

HUMAN RIGHTS EDUCATION AND TRAINING FOR JUDGES IN SERBIA

Introduction

1. This report is concerned with the content, form and practical arrangements for the education and training of judges with respect to human rights, and in particular the European Convention on Human Rights ('the Convention') and the case law of the European Court of Human Rights ('the Court')
2. The report has been prepared by Dusan Ignjatovic¹, Jeremy McBride² and Ivana Roagna³ at the request of the Council of Europe pursuant to the latter's project "Support to the judiciary in Serbia to ensure a coherent implementation of the European Convention on Human Rights at the national level", funded by the Kingdom of Norway.
3. For the purpose of preparing this report, the authors had meetings in Belgrade in May and September 2014 with representatives of relevant institutions, namely, the Constitutional Court, the High Judicial Council, the Judicial Academy, the Ministry of Justice and the Supreme Court of Cassation, as well as with individual members of the judiciary, judicial assistants, trainee judges and university professors of law, as well as one non-governmental organisation involved in training for lawyers⁴. These meetings were concerned with both legal education in general and the specific content, form and practical arrangements that currently exist for training and education of the judiciary on human rights, together with questions on access to resources concerning human rights in Serbian, the linguistic skills of judges and judicial assistants and advisers⁵ and the capacity of judges to act as trainers.
4. Also of assistance for the preparation of the report was the *Fact-finding mission Report Serbia (18-22 November 2013)*⁶ prepared for the Council of Europe in November 2013. This is because it was concerned with methods of harmonising Serbian jurisprudence with the European Convention and the case law of the European Court and thus addressed some of the issues relevant to education and training on human rights.

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⁴ For the list of meetings, see Annex 1.

⁵ need to explain difference ??

⁶ Hereafter the *Fact-finding mission Report*. This report was prepared by Aleksandra Ivankovic-Tamamovic, Bert Maan and Nina Vajic.

5. In addition, account was taken of the proposals made in the *Action plan for Implementation of the National Strategy for the Judiciary Reform (period 2013-2018)*⁷.
6. Of particular importance for the proposals in the report for enhancing the arrangements for education and training for judges with respect to human rights, as have Recommendation Rec(2004)4 of the Committee of Ministers to member states on the European Convention on Human Rights in university education and professional training⁸ and *The European Convention on Human Rights: the need to reinforce the training of legal professionals*, a Resolution of the Parliamentary Assembly of the Council of Europe⁹, together with the Explanatory Memorandum prepared by Mr Jean-Pierre Michel¹⁰ and his earlier Introductory Memorandum on the topic¹¹.
7. Education is a term often used to describe the process of learning the theory whereas training is one used to cover the one involved in giving the skills necessary to put this theory into practice. The report is concerned with the way in which both processes are handled with respect to the Serbian judiciary. Furthermore, although training is of especial importance for those who are charged with implementing the law, it should be borne in mind that enhancing knowledge can be equally important for those who already have the necessary skills but need to be kept up to date about relevant developments for their use.
8. The Report first looks at the context in which human rights education is to take place, particularly as regards the human rights commitments undertaken by Serbia and certain issues relevant to the role of the judiciary in their implementation. Thereafter, it reviews the current requirements for judicial appointments, the educational background of serving and candidate judges and the existing arrangements for providing education and training for judges on human rights. It then sets out suggestions for developing and enhancing these arrangements, both as regards initial training and continuing education and training after appointment. It concludes with an overall assessment ??

Background

9. This section is concerned with the status of the Convention (and other international human rights treaties) within the Serbian legal system, the initial training and

⁷ reference needed ??

⁸⁸ Adopted by the Committee of Ministers on 12 May 2004, at its 114th Session.

⁹ 1982 (2014), 7 March 2014.

¹⁰ Doc. 12843.

¹¹ AS/Jur (2013) 22, 13 June 2013

education on them before and after their ratification, the principal problems affecting implementation (both substantive and ones tied to the nature of the legal tradition), the use made in practice of the Court's case law in practice and the availability of Convention-related material in Serbian and related languages.

10. Serbia has been a party to the Convention since 3 March 2004 and has also ratified its First, Fourth, Sixth, Seventh, Twelfth and Thirteenth Protocols¹², which have added to the rights and freedoms which states party to it undertake to secure. In addition, it is also party to a considerable number of other human rights treaties, both at the United Nations level¹³ and within the framework of the Council of Europe¹⁴.
11. In accordance with provisions of Article 18 of the Constitution 'Human and minority rights guaranteed by the Constitution shall be implemented directly' and "The Constitution shall guarantee, and as such, directly implement human and minority rights guaranteed by the generally accepted rules of international law, ratified international treaties and laws' and 'Provisions on human and minority rights shall be interpreted to the benefit of promoting values of a democratic society, pursuant to valid international standards in human and minority rights, as well as the practice of international institutions which supervise their implementation'. In accordance with Article 145 of the Constitution 'Court decisions are based on the Constitution and Law, the ratified international treaty and regulation passed on the grounds of the Law.' According to Article 194 of the Constitution of the Republic of Serbia 'ratified international treaties and generally accepted rules of the international law shall be part of the legal system of the Republic of Serbia'. Furthermore, 'laws and other general acts enacted in the Republic of Serbia may not be in noncompliance with the ratified international treaties and generally accepted rules of the International Law'. As a consequence all the treaties previously noted are an integral part of the body of law to be applied by the courts in Serbia and indeed judges are specifically required to give

¹² All at the time of ratifying the Convention itself but the Seventh only entered into force on 1 April 2004, the Twelfth on 1 November 2009 and the Thirteenth on 1 April 2005.

¹³ Namely, the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (12 March 2001), the Convention on the Elimination of All Forms of Discrimination against Women (12 March 2001), Convention on the Rights of Persons with Disabilities (31 July 2009), the Convention on the Rights of the Child (12 March 2001), the International Convention for the Protection of All Persons from Enforced Disappearance (18 May 2011), the International Convention on the Elimination of All Forms of Racial Discrimination (12 March 2001), the International Covenant on Civil and Political Rights (12 March 2001), the International Covenant on Economic, Social and Cultural Rights (12 March 2001), the Optional Protocol of the Convention against Torture (26 September 2006), the Optional Protocol to the International Covenant on Civil and Political Rights (6 September 2001) and the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty (6 September 2001). It has also signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (11 November 2004).

¹⁴ The Council of Europe Convention on Action against Trafficking in Human Beings (14 April 2009), the Council of Europe Convention on preventing and combating violence against women and domestic violence (21 November 2013), the European Charter for Regional or Minority Languages (15 February 2006), the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment (3 March 2004), the European Social Charter (Revised) (1 November 2009) and the Framework Convention for the Protection of National Minorities (1 September 2001).

priority to them over any ordinary laws which have provisions that are in conflict with their requirements.

12. Although all these mechanisms have procedures for assessing the extent to which the fulfilment of the relevant obligations have been achieved, in practice the most immediate indication of any potential difficulties in this regard is likely to be found in the procedures whereby individuals can complain about their specific problems in exercising their rights and freedoms at the national level. Apart from the possibility under the Convention of submitting applications to the Court, Serbia has accepted several other individual complaints procedures under the United Nations treaties¹⁵ but it is only under the Convention and the First Optional Protocol to the International Covenant on Civil and Political Rights that any case law has actually been generated demonstrating failures to give full effect to the obligations that have been undertaken.
13. Thus, by the end of 2013 there had been 97 judgments by the Court in respect of applications submitted in respect of Serbia, with violations of at least one provision of the Convention being found in 85 of them. These violations have concerned the lack of an effective investigation into loss of life, inhuman and degrading treatment, the lack of an effective investigation into allegations of such treatment, the right to liberty and security, the right to a fair trial, the length of proceedings, the non-enforcement of judgments, the right to respect for private and family life, the right to freedom of expression, the right to an effective remedy, the prohibition of discrimination and the protection of property¹⁶.
14. The greater part of these violations have been concerned with various facets of the administration of justice and especially the operation of the courts. Many of them are also repetitive in nature - meaning that earlier rulings have not been remedied by a change in approach at the national level - and the systemic nature of some of the problems addressed is particularly evident in the cases concerning the length of proceedings and the non-enforcement of judgments, as well as in the fact that the Court has adopted a pilot judgment regarding the need to account for the whereabouts and fate of missing persons¹⁷. However, the rulings as a whole illustrate the failure so far of the Convention system - and in particular the methodology employed by the an

¹⁵ Under Article 22 of the Convention against Torture (12 March 2001), Article 31 of the International Convention for the Protection of All Persons from Enforced Disappearance (18 May 2011), Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination (12 March 2001), the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (31 July 2003) and Optional protocol to the Convention on the Rights of Persons with Disabilities (31 July 2009). It has also accepted a number of inquiry procedures established by United Nations treaties - under Article 10 of the Convention against Torture (12 March 2001), Article 33 of the International Convention for the Protection of All Persons from Enforced Disappearance (18 May 2011) Articles 8 and 9 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (31 July 2003) and Article 6 and 7 of the Optional Protocol to the Convention on the Rights of Persons with Disabilities - but these are not material for present purposes.

¹⁶ http://www.echr.coe.int/Documents/Stats_violation_1959_2013_ENG.pdf.

¹⁷ *Zorica Jovanović v. Serbia*, no. 21794/08, ??

Court in applying its provisions - adequately to permeate the judicial culture with the result that human rights issues can be satisfactorily resolved more often in the relevant national fora than in Strasbourg.

15. Furthermore, it should be noted that the level of applications submitted to the Court remains relatively constant, with 4,900 allocated to a judicial formation in 2012, 5062 in 2013 and 2119 in the first seven months of 2014¹⁸. It can thus be expected that the findings of violations of the Convention that will ensue will also be at least comparable in number to those previously found by the Court. Moreover, while some encouragement might be drawn from the fact that Serbia has fallen out of "the top 5" club of countries which have the largest number of applications pending before the Court, something noted in the *Fact-finding mission Report*¹⁹, it has only fallen to sixth place²⁰ and, in population terms, it is still the Council of Europe member state with the highest per capita ratio of applicants²¹.
16. So far only two communications relating to Serbia has been determined by the United Nations Human Rights Committee, first resulting in a finding of a violation of the right to freedom of expression as a result of the way in which the courts applied the law of defamation and the other was related to the procedural aspect of the right to life²². However, it is understood that other communications are pending.
17. In this connection, the following statement of the Committee in its concluding observations on Serbia's last periodic report under Article 40 of the International Covenant on Civil and Political Rights is particularly pertinent

The Committee takes note of the information that the provisions of international human rights treaties, including those under the Covenant, are part of the State party's laws and can be invoked directly in court. The Committee notes, however, that there are only limited examples where the provisions of the Covenant have been invoked in particular cases. While welcoming the delegation's contention that the provisions of the Covenant will be part of the curricula of the Judicial Academy, the Committee expresses concern about the insufficient awareness of the provisions of the Covenant among the judiciary and the wider legal community, and the practical application of the Covenant in the domestic legal system (art. 2).²³

18. This observation is equally applicable to the general level of familiarity on the part of the judiciary in Serbia - although there are notable exceptions - with the rights and freedoms guaranteed by the Convention and especially the case law of the Court, which gives real substance as to their scope and facilitates their proper application.

¹⁸ http://www.echr.coe.int/Documents/CP_Serbia_ENG.pdf.

¹⁹ At para. 6. It is now 6t

²⁰ At 1 November 2014 there were 2,950 applications pending (3.8% of the total) as compared with 11,250 (11.3%) on 31 December 2013.

²¹ Per 10,000 people there were 5.12 applications in 2011, 6.76 in 2012 and 7.05 in 2013. The next highest states in 2013 descending order were Montenegro (4.70), Croatia (4.32), Moldova (3.81) and Ukraine (2.90), with the average number of applications per head of population being just 0.80.

²² *Bodrožić v. Serbia and Montenegro*, Communication no. 1180/2003, 31 October 2005; *Marija and Dragana Novaković v. Serbia*, Communication No. 1556/2007, 3 November 2010

²³ CCPR/C/SRB/CO/2, 20 May 2011, para. 5.

19. This is not really surprising since, until recently, nothing approaching systematic training on the Convention and the case law of the Court has been provided for anyone in Serbia, let alone judges, prior to or following ratification of this treaty.
20. In the period leading up to ratification, there were certainly various efforts initiated or supported by the Council of Europe to raise awareness of the implications of the Convention and there was also a compatibility study of the extent of compliance of what was then Yugoslav law with the requirements of the Convention²⁴, which identified problems that needed to be addressed. However, these efforts only reached a minority of judges and certainly were not sufficient to equip them for the task of implementation.
21. Since ratification, seminars on particular aspects of the Convention and the case law of the Court have been held from time to time, but never on a regular or structured basis. These were organised primarily by the Council of Europe and the Belgrade Center for Human Rights together with the AIRE Centre. The former included ones proposed by Mrs Vida Petrovic Škero, the then President of the Supreme Court, for judges from a range of courts and others in partnership with the Judicial Training Center²⁵. These seminars took place both in Serbia and in the form of study visits to Strasbourg. Notwithstanding that some of them led to the first set of national trainers on the Convention, the seminars were, however, essentially *ad hoc* activities without any sustained follow-up and again they reached only a small minority of judges.
22. The only significant exception in this regard was a training programme organised by the Council of Europe for judges and assistants in the Constitutional Court during 2008-2009, which addressed the main provisions of the Convention considered then to be relevant to the work of the Constitutional Court. This has been complemented by an arrangement with the Court whereby some assistants from the Constitutional Court can spend six months working in Strasbourg and thereby enhance their familiarity with the Convention and case law developments²⁶.
23. Apart from that programme and the internships in the Court, the development of any expertise by individual judges and their assistants with respect to the Convention and the case law of the European Court - which certainly does exist - has really been attributable more to their own efforts and perseverance rather than to any organised activity to assist them in this regard.

²⁴ [ref needed ??]

²⁵ This had been established by the Government, the Ministry of Justice and the Association of Judges to provide training in the judicial sphere.

²⁶ It is also understood that the Constitutional Court now organises training on the Convention and the Court's case law for its younger colleagues.

24. Moreover, although the limited extent of the training on human rights is mainly attributable to constraints on funding, which in all instances seems to have come from foreign and international donors, it needs to be borne in mind that the heavy workload of judges and the absence of any requirement to undertake continuing education and training, whether as a matter of law or practice²⁷, has also been an important factor in the absence of more sustained efforts to develop judicial familiarity with the requirements of the Convention, as elaborated in the case law of the Court. Certainly, a disincentive to undertake any form of training is the fact that, as no allowance made for undergoing training is made when calculating the workload of judges, participation in it can result in a failure to resolve the cases assigned to a judge in due time, for which disciplinary action can ensue.
25. No specific information was obtained concerning education and training in this period with respect to efforts relating to the International Covenant on Civil and Political Rights and other treaty obligations undertaken by Serbia. However, there is no reason to believe that this was more extensive than that directed to the Convention and, given the absence of information, it is more likely that the treatment of those other obligations was much worse.
26. This situation only began to change with the adoption of the Law on Judicial Academy in 2009²⁸, which converted the former Judicial Training Center into the Judicial Academy and required intending judges to undertake and pass an initial training programme, which started in 2010.
27. As will be seen²⁹, this initial training specifically includes training on the Convention and some other human rights treaties. However, this training has so far only been completed by 14 new judges joining the more than 3,000 judges who are already in post. Moreover, the approach to the provision of continuing education and training related to human rights has not significantly changed with the establishment of the Judicial Academy as its are still very much *ad hoc*, remaining dependent on international support and reaching only a minority of judges³⁰.
28. The absence of any more generally applicable training on the Convention and the case law of the Court of a sustained and systematic character is undoubtedly both a contributing factor to the continuation of a legal culture that is at odds with the juridical approach required for the effective implementation of the Convention and a consequence of such a culture. As was noted in the *Fact-finding mission Report*³¹, the positivistic approach to law - in which the law amounts to a collection of instructions providing comprehensive regulation for every issue that might have to be resolved -

²⁷ See para. ??

²⁸ *Official Gazette of the Republic of Serbia*, No. 104/2009.

²⁹ See para. ??

³⁰ See further ??

³¹ At para. 6.

remains prevalent. From this perspective, there are no gaps in the law which would require an act of interpretation or creativity on the part of the judge in order to produce a solution; cases could not be solved on any basis other than direct instruction.

29. As the *Fact-finding mission Report* observed³², judges are concerned to ensure the consistency of rulings with the case law of their own courts but the concept of harmonising this case law with that of the Court's case law in respect of the Convention is thus not something that is fully appreciated by them. As a result references to the latter case law is very limited and, even when this occurs, that does not mean that its reasoning is actually internalised and embraced. It would, therefore, be unrealistic to expect the courts to go further and interpret laws in a manner that is consistent with the Court's case law.
30. Furthermore, the law for this purpose is to be found in various legislative measures, namely, codes, laws and decrees and does not include the idea of constitutional provisions as a yardstick against which individual legal provisions might be measured and - despite the formal position - be deprived of legal effect if an incompatibility was established. Moreover there is no overarching principle that legal provisions must meet certain minimum standards - substantive and procedural - such as would lead to either them or a particular use of them being found inadmissible, for example, because the outcome was arbitrary or the impact on liberty was disproportionate. This is in marked contrast to the exacting concept of the rule of law that underpins the application of the Convention.
31. Thus, as one judge put it, there is approval by judges of the notion of human rights in abstract terms but they do not have a clear idea as to implement them in practice some resistance to idea in practice. Indeed, some will just read the text of the Convention but never consider the case law of the Court. This is an approach that also inhibits lawyers from invoking Convention provisions and the relevant case law in their submissions, creating a vicious circle in which their relevance to the determination of disputes is not addressed.
32. Even though there are signs of a change in the antipathetic attitude of at least some judges to the Convention and the Court's case law, many continue to the necessary skill to make effective use of them. In many instances they seem to rely on assistants to inform them about relevant case law and even the focus is primarily on just the cases that have been decided in respect of Serbia, which limits the ability to discern less evident problems of compatibility.
33. The Constitutional Court does itself make reference to the Convention and the case law of the Court in its own rulings on individual constitutional complaints (but not in

³² Para. 40.

proceedings of normative control), although the coherence of such reference has been the object of some criticism³³. In any event, this is not in any elaborated manner that would assist judges in other courts to understand and appreciate the reasoning process involved and thereby stimulate their emulation of it in their own rulings. Furthermore, there remains a tension between the Constitutional Court and the other courts in Serbia as the former is seen as being outside the judicial system. Indeed, there seems to be a considerable reluctance within the regular courts to take into account any rulings of the Constitutional Court when applying particular laws.

34. There is also some reference by the Supreme Cassation Court to the case law of the Court but this remains very limited and the analysis in respect of it lacks depth.
35. Initially, the problem of gaining familiarity was enhanced by the absence of translations into Serbian of many of the judgments of the Court. However, the Council of Europe has since funded and distributed the translation of many key judgments involving other states. Moreover, all judgments and decisions by the Court in respect of Serbia are now being translated by the Government and published in the Official Gazette and online. All these translations are also accessible on HUDOC, the official database of the Court's case law.
36. Moreover, as the *Fact-finding mission Report* noted, the linguistic similarities between Serbian and those of some other former Yugoslav republics means that judgments translated into the national languages of Bosnia and Herzegovina, Croatia and Montenegro are also accessible. Nonetheless, at the time of writing³⁴ the judgments in all four languages totalled just 839 - with a good number within that figure comprised of duplication in the judgments translated - as compared with the 16,674 judgments available in English.
37. However, with funding from the Council of Europe, the AIRE Centre has for many years produced a Serbian version of its Human Rights Legal Bulletin, in which a considerable number of significant judgments were summarised. This used to be distributed widely in a printed format but is now only available online.
38. Another, more recent set of summaries is that produced by the case law department of the Constitutional Court, which is concerned with those considered to be of particular relevance for Serbia or involve especially significant developments in the interpretation of the Convention. This is distributed in an electronic format but just to

³³ See, e.g., Violeta Besirevic & Tanasije Marinkovic, 'Serbia in a "Europe of Rights": The Effects of the Constitutional Dialogue between the Serbian and European Judges', (2012) 24 *European Review of Public Law* 401.

³⁴ ?? December 2014.

the Supreme Court of Cassation and then only on an informal basis³⁵. The latter court also includes summaries of the most important judgments of the Court in its own bulletin - which is mainly concerned with its own case law - and that is distributed to all its judges and judicial assistants, the Administrative Court and the appellate courts, as well as being downloadable from its website.

39. So far there is only a limited body of analytical literature in Serbian that is concerned with the Convention and the Court's case law. However, during their visits the authors were given the impression that the extent of this literature is beginning to become more extensive and certainly the first commentary on the Convention by Serbian authors is now in preparation³⁶.
40. The relative paucity of this literature is also a reflection of the limited extent to which the Convention and the Court's case law figures in general legal education, which is discussed further below³⁷.
41. The limited extent of such literature and of a more comprehensive translation of the Court's case law is significant in the present context because of the generally weak linguistic skills - at least in terms of the English and French, the languages in which this is mainly published - for the of most Serbian judges.
42. However, although the availability of Convention material in Serbian is far from adequate, more use could probably be made of what is already available. Moreover, a greater and more public acknowledgement of the significance of this material for the work of the courts - both in terms of the basis on which cases are determined and the education and training of those sitting as judges and supporting them as judicial assistants - would almost certainly act as a stimulus for enhancing the extent to which the case law of the Court and commentaries on it can be read in Serbian.

Requirements for appointment

43. This section is concerned with the educational requirements for appointment as a judge but especially those relating to human rights in general and the Convention in particular, the impact on them of a recent ruling of the Constitutional Court ruling and the role and organisation of the Judicial Academy in fulfilling the educational requirements for judges.

³⁵ *Fact-finding mission Report*, para. 57.

³⁶ The Constitutional Court also has plans to produce a manual with respect to fulfilling the reasonable time requirement for judicial decision-making under Article 6(1) of the Convention.

³⁷ See para. ??

44. Until 2010 appointees to the judiciary were required to be a law school graduate, to have passed the bar exam and to have a period of professional experience in the legal profession, the length of which was dependent upon the level of court to which the person concerned was to be appointed³⁸. There was, however, no specific requirement concerning education or training in respect of human rights.
45. Many of those appointed would formerly have been judicial assistants, i.e., persons who were law graduates and had passed to bar exam, who were and continue to be appointed to such positions on this basis. [?? was there an entrance exam at this time for assistants]
46. This arrangement effectively provided a career path from judicial assistant to judge - although many assistants did not pursue it - but it lacked any formal training as a prerequisite for becoming the latter. However, the practical experience gained while being a judicial assistant would have mitigated this to some extent.
47. Appointment as a judicial assistant did not - and does not - depend on having any specific education or training in respect of human rights and there has never been any arrangement in place to provide continuing education and training for judicial assistants³⁹, although some might attend seminars held on particular topics, including ones on human rights.
48. However, since 2010, there has been a requirement that persons to be appointed as judges must first be admitted to an 'initial training' and can only be appointed if they pass this initial training which is partly provided in and generally organised by the Judicial Academy. The latter has also been made responsible for the continuing training of judges after their appointment, as well as of judicial assistants and court staff⁴⁰.
49. The notion and goal of all the training of judges has been specified as an

'organised process of gaining of and specialization in practical and theoretical skills and knowledge they need to perform their duties independently, professionally and efficiently'⁴¹

which is certainly apt. The definition of 'training' is broad enough to cover 'education' and it will be seen that in many instances the latter is what is actually provided.

³⁸ Articles 44 and 46 of the Law on Judges [to be checked ??]

³⁹ But see paras. ?? and ?? as to the non-implementation of such a requirement under the Law on Judicial Academy.

⁴⁰ The mandate of the Judicial Academy also extends to training for those who will and have become public prosecutors. This is not considered further in the present report but the role played with respect to the Judicial Academy by the High Council of Justice is played by the State Prosecutorial Council where the training of public prosecutors is concerned.

⁴¹ Law on Judicial Academy, Article 23.

Initial training

50. As regards initial training, its notion and goal is understandably more limited than that for training in general. Thus, this is supposed to be

an organised process of gaining practical and theoretical skills and knowledge understanding of the role and the basic principles of actions of judges ... with the aim of ensuring that judges at misdemeanour and basic courts ... perform their duties independently, professionally and efficiently⁴².

51. The requirements for admission to the initial training are that the applicants must have passed both the bar exam and the entrance exam⁴³, with a condition for taking the bar exam being that the person concerned is a law graduate.

52. The subject matter of the entrance examination - which is meant to determine the level of professional knowledge necessary for undergoing the initial training and ability for performing the duties of judges⁴⁴ - is required to include 'the applicable material and procedural civil and criminal law and law on misdemeanours as well as common knowledge'⁴⁵. However, only very basic familiarity with human rights issues can figure in the multiple choice format of the written examination, if this is even included⁴⁶.

53. The initial training programme is supposed to encompass

the implementation of the material and procedural laws, standards of judicial ...practice, ethical standards for judges ..., international legal standards, internal organization of performance of courts and prosecution offices, scientific and professional papers in the field of domestic and international law, as well as skills of the judicial ... work

and should also consist of

theory and practice in the field of constitutional, civil and criminal law and law on misdemeanours as well as the general and professional knowledge⁴⁷.

54. There is no specific requirement concerning education and training in human rights but this is clearly implicit in the reference to 'international legal standards' and constitutional law and it is, in fact, an element of the initial training included in the programme developed for it by the Judicial Academy⁴⁸.

⁴² *Ibid*, Article 25.

⁴³ *Ibid*, Articles 26 and 28.

⁴⁴ *Ibid*, Article 29.

⁴⁵ *Ibid*, Article 30.

⁴⁶ There is also a personality test and a requirement to present a case orally.

⁴⁷ Law on Judicial Academy, Article 35.

⁴⁸ See paras. ??

55. The initial training lasts for 2 years, during which those admitted become temporary employees of the Judicial Academy and receive 70% of the salary of a basic court judge⁴⁹. The theoretical part is delivered by the Judicial Academy - although there are some court simulation exercises undertaken there as well - and the practical one entails working under judicial mentors in the courts, public prosecutors' offices and other state bodies, law firms and other organisations.. The latter comprises the greater part of the initial training, lasting for ?? as compared to the ?? spent with the Judicial Academy. [do we have precise times ??]
56. Those who pass the initial training will then be eligible to be elected for a term of three years by the National Assembly, after which they can be elected to a permanent position by the High Judicial Council⁵⁰.
57. So far there have been three rounds of recruitment for the initial training, with the first cohort generally passing and having taken up appointment as judges⁵¹. The second and third cohorts are still undergoing their training and a fourth cohort is expected to start their training in Autumn 2015.
58. The numbers admitted to the initial training have been 22 in the first cohort, 27 in the second and 37 in the fourth. There will be 24 in the fourth⁵², with 14 from the first cohort becoming judges⁵³.
59. Persons who are already judicial assistants have the qualifications to take the entrance exam and it appears that the majority of persons doing so have in fact previously held that position⁵⁴.
60. However, the Constitutional Court has found the scheme of requiring all appointees to undergo the initial training scheme to be unconstitutional on account of Parts 8 9 and 11 of the Law on Judicial Academy - which obliged the High Judicial Council to nominate as a candidate for the first election of judges by the National Academy to be a person who had completed the initial training under the auspices of the Judicial

⁴⁹ The employment actually can last for up to 30 months but will end after successful completion of the initial training and election as a judge at a misdemeanour or basic court (or as a deputy public prosecutor); Article 40.

⁵⁰ The same arrangement applies to prosecutors who also go through the initial training partly provided through and generally overseen by the Judicial Academy. Election to a permanent position for prosecutors is, however, by the State Prosecutorial Council.

⁵¹ The High Judicial Council and the State Prosecutorial Council are supposed to determine the numbers of persons that can be admitted to the initial training by 1st March and then inform the Judicial Academy accordingly; Article 26. This number is to be based on an assessment of the number of vacancies in misdemeanour and basic courts and in public prosecutors' offices that is then increased by 30%.

⁵² These numbers also include intending prosecutors.

⁵³ 5 became public prosecutors.

⁵⁴ According to the Director, 95% of those admitted to the initial training had this background.

Academy⁵⁵ - being regarded as having introduced new criteria for the election of judges that were not provided in the Law on Judges⁵⁶. [?? more on Constitution and ruling needed?? Was there no reference to Article 50, paragraph 4 of the Law on Judges: “The High Judicial Council shall nominate to the National Assembly one or more candidates for each judge's position. The High Judicial Council shall, when proposing candidates for judges of misdemeanor or basic courts, nominate a candidate who has completed the initial training in the Judicial Academy, in accordance with the special law.”??]

61. This ruling opens up the possibility of the direct appointment of judicial assistants as judges without the need for them to have undergone beforehand the initial training, although it does not appear that - in such a case - the Constitutional Court ruling would necessarily preclude some form of training requirement for judicial assistants, even if the practical aspect of the initial training would not be particularly relevant for them. This possibility is already provided for under the Law on Judicial Academy's provisions on continuing training⁵⁷.

Continuing education and training

62. There is also provision in the Law on Judicial Academy for it to provide continuing education and training for judges. The notion and goal of the continuing education and training is stated to be

a process of specialization in theoretical and practical skills and knowledge with the aim of ensuring a professional and efficient discharge of judicial ... duties⁵⁸

which is also appropriate. There is no specific reference to human rights as an element of this notion and goal.

63. The Law on Judicial Academy envisages both general and special continuing training programmes being provided by the Academy.

⁵⁵ These provide as follows: '8. When they propose candidates for election as a judge at misdemeanour or basic courts, or a deputy basic public prosecutor, the High Judicial Council or the State Prosecutorial Council shall have the obligation to propose the candidate that has completed the initial training at the Academy according to the success he/she has achieved at the initial training. 9. If there are no candidates who have completed the initial training among the candidates for the job, the High Judicial Council or the State Prosecutorial Council may propose the candidate that satisfies the general conditions of election. 11. If a candidate who has completed the initial training does not become a judge at misdemeanour or basic courts or a deputy basic public prosecutor within three years after receiving the certificate on the completion of initial training, including the years when the National Assembly elected judges at the misdemeanour or basic courts or deputy public prosecutors, this fact shall be taken into consideration when nominating for the election to these offices'.

⁵⁶ As well as the Law on Public Prosecutors; ??, 6 February 2014.

⁵⁷ See para. ??

⁵⁸ Law on Judicial Academy, Article 41. this is a duty also in respect of public prosecutors.

64. The former is to be the means for realising 'the right and obligation to continuous specialisation of judges' and is voluntary⁵⁹
65. Each year, by 1st December at the latest, a draft annual programme for the voluntary training to be provided in the following calendar year should be submitted to courts⁶⁰.
66. Judges can then apply to take part in particular trainings that are offered but it is the Judicial Academy which actually decides on admission to them⁶¹.
67. The special training is to be provided pursuant to a law or a decision of the High Judicial Council
- in case of a change in specialization, significant modifications of regulations, introduction of new techniques of work and in order to remove shortcomings observed in the work of judges ..., as well as for judges ... who are elected as judges ... for the first time and who have not attended the initial training program⁶².
68. Such training is obligatory and its applicability to first time judges who have not attended the initial training latter would make it apt to cover the situation of any judicial assistants so appointed following the ruling of the Constitutional Court discussed above⁶³.
69. There is a requirement to reduce the workload and working hours by 30% during the period when judges are required to undergo the special continuing training programmes, which could help to make this requirement more tolerable in practice. There is not, however, any corresponding requirement for those undergoing other forms of continuing training, not just that which is voluntary but also that which is required for changes of specialisation, etc. This is not just a disincentive where the training is voluntary but an approach that may diminish its effectiveness where undertaking it is required.
70. So far there has been no law or High Judicial Council decision requiring continuing education and training to be undertaken by judges⁶⁴.
71. The Judicial Academy is required to keep a records of all the judges who have participated in its programmes of continuing training to provide this information to the High Judicial Council⁶⁵.

⁵⁹ *Ibid*, Articles 43 and 44.

⁶⁰ *Ibid*, Article 46.

⁶¹ *Ibid*.

⁶² *Ibid*, Articles 43 and 44.

⁶³ See para. ??

⁶⁴ [?? any for prosecutors.]

⁶⁵ Law on Judicial Academy, Article 42.

Mentors and lecturers

72. Mentors and lecturers at the Judicial Academy are required to be specially trained judges, prosecutors and members of other professions who directly implement its training programmes⁶⁶. However, only judges and deputy public prosecutors can be mentors.
73. The lecturers who are permanent should be either judges or deputy public prosecutors who are sent to the Academy to work for a period of three years or other persons who are employed by it. On the other hand, the occasional lecturers can be persons hired as and when needed.
74. The training for mentors and lecturers who are judges and prosecutors is obligatory and is to be pursuant to a programme adopted by the Judicial Academy's Managing Board on the proposal of its Programme Council⁶⁷.

Training for assistants and staff

75. There are also provisions in the Law on Judicial Academy for an entrance examination for trainees to become assistants to judges⁶⁸, a special training programme for persons appointed as assistants⁶⁹ and the training of judicial staff⁷⁰.
76. The special training programme for assistants is obligatory, except for those who have attended the initial training. The latter will presumably be persons who have not passed that initial training as otherwise they would have been elected as judges.
77. The training of judicial staff shall be voluntary, unless a special law says otherwise⁷¹.
78. There is no specification of the requirements for the entrance examination or the special training programme, except that the former is to be adopted by the Judicial Academy's Managing Board on the proposal of its Programme Council⁷² and the latter by the Managing Board with the consent of the High Judicial Council⁷³. However, while the notion and goal of the training for judicial and prosecutorial staff is stated to be 'an organized process of gaining the knowledge and skills with the aim of ensuring

⁶⁶ *Ibid*, Article 19.

⁶⁷ *Ibid*, Article 47

⁶⁸ *Ibid*, Article 49.

⁶⁹ Law on Judicial Academy, Article 50.

⁷⁰ *Ibid*, Articles 51-53.

⁷¹ *Ibid*, Article 52.

⁷² *Ibid*, Article 49.

⁷³ *Ibid*, Article 50

a professional and efficient discharge of duties⁷⁴, no further details are given about this in the Law on Judicial Academy.

The Judicial Academy

79. The mission given to the Judicial Academy is to 'ensure the professional, independent, impartial and efficient implementation of judges' ... duties and professional and efficient work of judicial ... staff⁷⁵.
80. In more specific terms and apart from its responsibilities for conducting the entrance examination for the initial training and for organising and implementing the initial training and continuing education and training for both judges and prosecutors, the Judicial Academy is supposed to organise and implement the training of lecturers and mentors, as well as to organise and implement the professional specialisation of the judicial and prosecutorial personnel.
81. In addition, the Judicial Academy is charged with: establishing and maintaining cooperation with domestic, foreign and international institutions, organisations and associations in connection with its activities; issuing publications and performing other publishing activities; performing research and analytical work and cooperating with scientific institutions; systematically collecting data important for its work of the Academy, especially as regards the implementation and results of the training it has provided; managing a documentation and information centre; collecting and processing judicial practice; and performing such other tasks as are stipulated by the Law on Judicial Academy and the Academy's own Statute⁷⁶.
82. The Judicial Academy has premises in Belgrade, Kragujevac, Niš and Novi Sad⁷⁷.
83. The organs of the Judicial Academy comprise a Managing Board, a Director and a Programme Council⁷⁸.
84. The Managing Board is responsible for the general management of the Judicial Academy and its particular responsibilities cover the adoption of the entrance examination programme for the initial training and the rulebooks for its examination

⁷⁴ *Ibid*, Article 51.

⁷⁵ *Ibid*, Article 2.

⁷⁶ *Ibid*, Article 5.

⁷⁷ In Belgrade it has 4 training rooms and one court room, offices for staff and the use of a library belonging to another institution but hotels are used for trainings. In Kragujevac it has a conference room, in Niš an office and conference room and in Novi Sad an office and the use of a conference room. [?? this needs to be checked]

⁷⁸ *Ibid*, Article 6.

programme and that on the final examination, as well as the adoption of the initial and other training programmes⁷⁹.

85. The Director is responsible for the overall implementation of the work of the Judicial Academy⁸⁰

86. On the other hand the Programme Council is described in the Law on Judicial Academy as 'the Academy's expert body'⁸¹ and this is reflected in the competences stipulated for it by this Law.

87. Thus, these competences comprise:

- drafting the proposal for the entrance examination for the initial training;
- drafting the final examination proposal for the initial the training;
- drafting the programme for the initial training of judges and prosecutors;
- appointing, with the consent of the Management Board, members of the Judicial Academy's standing commissions responsible for its training and examinations;
- establishing *ad hoc* committees and working groups in accordance with the Judicial Academy's Statute;
- drafting the programme of continuing education and training for judges and prosecutors;
- drafting the proposal for a special training programme for judicial and prosecutorial assistants and trainees;
- drafting the proposal for the entrance examination for judicial and prosecutorial trainees;

⁷⁹ Thus, Article 9 provides that: The Managing Board of the Academy shall: - adopt the Statute and other acts of the Academy in accordance with the law, and monitor their implementation; - elect and relieve of duty the Managing Board president; - elect and relieve of duty the Academy director, based on previously conducted public announcement; - elect and relieve of duty Program Council members; - adopt the entrance examination program for initial training; - adopt the rulebook on the entrance examination for initial training; - adopt the rulebook on the final examination at initial training; - adopt the programs of initial training and submit them to the High Council and State Prosecutorial Council for approval; - adopt the programs of continuous training, with the agreement of the High Judicial Council and State Prosecutorial Council; - adopt the training program for judicial and prosecutorial staff, with the consent of the High Judicial Council and the State Prosecutorial Council; - adopt a special training program for judges' assistants and trainees, with the consent of the High Judicial Council; - adopt a special training program for prosecutors' assistants and trainees and submit it to the State Prosecutorial Council for approval; - draft entrance examination program for judicial and prosecutorial trainees; - adopt the training program for mentors and lecturers; - decide on the mentors' and lecturers' fees; - adopt the annual report on the work of the Academy and annual computation; - approve the decision on the appointment of standing commission members; - adopt the rules on its activities; - approve the act on the internal organization and systematization of jobs at the Academy; - decide on resource use of the Academy, in accordance with the Law; - perform other duties in accordance with the law and Statute.

⁸⁰ Thus Article 14 provides that: The director shall: - represent the Academy; - implement the decisions of the Managing Board and Program Council; - coordinate and organize the work of the Academy; - participate in the work of the Managing Board and Programme Council; - submit the annual activity report to the Managing Board; - pass the act on internal organization and systematization of positions in the Academy, with consent of the Managing Board; - head the professional and technical services of the Academy; - perform other duties in accordance with the law, Statute and other acts.

⁸¹ Article 16.

- drafting the programme for the training of judicial staff;
- drafting the proposal for the training programme for mentors and lecturers and other specialised training programs;
- appointing, with the consent of the High Judicial Council, permanent lecturers from among judges;
- approving the decision on the election of permanent lecturers who are not judges and prosecutors;
- determining the criteria for nominating mentors and part-time lecturers and nominating them;
- determining the proposal for the rulebook for the entrance examination for the initial training;
- drafting the proposal for the rulebook for the final examination for the initial training;
- adopting its rules of procedure;
- ruling on complaints to the rank list of candidates who took the entrance examination for the initial training; and
- engaging in other activities in accordance with the Law on Judicial Academy and the Academy's Statute⁸².

88. These are very extensive competences and the manner in which they are exercised will determine to a considerable extent the success of the education and training for which the Judicial Academy is responsible.

89. The Programme Council is comprised of 11 members, appointed by the Management Board, from amongst the judges and prosecutors, other professionals and court and prosecutorial personnel. However, at least five members of the Programme Council must be judges, at least three of them must be prosecutors. In addition, one of the 8 members who are judges and prosecutors should be elected upon the proposal of the Association of Judges, another upon the proposal of the Prosecutors' Association and a third should be elected from amongst judicial and prosecutorial staff. Members of the High Judicial Council, the State Prosecutors Council and members of the Management Board are precluded from appointment to Programme Council.

90. Membership of the Programme Council is not, however, a full-time position and is not paid⁸³ but members may be relieved of up to 50% of their regular duties on account of their work at the Academy and thereby ensuring that there is the possibility of devoting the time required for extensive competences involved.

⁸² Article 17.

⁸³ Members of the managing Board are entitled to receive 30% of the basic salary of a general court judge - pursuant to Article 7 of the Law on Judicial Academy - but there is no provision for relieving them of their other responsibilities.

91. Under the Law on Judicial Academy, there is provision for the Programme Council to have six standing commissions with responsibility for the following matters: the entrance examination for the initial training; the initial training and its final examination; continuing education and training; the training of judicial and prosecutorial assistants and trainees; the training of judicial and prosecutorial staff; and the training of mentors and lecturers. The members of these standing commissions are appointed by the Program Council with the consent of the Managing Board⁸⁴. There is thus scope to supplement the range of skills and knowledge of those serving on the Programme Council in the exercise of its various competences.
92. However, there was, however, no indication given as to how, if at all, these standing commissions functioned other than that one dealt with the entrance examination for the initial training⁸⁵. Indeed, there is little indication that the Programme Council has been especially active and the High Judicial Council made it clear that there was a need for it to fulfil its functions⁸⁶.
93. Notwithstanding the roles given to the Programme Council and the Managing Board with respect to elaborating and adopting the various training programmes, this is all subject to the approval or agreement of the High Judicial Council⁸⁷, which means that it has - at least formally - a considerable influence over all training issues affecting judges. The latter is comprised of the president of the Supreme Court (who is its chairman), the minister of justice, the president of the competent committee of the National Assembly (and eight elective members - six judges, an attorney at law and a law professor - elected by the National Assembly).
94. The scope for influence enjoyed by the High Judicial Council does not seem, however, to be being exercised in practice. Thus, at a meeting with the authors in May the chairman of the High Judicial Council claimed to have received only shortly beforehand a copy of a human rights curriculum, which he described as 'very general'. Given this comment, it is far from clear whether this curriculum - if it is the same undated document received by the authors at the beginning of August⁸⁸ - was ever formally approved by the High Judicial Council, as required by Article 9 of the Law on Judicial Academy. Nevertheless, it is surprising that no comment was also made as to the possible departure from a previous curriculum which this presumably represented - certainly the Director gave the impression that there had been a change - or indeed a to the appropriateness of any earlier document.

⁸⁴ Law on Judicial Academy, Article 18

⁸⁵ *Judicial Academy*, p. ??

⁸⁶ A new one was in the process of being constituted at the time of the authors' visits.

⁸⁷ In the case of prosecutors, the State Prosecutorial Council.

⁸⁸ *Overview of the Standard Curriculum of Training Courses for Judges and Prosecutors in the Area of Human Rights* ('the Standard Curriculum').

95. Furthermore, although it has just been noted that the High Judicial Council has commented adversely on the performance of the Programme Council, there do not appear to have been any steps by the former to make the latter discharge its responsibilities. This may be a consequence of the workload of the High Judicial Council but, as consequence, the arrangements for ensuring that appropriate training is provided for judges are likely to be seriously weakened.

Conclusion

96. The present scheme gives the Judicial Academy an exclusive role in the training of first time judges but does not exclude other judges from undertaking education and training with bodies other than itself, except in the case of training required to be taken by a law or decision of the High Judicial Council. There is, however, no provision for such education and training to be formally recorded and thus potentially taken into account in the assessment of judges and in decisions affecting their promotion.

Current education and training

97. This section considers first the legal education provided by universities and for the bar course. It then examines the training now being provided by the Judicial Academy both for intending and serving judges and by others, with a particular focus on the training with respect to human rights. There is an analysis of the suitability of this training in principle and its effectiveness in practice, as well as an attempt to identify any omissions or shortcomings both in terms of content and reach and the extent of the dependence on donors and foreign trainers for its provision.

University and bar education

98. With limited exceptions, there does not seem to have been any significant development in legal education over the course of the last two decades. Thus, it mainly embodies the positivistic approach, reflecting and reinforcing the approach seen in the judiciary, but at the same time does not take account of the problems arising from the actual practice of law.

99. In general, the focus is on memorising the lectures rather than on promoting understanding and reasoning skills. There is usually no writing to be undertaken as part of assessment, which is essentially based on an oral examination.

100. To the extent that human rights is an element of the courses taught, this will be a small element within the framework of the compulsory course on constitutional law and of optional courses on public international law. There is generally no integration of the Convention and the case law of the Court into substantive subjects for which it has considerable relevance, such as criminal law, civil and criminal procedure, employment law, family law and property. The overwhelming majority of students will thus graduate with at best an overview of the Convention and have no understanding of how to access the case law of the Court or to use the reasoning process which the latter employs in its rulings.
101. There are certainly some exceptions to this portrait, with attempts to integrate the Convention into a wide range of courses at a few universities and the introduction of specialised courses on human rights at both the undergraduate and postgraduate level. Nonetheless, those graduates who have a good understanding of the Convention and the methodology employed by the Court are more likely to be ones who have afterwards taken Masters degrees outside the country than those whose university education has solely been in Serbia.
102. The generally limited familiarity of law graduates with the Convention, as well as their lack of the skills needed to apply it in concrete situations, is not remedied by the subsequent taking of the bar examinations since there is no additional educational programme for them and competence in any aspect of human rights law is not a component of the assessment made.
103. As a result, law graduates who have passed the bar examination cannot be expected to have any significant foundation in human rights in general or in the Convention and the case law of the Court in particular. This needs, therefore, to be the current assumption on which the Judicial Academy addresses the training of candidates to become judges.

Initial training

104. Part of the programme provided in this training is said to include the 'acquiring of knowledge about the European Convention on Human Rights and standards of the Court of Human Rights in Strasbourg'⁸⁹. Furthermore, it is stated that the 'themes on the prohibition of discrimination, prohibition of mobbing, gender equality and protection from family violence are specifically dealt with'.
105. However, the authors were also told that the training covered Articles 3, 5, 6, 8 and 10 of the Convention and Article 1 of Protocol No. 1. In addition, they were

⁸⁹ *Judicial Academy*, pp. ??

furnished the *Standard Curriculum*, which is essentially that provided on the HELP website of the Council of Europe. [?? link and double checking needed]

106. The *Standard Curriculum* covers in a fair amount of detail first a general introduction to the Convention and the procedure before the Court; as well as the key terms of the Convention. There is then a focus on six areas of law: Constitutional Law; (covering the relationship between international and domestic law, elements of Articles 4, 6, 8 and 14); Civil Law (covering the same elements of Article 6 as under Constitutional Law and also elements of Article 8 and 10 and Article 1 of Protocol No. 1); Criminal Law (covering the same elements of Article 6 as under Constitutional but also some additional ones and elements of Articles 2, 3, 5, 7, 8, 9, 10 and 14 (with some overlap with topics under Civil Law)); Family Law (covering elements of Articles 8 and 12 but with some overlap with those under Criminal Law) Administrative Law (covering the same elements of Article 6 as under Constitutional Law and elements of Articles 2, 3, 5, 9 and 14 and Articles 1, 2 and 3 of Protocol No. 1, with some overlap with those under Civil Law); and Labour Law (covering only by headings Articles 3, 9, 10, 11 and 14, with undoubted overlap to those under other headings).

107. Although it is useful to relate the Convention to particular areas of law in this way, the *Standard Curriculum* does not really give any indication as to how the topics are to be tackled, namely, in what order, how much time is to be devoted to each aspect? how the overlap between the different substantive areas is to be addressed? to what extent the consideration of them is actually integrated with particular aspects of Serbian law? what methodology will be used for the training? and what specific expectations are expected of those who have received the training?

108. As has already been noted⁹⁰, it has not been possible to establish whether the *Standard Curriculum* is the same document which the chairman of the High Judicial Council claimed to have received only shortly before his meeting with the authors in May and whether it was ever formally approved by the High Judicial Council. Moreover, it should be noted that this curriculum is described as one for use also in the 'continuous training' of judges.

109. Although it is far from clear as to how the *Standard Curriculum* was actually implemented, it was established that the trainees had 20 days devoted to the Convention, 6 to UN standards and further days devoted to anti-discrimination (4 days), gender equality (2 days), family violations (2 days), protection of children (3 days) and protection of minorities (3 days).

110. The days devoted to the Convention are generally in blocks of 4 and those for other topics were in the form of 1 or 2 day seminars. All of them were dotted

⁹⁰ See para. ??

periodically throughout the two years, with the trainees leaving the particular institutions where they were placed for the practical element for their duration. All of these trainings took place in Belgrade and those trainees based outside the city were provided with accommodation by the Judicial Academy.

111. The *Standard Curriculum* refers to the training as taking the form of seminars and workshops but it was not possible to establish how interactive they were. However, it does not seem that the latter would not have entailed any advance preparation since the only time that could really be devoted to the various topics was during the time spent at the Judicial Academy. Nonetheless, the trainees were all provided with laptops which meant that they could have ready access to relevant internet resources both when they were at the Judicial Academy and elsewhere. This was further facilitated by the fact that 85% of trainees understand English.
112. There was no indication as to the order followed for the different blocks of days but it seemed to be based less on a particular plan than on the availability of those giving the seminars and workshops concerned. However, now that there is annual admission of trainees to the Judicial Academy, a particular block might be taken in the first year for some trainees but in the second one for others. This is not necessarily problematic but some topics might be better addressed after others - building on what had previously been learnt - and this did not seem to operate as a consideration governing the timing of seminars and workshops. In this connection there was a feeling amongst trainees that there was a need for more of a structure over the two years but this comment was not specifically directed to the human rights component of the initial training.
113. Some 9 trainees have also taken part in a distance-learning based course on anti-discrimination law. This was not a formal part of the initial training programme but, if its effectiveness is properly evaluated, the further use of this methodology could become a useful means of providing some training, particularly where the trainees are outside Belgrade and the trainers are even outside the country.
114. Although the *Standard Curriculum* described the lecturers who gave the seminars and workshops as being judges, prosecutors and representatives of institutions and civil sector, the preponderance of sessions devoted to human rights were given by international experts, notably from the AIRE Centre and Human Dynamics. There was no complaint about the quality of the lecturers from the trainees but they did indicate that the fact that it was not possible to follow up any issues that might be of concern with those experts coming from outside the country. It was thus suggested by some that it would be helpful to have a specialist on human rights within the Judicial Academy who would be familiar with all the topics and could thus respond to any questions that arose some time after the conclusion of a particular seminar or workshop. Others thought that the Judicial Academy should have permanent lecturers.

115. The trainees considered that it would be useful for judges from the Supreme Court of Cassation to be involved in the training so that they could show problems in practice. This suggestion was not, however, specifically related to the human rights aspect of their training.
116. The trainees also emphasised that there was never any follow-up discussion with their mentors concerning the human rights topics covered in the seminars and workshops. This reflected a more general dissatisfaction expressed by some trainees about the suitability of their mentors, with it being pointed out that not only were they never asked to evaluate them but also the mentors did not undertake any evaluation of them and it was felt that that would have been helpful. Most trainees did not find that what they learnt proved of any relevance to the issues arising during the practical stage but at least one did cite an occasion in which it could be used.
117. There does not appear to be any assessment of the knowledge and skills acquired from the seminars and workshops at the time they occurred. This only occurred at the end of the whole programme.
118. Nonetheless, the trainees were emphatic that it was only in the initial training that they learnt anything about the Convention and the Court's case law, which is not surprising given the educational background of most trainees, who had formerly been judicial assistants. Thus, only one of the trainees spoken to had had any educational experience outside the country before the programme, but almost half of the first cohort took summer school courses during their initial training.
119. The trainees were also positive about the practical stage, notwithstanding the criticism of mentors, mainly it would seem because this allowed them to pay attention to the procedural aspects of cases, which they had not been able to do as assistants. Apart from the suggestion of a better structure and permanent lecturers, their main concern was with the premises in Belgrade, which they said had never been used for their training and lacked working video equipment. This did not seem relevant to the human rights training.
120. However, one observation does seem important, namely that there was no updating with respect to developments concerning the Convention after the completion of the initial training. This is not, of course, a reflection on the initial training but does have implications for the nature of the continuing training, which could be seen to be insufficient to ensure that any achievements in the former are not squandered by insufficient follow-up.
121. On the other hand, dissatisfaction with the initial training was expressed by the chairman of the High Council of Justice on the basis that the practical experience gained was inadequate and not as exacting as that for judicial assistants - the new

judges were said to be unable to write a judgment - and there was no practical expansion of knowledge. However, again these criticisms were not related at all to the human rights component and there was no precise elaboration of them.

122. It is impossible to evaluate the extent to which the initial training has been effective in equipping the new judges with the skills to apply the Convention in an inappropriate manner, not least because there has been no assessment of their performance in this regard as compared with other judges. There can be no doubt that the training must have raised the level of competence concerning the requirements of the Convention by the amount of information that the trainees have received. However, there is a need for much more information as to the effectiveness both of this training and of the other aspects of the initial training since general competence as a judge is just as important to the application of the Convention as knowledge of its provisions and the case law of the Court. This is something that requires more to be done in assessing those who undergo the initial training.

123. Nonetheless, it is clear that the training on the Convention, the Court's case law and other human rights standards needs to have a structure that involves an incremental development of capacity and to be more clearly integrated with any study of domestic law. At the same time, there is a need both for more practical assessment of what is taught and a real link with what happens in the practical stage. Furthermore, those teaching human rights should generally be part of the establishment of the Judicial Academy and be available for follow-up on specific training sessions.