, division of competences and passing of normative acts;
- The administrative act;
- The administrative procedure and the judge's discretion/considerations ;
- Objections in administrative matters;
- Different forms of claims and rulings;
- Interim rulings;
- Sources of EU law. Case law from ECJ as a source of law;
- The notion and sources of Human Rights in National Public law and International law (similarities and differences);
- Chapter 8 of the Constitution;
- General principles of law;
- Introduction to Latvian case law;
- Basic principles of the European Human Rights convention and the application of the rights catalogue in the administrative procedure;
- Respect for the principles and standards of a legal and fair trial in the administrative procedure;
- Administrative reform and elements of the administrative capacity;
- Organisation of the civil service in Latvia;
- Principles of public administration and the status of public institutions;

- “Chains” of subordination and supervision of administrative decisions ;
- Administrative procedure in public institutions;
- Legal grounds for compensation of loss, regulations in the law on Administrative procedure;
- Mechanisms for compensation of loss, calculation of compensations and case law ;
- International judicial cooperation within the framework of agreements and conventions ;
- Principles of court proceedings in administrative matters;
- Basis principles of the European Human Rights Convention legal system and the application of the rights catalogue in the administrative procedure ;
- Practical exercises;
- EU, the European Convention and Latvian legal acts in the administrative procedure;
- Basis principles of the European Human Rights Convention legal system and the application of the rights catalogue in the administrative procedure – article 11 and the law on Meetings, law on public organisations ;
- Delegation of state powers and social partnership in public administration;
- Applications;
- Pre-trial preparation of cases;
- Written procedure in court;
- Court proceedings;
- Evidence;
- Adjudications;
- Rulings;
- Appeal;
- Cooperation between institutions and public law contracts in public administration;
- Interim decisions, administrative penalties and procedural sanctions ;
- Submission of a case to the Constitutional court from the Administrative court and its proceedings.

SECRETARIES FROM THE ADMINISTRATIVE COURTS (2 days, 16 participants)

- Issues related to the organisation of court work;
- Specific court personnel tasks set out in the record keeping instruction;
- Language culture in the procedural documents;
- Record keeping;
- Pre-trial preparation of cases;
- Court proceeding protocols;
- Communication psychology.

In cooperation with Inga Reine (the government’s representative in international Human Rights institutions) JTC continued its series of discussions on Latvian cases, which have been appealed to the Human Rights court in Strasbourg, pointing out the main mistakes, which occur in all instances of the Latvian court system and which have resulted in that the cases are brought to the international court. These discussions were incorporated into the regular regional court judges’ training programme.

THEMATIC seminars

In addition to the regular training seminars in 2004, JTC offered judges to participate the below listed **thematic seminars**. These seminars are an important part of the training programme and give the participants an opportunity not only to improve their knowledge and understanding of some particular subject, but only to discuss it in between them selves.

- Changes in the Criminal procedure code – pre-trial mediation (*one 1 day seminar*)
The following **thematic seminars** were organised with the support of different international partners/donors:
- Application of European Union law in Member states (*one 2 day seminar, in cooperation with the French National Judges School and the Soros Foundation Latvia*);
- Division of competences between the European Union and the Member states (*one 2 day seminar, in cooperation with the German Foundation of Legal Cooperation*);
- EU law – the role of national courts in the EU legal system (*one 2 day seminar, in cooperation with the German Foundation of Legal Cooperation*);
- Family law. International perspectives (*one 2 day seminar, in cooperation with the German Foundation of Legal Cooperation*);
- Taxation law (*one 2 day seminar, in cooperation with the German Foundation of Legal Cooperation*);
- Sentencing policies in Latvia (*two 2 day seminars, in cooperation with UNDP*).

INDIVIDUAL GROUPS OF PARTICIPANTS

- **Chairpersons of the courts** (Chief judges from district (city) courts and Chief judges and their deputies from regional courts) 2–day seminar on general management “managing one self and others” and a 1-day seminar on “specifics of court management”;
- **The study programme working group** a 2-day seminar on continuing legal education and methods of curriculum planning.
- **Seminar for JTC lecturers** a 4-day seminar on teaching methodologies and application of these methods.