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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 “A” ON THE STRUCTURAL AND FUNCTIONAL
FEATURES OF TRAINING INSTITUTIONS OF JUDGES AND
PROSECUTORS**

*Prepared and adopted by the Bureau of the Lisbon Network at its first meeting
(Palais de l'Europe, Strasbourg, 16- 17 December 2004)*

Questionnaire “A” on the structural and functional features of training institutions of judges and prosecutors¹

Introductory remark: the answers are bolded!

I. What is (are) the name (s) of the training institution (s) of judges and prosecutors in your country? Please indicate whether the training of judges and that of prosecutors takes place or not within the same training institution; does (do) the training institution(s) of judges /prosecutors ensure both initial and in-service training? National and decentralised training?

There is only one institution in Montenegro responsible for training of judges- Judicial Training Center of the Republic of Montenegro (JTC). So far the training of prosecutors has been conducted mainly through the Association of Prosecutors of Montenegro and through *ad hoc* training seminars organized by different subjects. However, the Law on Education in the Judicial Authorities is being drafted in Montenegro at the moment, with the expert support of the Council of Europe (it was positively estimated by the Council of Europe experts). The final version of this law was adopted by the Government and is expected to be in front of the Parliament very soon. By this new law the JTC will widen its activity to the prosecutors as a target group, too. So far the JTC has been offering only continuous training to judges (initial training has been offered, and it still is, occasionally-this is a type of initial training actually since it is offered to the court trainees who wish to become judges or prosecutors-this can be considered an initial phase of the initial training of candidates for judges of prosecutors in Montenegro). By the new law the initial training will be introduced in Montenegro in its full scope. Since Montenegro is small in the terms of population and territory all the training is easy to organize. The regional principle is always followed due to better quality training (northern, central and southern part of Montenegro).

II. For each training institution, please indicate:

- a) the number of full- time trainers - **none**
- b) the number of part- time trainers - **none**
- c) the number of occasional trainers- **15 is a number of the trainers that the JTC occasionally engages; there are much more trainers that JTC engaged once or two times**
- d) the number of administrative and managerial staff - **4 at the moment (two permanently employed: director and secretary of the JTC, and two working of the project of support to the JTC by the EU/European Agency for Reconstruction: project manager and administrative assistant; when the new law is adopted there will be 4 people permanently employed)**

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.

- e) the origin of funding – **donors and budget of the Ministry of Justice of the Republic of Montenegro so far. When the new law is adopted there will be a firm and continuous budgetary support established, through the budget of the Supreme Court of Montenegro**
- f) the link with the Ministry of Justice, the High Council of Magistrates, etc..**-the Ministry of Justice is one of the four founders of the JTC and at the moment has one representative in the Managing Board of the JTC in which the judges are majority; when the new law is adopted the Ministry will also have one representative in the main managing body of the JTC (which will be called Coordination Board), however, the judges and prosecutors, i.e. their representatives will be majority in this body; when the new law is adopted the JTC will also be obliged to send the results of the initial training of candidates to the Judicial and Prosecutorial Councils, as well as to send them annual reports on the trainings and answer any other request of the Councils. By the new law the communication and link between the JTC and Judicial and Prosecutorial Councils is much more strongly established.**
- g) taking into account, in particular, item f) above, if it should be considered as an autonomous/independent training institution-**it should be considered as an independent institution (at present and in the future), this was also estimated by the Council of Europe experts who supported drafting of the new judicial training law in Montenegro.**
- h) the links between the training institutions if there are more than one (co-operation, coordination, subordination, etc...); **x**

III. What are the procedure and the criteria for the appointment of managerial staff and instructors of the training institution (s)? Are the criteria for the appointment of the trainers identical for a) full-time, part-time and occasional trainers? b) trainers responsible for initial training and those responsible for in-service training?

Criteria for appointment of the managerial staff of the JTC are defined in the JTC Statue at the moment. When the new law is adopted the JTC will become a unit of the Supreme Court of Montenegro (this solution was agreed and supported by the president of the Supreme Court of Montenegro and Supreme State Prosecutor, as well as by the Council of Europe experts, it is in accordance with the relation of number of judges and prosecutors in Montenegro, the number of prosecutors is three times smaller then number of judges), therefore, the conditions related to the selection of managerial staff of the JTC will be defined by the so called act of systematisation of working places in this unit. The concrete conditions will be defined in this act and the concurs open to public will be required in any case. As for the director of the JTC, one more additional thing is required by the new law and that is the approval, related to the appointment of director, which must be given by the president of the Supreme Court of Montenegro and Supreme State Prosecutor of Montenegro.

All trainers at the moment are proposed by the JTC managerial staff and approved by the JTC Managing Board, they are always selected according to their field of expertise, experience and similar. One is always selected among three nominated candidates, 3 written CV's follow the whole process and are always present in the documentation related to the appointment of a concrete trainer to train in the concrete training activity. When the new law is adopted the main managing body (it will be called Coordination Board) of the JTC will nominate the members of the so called program boards responsible for creation and realization of different training programs. In addition, the list of trainers will be defined by this body, too. Some of the trainers from this list will be engaged occasionally and some permanently. This list will include the trainers for initial training and for continuous training. This main managing body is defined to be especially responsible for nominating the so called Examining Commission which will conduct and organize the Initial and Final Exam within the initial training program.

IV. What is the proportion of judges and prosecutors who are full-time / part-time instructors and/or members of the management?

Out of 242 judges (total number of judges in Montenegro) 4 of them are at the moment in the Managing Board of the JTC, 3 judges are editors of different JTC programs and 19 of them have so far been engaged as trainers by the JTC (only three judges overlap in three of these categories: being at the same time Managing Board member, editor and trainer). As for the prosecutors, they were sporadically engaged as trainers, so far there were only few of them (there are approximately 75 prosecutors in Montenegro in total).

When the new law is adopted the main JTC managing body will also be composed of representatives of judges (3 of them, if 1 representative of the Judicial Council is judge²), but also representatives of prosecutors (2 of them, if 1 representative of the Prosecutorial Council is prosecutor). So far there were no prosecutors in the JTC Managing Board since the JTC has so far worked with judges only. The prosecutors will be represented in the new JTC managing body, and their number in it will be, as already said, 2. Apart from that, there will be certain number of so called program boards (maximum 10) which will be responsible for drafting and realization of different training programs. Each board will have three members and majority of these members will be judges and prosecutors. It is expected that the list of future trainers-judges and prosecutors will be wider and that more of them will be engaged in the future JTC activities.

V. If persons other than judges or prosecutors fulfil the task of trainers, what are their original profession? Please also give details on their proportion;

They do occasionally fulfil the task of trainers. They are experts in specific fields which are of an importance and are influential to the judicial work, for

² It can be a professor of Law Faculty or advocate too, for example. This is the same when prosecutors and Prosecutorial Council are concerned.

example, commercial issues, financial issues, medicine, maritime issues, economy, etc., quite often the professors of the Faculty of Law in Podgorica are engaged (professors of Criminal Law, Civil Law, etc.). Their engagement is more rare than the engagement of judges and prosecutors. The judges and prosecutors are engaged in approximately 70 % of activities and others in approximately 30 % of activities. The engagement of non-judges and non-prosecutors in a concrete activity is usually combined with the engagement of judges and prosecutors (the topics of the trainings usually require so).

VI. Are retired judges and prosecutors or other retired law practitioners invited to act as trainers or members of the management?

Yes they are.

VII. What choice has been done between full-time instructors, part-time instructors or occasional instructors that furthermore have judicial functions?

All the judges or prosecutors that are being engaged by the JTC to be trainers are active judges and prosecutors who conduct the work of trainers in addition to their regular work.

VIII. If judges or prosecutors are part-time or occasional trainers, is the burden of their work within their jurisdiction alleviated?

No, their judicial work stays completely the same.

IX. Please specify the modalities of the training of trainers who perform their training mission –full-time or part-time- within the framework of the training institution(s) or in Courts (content, educational methods, duration, periodicity, etc...);³ Is training of trainers compulsory?

Training of trainers is not compulsory, and it will not be by the new law too. It is, however, more than desirable and every such opportunity is used at present and will be used by the JTC in the future too. So far, such type of training has been mainly conducted with the support of the Council of Europe (primarily when training on ECHR is concerned). The JTC have not so far solely organized or offered “training of trainers” programs. As for the future, this aspect of training will be included to a certain extent in the new JTC programs (which are going to be drafted after the new law adoption). Please see answer number III about the way of proposing and selecting the trainers.

X. Please specify what initiatives are taken to assure vicinity between trainers and trainees at regional and local level as well as to develop communication (including through the Internet);

At each training activity the trainees are informed about the contact details of trainers (usually e-mail address), so that they can contact him/her in case they have

³ See the conclusions of the meeting of the Lisbon Network held in Budapest, 25-26 October 1999, on the theme "The training of trainers".

some additional interest or questions (and the list of trainees is made at each training activity including their contact details, it is always given to the trainers). Since number of judges and prosecutors in Montenegro is very small, the familiarity between local trainers and trainees is very much present. All judges have very familiar relations between themselves, being trainees or trainers. In addition, the JTC is always open to support and help cooperation and communication between the trainers and trainees, there are many cases when JTC helps this communication to be established or improved. Any Montenegrin judge or prosecutor can contact the JTC anytime for the purpose of asking the questions to the trainers, of establishing contacts with the trainers, etc. It is almost everyday practice in the JTC office.

XI. Please specify what initiatives are taken to assure participation of the training institution in international co-operation in the field of training (exchanges between training institutions, periodicity of these exchanges, organisation of / participation. in international seminars, co-operation with International Organisations / Institutions (Council of Europe, the European Commission, etc...)).

The cooperation of the JTC with the regional and international institutions and organizations, courts and prosecution offices, is very lively and dynamic. The JTC practices to organize a one regional conference on a specific topic each year. At these conferences (there were two so far and the third one is being prepared for June this year) all the regional JTCs' representatives are invited, as well as many regional judges and prosecutors. The JTC tends to publish a publication as a result of every such regional conference. Furthermore, JTC engages international experts (Council of Europe experts especially) quite often. Apart from that, JTC regularly organizes study visits to different European countries and institutions, courts, etc. on different topics. JTC also tends to have its representatives present at all the relevant regional and international events, as well as to send, i.e. enable Montenegrin judges and prosecutors to participate in various useful international training or other types of events. Many JTC training activities are organized in cooperation of with the support of the Council of Europe. Council of Europe support is very useful for the JTC especially when training on ECHR is concerned, as well as organizing study visits to the Council of Europe and ECoHR. Apart from the Council of Europe, JTC has a very good cooperation with the OSCE and ODIHR. Many JTC activities are largely supported by these subjects through various small or big projects. Cooperation with the Foundation Open Society Institute-Soros and with the USAID must also be stressed as very good one. For example, JTC has one ongoing project of support by the OSCE/ODIHR at the moment (apart from the largest ongoing main project of support by the EU/European Agency for Reconstruction).