

Questionnaire “B” on the role of training institutions in recruitment and initial training of judges and prosecutors³⁸

I. What are the ways of acceding (and the respective related procedures) to the functions of judge and prosecutor (examination, selection based on a file, etc..)?

The Law on Establishing the Kosovo Judicial Institute (KJI) promulgated on 24 April 2006 (UNMIK Regulation 2006/23) provides that candidates for positions as judges or prosecutors shall be selected on the basis of a public and open competition in which they shall take the preparatory examination for judges and prosecutors. A person may only be selected as a candidate for a position as a judge or a prosecutor if he or she passes the preparatory examination. Working experience and the results of the bar examination (this is a practical exam after the completion of the Law Faculty) may also be taken into account in the selection of candidates (Art.7.2).

KJI is responsible for the organization of the initial training of the selected candidates. The assessment of the results achieved in the Preparatory Exam and the initial training course is made according the criteria and rules set up by the Kosovo Judicial Council (for judicial candidates) and the MOJ (for prosecutorial candidates).

UNMIK Regulation No 2005/52 on the Establishment of the Kosovo Judicial Council (KJC) regulates the procedure for the appointment of judges.

UNMIK Regulation No 2005/53 establishing the Ministry of Justice (MOJ) regulates the role of the MOJ in the selection and appointment of prosecutors.

Currently a Draft Law on Courts and a Draft Law on Prosecution are under preparation. They will regulate in details the system of appointment that will be after an entry examination for the judiciary and for the prosecution followed by a specialized initial training organized by KJI.

II. How, following which periodicity and by whom is the assessment of vacancies to be filled done?

Until December 2005 the Kosovo Judicial and prosecutorial Council had such responsibility. At the moment the assessment is made by its legal successors.

III. What are the bodies which proceed to the selection of the candidates to the initial training for the function of judge or prosecutor? According to the way of acceding to the function of judge or prosecutor (cf. question I. above), please specify: a) the qualification of the persons proceeding to the selection: members of these selection bodies are they: i) exclusively judges and prosecutors? ii) in majority judges and prosecutors? iii) in majority persons who are neither judge nor prosecutor? and b) the selection procedure; do

³⁸ 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.

members of these selection bodies benefit from a specific training, for instance in the field of assessment techniques? If so, please give details;

KJI had only one three-month Pilot Initial Training Program organized in 2005. At that time the KJPC made a selection of the candidates after an exam. The final selection was also made by the Council upon successful completion of the training program. In accordance with the local legislation the Council recommends the selected candidates. Art. 9.4.8 of the Constitutional Framework provides that “Judges and Prosecutors shall be appointed by the SRSG from lists of candidates proposed by the KJPC and endorsed by the Assembly”.

IV. What qualifications are requested from candidates (university degrees, previous professional experience)?

The following qualifications are requested: to be habitual residents of Kosovo; to have a law degree; to have passed the Kosovo Bar Examination; to have passed an entry examination for judicial or prosecutorial candidates respectively; to have successfully completed the required initial training; to have a previous professional experience (there are different requirements for the different positions and levels); to have an excellent professional reputation and to have no criminal convictions other than minor or traffic offences.

V. In the case of a selection done by way of an examination, what are the selection modalities (multiple choice questionnaire, written and oral examinations, psychological tests, etc...)?

In April 2005 the KJPC organized the first judicial entry examination on a pilot basis. The exam had two phases: a preliminary one with a multiple choice questionnaire and a second one – with a written and oral examination.

VI. What is the value of passing of initial examination (access to initial training as a tool for further selection, or as a tool to begin the professional career)? What are the consequences on curricula and assessment of training?

The initial training is a precondition for a future selection.

VII. Please give information on:

a) the framework of initial training;

The detailed procedure is still not finalized. The legal framework was mentioned above.

b) the duration of initial training;

c) the qualification and the selection of trainers;

The trainers will be practitioners having specialized TOT.

- d) the method used in initial training (seminars, training periods in a jurisdiction, training period in other places, period of the curriculum during which these training periods take place);

The first training course was for a period of three month consisting of training at KJI and many visits to different institutions – all level of courts, prison and detention centers.

- e) the content of the initial training programmes³⁹ and its link with university curricula;

The content of the initial training program covered different legal fields: Criminal Law and Procedure, Civil Law and Procedure, Administrative Law, Commercial law, special jurisdictions existing in Kosovo (i.e. Housing and Property Directorate, Kosovo Trust Agency), Constitutional Law, International law, European Union Law and judicial Ethics.

VIII. Is there an exit examination? If so, what is the value of this exit examination? Please give details about the methods of selection, the selection bodies and their membership;

The candidates had two examinations during the course. The final ranking was made on the basis of the results achieved during the exam and during the initial training. KJPC members and some of the trainers made the assessment.

IX. Are there provisions for the training and tutoring for judges and prosecutors in the first years of their career (complementary training)? If so, what are the modalities?

Not for now

³⁹ For example: deontology, European and international law, foreign languages, international judicial co-operation, issues related to discrimination; practical studies in the field of forensic medicine, police, cadastre, social security, labour law, alternative dispute resolution (ADR), etc.; familiarization with the functioning of jurisdictions such as Supreme Courts, State Councils, etc...