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*Eastern Partnership  
Enhancing Judicial Reform in the Eastern Partnership Countries*

*Working Group on  
“Professional Judicial Systems”*

**PROJECT REPORT**

*Training of Judges*

Directorate General of Human Rights and Rule of Law

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Strasbourg, May 2012



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## LIST OF ABBREVIATIONS

<b>ADR</b>	<b>Alternative Dispute resolution</b>
<b>CCJE</b>	<b>Consultative Council of European Judges, Council of Europe</b>
<b>CEPEJ</b>	<b>European Commission for the Efficiency of Justice, Council of Europe</b>
<b>CJS</b>	<b>Centre for Judicial Studies (Ukraine)</b>
<b>CM</b>	<b>Committee of Ministers, Council of Europe</b>
<b>CM Rec Europe</b>	<b>Recommendation of the Committee of Ministers of the Council of Europe</b>
<b>CoE</b>	<b>Council of Europe</b>
<b>EaP</b>	<b>Eastern Partnership</b>
<b>ECHR</b>	<b>European Convention on Human Rights</b>
<b>ECtHR</b>	<b>European Court of Human Rights</b>
<b>EIPA</b>	<b>European Institute of Public Administration</b>
<b>EJTN</b>	<b>the European Judicial Training Network</b>
<b>ERA</b>	<b>Academy of European Law</b>
<b>EU</b>	<b>European Union</b>
<b>GPO</b>	<b>General Prosecutor's Office</b>
<b>HCOJ</b>	<b>High Council of Justice (Georgia)</b>
<b>HELP Professionals</b>	<b>European Programme for Human Rights Training for Legal Professionals</b>
<b>HSoJ</b>	<b>High School of Justice (Georgia)</b>
<b>HQC</b>	<b>High Qualifications Commission (Ukraine)</b>
<b>JLC</b>	<b>Judicial-Legal Council (Azerbaijan)</b>
<b>JSL</b>	<b>Judges' Selection Committee (Azerbaijan)</b>
<b>JP</b>	<b>Joint Project</b>
<b>MCQs</b>	<b>Multiple Choice Questions</b>
<b>MoJ</b>	<b>Ministry of Justice</b>
<b>NIJ</b>	<b>National Institute of Justice (Moldova)</b>
<b>NSJU</b>	<b>National School of Judges of Ukraine</b>
<b>SCM</b>	<b>Superior Council of Magistracy (Moldova)</b>
<b>SCP</b>	<b>Superior Council of Prosecutors (Moldova)</b>
<b>TNA</b>	<b>Training Needs Assessment</b>
<b>ToT</b>	<b>Training-of-Trainers</b>



## Foreword



This report on the Training of Judges in the Eastern Partnership countries has been drawn up by representatives of judicial training institutions, Ministries of Justice and civil society, together with Council of Europe consultants. It has been prepared within the framework of the European Union/Council of Europe Joint Programme on “Enhancing Judicial Reform in the Eastern Partnership Countries” which aims to support and enhance the on-going process of reform of the judiciary in Armenia, Azerbaijan, Georgia, Moldova, Ukraine and Belarus<sup>1</sup>, through intensive information exchange and good practice sharing. The project is funded by the European Union and implemented by the Council of Europe.

Since its creation, the Council of Europe has promoted the respect for the rule of law and the protection of human rights and democracy in all of its member states. A strong, independent and efficient judiciary is essential for ensuring that these values can be fully upheld and implemented. Education and training are of key importance in the fulfilment of the judiciary’s mission. To do their work well and meet society’s expectations, courts need to have judges with the highest ethical standards and extensive legal and societal knowledge. As a result, judges should continuously enrich their knowledge, maintain their skills and acquire new ones. It would appear that the need for judicial training is nowadays greater than ever - increasingly complex and sensitive issues arise in litigation processes, which judges need to master fully. Judicial training techniques need to be adapted to enable judges to meet these challenges and acquire skills such as opinion writing, sentencing, media and public relations, and developing an understanding of the wider social context of litigation. Purely academic training is not enough, and must be complemented by a wider variety of training methodology and concrete cases in line with the reality of court work.

The Council of Europe has developed a set of instruments governing key aspects for establishing an efficient system of education and training of judges. These include the Committee of Ministers Recommendation No. (2010)12 on judges: independence, efficiency and responsibilities; Recommendation No. (2004)4 on the European Convention on Human Rights in university education and professional training; the Opinions of the Consultative Council of European Judges (CCJE) No 1 (2001) and No 3 (2002); and most importantly the CCJE (2003) Opinion No 4 on appropriate initial and in-service training, and the European Charter on the Statute for Judges. The need for the independence of judicial training institutions, the importance of appropriate training for young judges, particularly focused on the acquisition of skills and “judgecraft” qualities, as well as the recognition of time spent on training as an investment in the quality of justice, are amongst the core principles enshrined in these instruments.

The Council of Europe has co-operated closely with the national institutions and bodies responsible for training of the judiciary in Eastern Partnership countries for more than a decade. All these countries are members of our Lisbon Network, which since 1995 has promoted the exchange of information and dialogue between the national training institutions in the member states of the Council of Europe. They are also members of the

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<sup>1</sup> The present Report is the third in the series of the reports prepared in the framework of the above-mentioned Joint Programme. The first Project output, a comprehensive review of the state of play as regards judicial self-governing bodies and judges’ career in the EaP countries, was issued in October 2011, and was followed by a second Report on “The Profession of Lawyer”, issued in May 2012.

European Programme for Human Rights Training for Legal Professionals (HELP) which aims to provide the necessary know-how, tools and materials to deepen the level and integration of ECHR training in the initial and continuous training programmes for judges and prosecutors in all Council of Europe member states. The report reviews primary and secondary legislation, as well as domestic practice on judicial training, and draws conclusions and sets of recommendations for action needed to bring them in line with applicable European standards. Good practices and regional trends complement the bilateral analysis of the legislation and practice for each country.

The report is particularly timely as it allows the countries to take stock, to assess the progress made in this area and identify the steps that need to be taken to improve judicial training, in line with Council of Europe standards. It provides an overview of topics such as the organisation and responsibilities of training institutions, the process of admission to training institutions, the structure, methodology and evaluation of initial training and the continuous training of judges.

The Project consultants and authors of the report are:

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The report is available in English and Russian at the following link: <http://www.coe.int/capacitybuilding/>. This link also includes general information about the Project.

I would like to thank the representatives of the national training institutions, national authorities and Council of Europe experts for their commitment to this project and their hard work. The Council of Europe will continue to work to further develop and implement the recommendations provided in this report, in close co-operation with the national authorities.



Philippe Boillat  
Director General Human Rights and Rule of Law



## 1. European Standards of Judicial Training

Judicial training is an essential element of an efficient system of justice, as it helps to ensure the competency of the judiciary. It is a prerequisite if the judiciary is to be both respected and worthy of respect. The issue of training candidate judges before they take up their posts (initial induction training) as well as the professional upgrade of practicing judges (in-service or continuous training), is given significant attention both at international and European level.

*Several international instruments recognise the importance of judicial training such as the UN Basic Principles on the Independence of the Judiciary; several Council of Europe texts Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities;<sup>2</sup> European Charter on the Statute for Judges, Opinion of the CCJE No 1 (2001), Para. 10-13 and Opinion No 3 (2002); hence the CCJE (2003) Opinion No 4 on appropriate initial and in-service training for judges at national and European levels is the key document that tackles the issue of initial and in-service training of judges in details.*

The CCJE Opinion No 4 recognises that “*there are great differences among European countries with respect to the initial and in-service training of judges*” and that “*these differences can in part be related to particular features of the different judicial systems*” (Para. 6). This document also stresses that “*it is essential that judges, selected after having done full legal studies, receive detailed, in-depth, and diversified training so that they are able to perform their duties satisfactorily. Such training is also a guarantee of their independence and impartiality, in accordance with the requirements of the Convention for the Protection of Human Rights and Fundamental Freedoms*” (Para. 3 and 4) and emphasises that “*regardless of the diversity of national institutional systems and the problems arising in certain countries, training should be seen as essential in view of the need to improve not only the skills of those in the judicial public service but also the very functioning of that service*” (Para.7).

In most European countries judicial training is governed by special regulations. These regulations do not detail the precise content of training, but entrust this task to a special body responsible for developing the curriculum, providing the training and supervising its implementation. “*The CCJE therefore recommends that, in each country, the legislation on the status of judges should provide for the training of judges*” (Para. 12).

Last but not least, it must be noted that the European Union emphasises the importance of the training of judicial professionals- including judges. There are several instruments of EU law which consider the issue of judicial training.<sup>3</sup> They focus mostly on the role of judicial training for the development of judicial co-operation in civil and criminal matters within

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<sup>2</sup> Which replaced the recommendation adopted in 1994 (Recommendation No R(94) 12 on the independence, efficiency and role of judges.

<sup>3</sup> Articles 81 and 82 of the Treaty on the Functioning of the European Union, which provide for the adoption under the ordinary legislative procedure of measures aimed at ensuring ‘support for the training of the judiciary and judicial staff;’ Commission resolutions: of 10 September 1991 on the establishment of a European Law Academy; of 9 July 2008 on the role of the national judge in the European judicial system; Commission communications: of 29 June 2006 on judicial training in the European Union; of 13 September 2011 entitled Building trust in EU-wide justice – a new dimension to European judicial training; European Parliament resolutions: of 17 June 2010 on judicial training; of 9 March 2012 on judicial training.

the EU and judicial training in EU Law, but can also be a rich source for good practice on judicial training, its standards, organisation and role in the EU, member states and European societies. These instruments were not used as a tool of the assessment performed in this report. The CoE instruments mentioned above were used instead.

## 2. Institution Responsible for Judicial Training

### Relevant European Standards

#### *Independence*

The European Charter on the Statute for Judges transfers competence to the “independent authority”, stating that *“any authority responsible for supervising the quality of the training programme should be independent of the Executive and the Legislature and that at least half its members should be judges.”*

The CCJE, in Opinion No 4, goes further by stating that the State has a duty to guarantee that the judiciary or other independent body is responsible for both organising and supervising judicial training (Para.11). The independence of the authority responsible for preparing syllabuses and deciding what training should be provided must be preserved (Para.15). The judiciary should play a major role in, or itself be responsible for, organising and supervising training. In Para.16 the CCJE advocates not to entrust these responsibilities to the Ministry of Justice or any other authority accountable to legislative or the executive powers.

In practice, European States have generally set up specific entities charged with judicial and prosecutorial training. They are almost always independent of the executive and the legislature, although these branches of the State may in some way contribute to management. Some training agencies have legal personality whilst others are mere departments of the “independent authority” or organisational sections of the court system itself. In most cases, the same training institution is competent for the training of both judges and prosecutors, though different training arrangements may exist for initial and in-service training.

However, in order to ensure a proper separation of the roles and responsibilities referred to in the CCJE Opinion No 1(Para. 73 (3), 37, and 45) the same authority should not be directly responsible for **training**, **appointing** and **disciplining** judges. If the same body is competent, in that case a clear separation should be provided between the branches of the body responsible for these tasks.

The State responsibility for judicial training should be limited to its duty to provide the independent body responsible for organising and supervising training with the necessary means, and to meet the costs incurred by judges and others involved.

The CCJE therefore recommends that, *“under the authority of the judiciary or other independent body, training should be entrusted to a special autonomous establishment with its own budget, which is thus able, in consultation with judges, to devise training programmes and ensure their implementation.”*<sup>4</sup> In a number of European countries the

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<sup>4</sup> Para.17, CCJE Opinion No 1.

institutes responsible for performing judicial training directly depend on or are closely connected to the executive bodies responsible for the administration of justice. However, in such situation the limits of the influence of executive bodies are strictly set. Usually they are limited to providing financial and organisational capacity only. The executive powers do not interfere either in the process of preparing or conducting training, or in the process of admission to the training.

### ***Organisation and Methodology of the Training***

In order to protect the training institution from outside influence, the CCJE recommends that managerial staff and trainers should be appointed by the judiciary or another independent body responsible for organising and supervising training. Furthermore it *“is important that the training is carried out by judges and by experts in each discipline. Trainers should be chosen from among the best in their profession and carefully selected by the body responsible for training, taking into account their knowledge of the subjects being taught and their teaching skills. When judges are in charge of training activities, it is important that these judges preserve contact with court practice.”*<sup>5</sup>.

Training methods and training programmes should be determined and reviewed by the training authority, and by the trainers and judges themselves. This helps to ensure that judicial education is credible to the judges, and ensures that judicial independence is not undermined.

### **Regulatory Framework of the Participating Countries**

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#### **Armenia**

##### **Current situation**

Judicial training in the Republic of Armenia is carried out by the Judicial School. The Armenian Judicial Code governs the status, structure and content of training within the Judicial School (Articles 172- 193, Judicial Code).

The Judicial School is a state not-for-profit, non-commercial organisation that has the status of a legal entity. The Republic of Armenia, on behalf of the Council of Court Chairmen, is the founder of the Judicial School. The School is responsible for organising and conducting initial training for future judges, in-service training of judges and the training of judicial servants.

The School is managed by the Judicial School’s Governing Board and the director. Article 177 of the Judicial Code defines the composition of the Board (one member is from the Ministry of Justice, one from Cassation Court Chairman and the rest are all members of the Training Committee of the Council of Court Chairmen). The number of Training Committee members is defined by the Council of Court Chairmen (Art. 74 Para. 5) and currently this Committee has 5 members.

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<sup>5</sup> Para. 20 and 21, CCJE Opinion No 1.

With respect to the responsibility for initial and continuous training, it seems that both institutions -the Judicial School (Art. 175, Judicial Code)<sup>6</sup> and the Council of Court Chairmen (Art. 27, Law on Judicial System)<sup>7</sup> - were designated with similar responsibilities in two separate laws. When examining these two articles it should be noted that both bodies/institutions have been given the same tasks regarding initial and in-service training of judges. The experts do not currently have information as to whether these tasks have been further regulated and the distinction of the responsibilities is made clearer in the secondary legislation.

The Judicial School is in charge of designing and implementing the training. With respect to the development of curricula, the Judicial Code (Articles 176-181) hands responsibility to the School bodies. Although the legislation is harmonised with European standards, in practice the implementation is rather different, presumably due to the very limited capacities of the Judicial School. The School completely outsources the training by engaging experts and the curricula materials and therefore quality assurance is lacking.

Armenia is in the process of reforming the training system for judges and prosecutors. The MoJ representatives presented the concept of a new Draft Law on Justice Academy, where judges and prosecutors are to be trained in one school. The changes are proposed with the purpose of equalising the knowledge of judges and prosecutors, optimising administrative and educational resources, provoking professional socialisation of the two professions through joint trainings and improving and unifying training methodology, as explained by the representatives of the MoJ. The Draft Law on Justice Academy has passed different stages of hearings at the government, however it has not yet been sent to Parliament.<sup>8</sup>

### **Summary and recommendations**

The judicial training is in the hands of the judiciary and therefore fairly independent in terms of decision making and the separation of roles and funding. The majority of the Board members come from the judiciary. The funding is dealt with in the same way as the financing of the courts in Armenia. The funds for training are put in a separate budget line. However there is a place for legislative improvements, especially with respect to

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<sup>6</sup>Article 175. Functions of the Judicial School

In accordance with this Code and its goals under its By-Laws, the Judicial School shall:

- 1) Organise the qualification test conducted for purposes of compiling the List of Judicial Candidates;
- 2) Organise the professional preparation of persons included in the List of Judicial Candidates as a result of the qualification test;
- 3) Organise and conduct the training of Judicial School graduates and persons included in the official qualification and promotion list (with the exception of the law academics referred to in Article 139 of this Code);
- 4) Organise and conduct the professional training of judicial servants
- 5) Organise and conduct seminars and conferences on improving the legal system, the legislation, and the administration of justice, publish academic literature, and so on;
- 6) Develop the curricula of the School; and
- 7) Carry out other activities prescribed by its by-Laws.

<sup>7</sup> Article 27. Authority of the Council of Court Chairmen.

The Council of Court Chairmen: "...shall organise professional studies and re-training of judges..."

<sup>8</sup> As explained by the Armenian Delegation during the working group meeting which took place on 12 October 2011 and subsequently on 16-17 February 2012, the Ministry of Justice has drafted a Law on Justice Academy which might change the current organisation and content of the training within the Judicial School. However by the time of the drafting of this report the draft legislation was neither made available to the experts, nor the Parliament of the Republic of Armenia adopted this draft.

distinguishing the roles of the Council of Court Chairmen and the Judicial School, particularly to avoid the possibilities for overlapping responsibilities with respect to the different target groups trained at the School.

To secure sustainability and the future of the school it is necessary to strengthen the capacities of the professional staff engaged. By just administering the training and exams, the School administration will never be able to maintain the quality of the training; the curricula should be developed in-house and experts/trainers should be engaged (on a short or long term bases) to implement the curricula developed and owned by the School..

There is no need to have full-time engagement of trainers - part-time engagement being a suitable option; however those responsible for the implementation of different curricula in the School's portfolio should be qualified professionals who are skilled to design, implement and supervise the implementation of the training programmes. In that way the Academy will be able to monitor and control the performance of the trainers and the trainees, evaluate the outcomes and overall impact of the training and also provide quality assurance.

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## **Azerbaijan**

### **Current situation**

There are 3 main institutions responsible for the professional training of judges and future judges (trainees):

- The Academy of Justice under the Ministry of Justice of the Republic of Azerbaijan
- The Judicial Legal Council of Republic of Azerbaijan (JLC)
- The Judges' Selection Committee (JSC)

The Statute of the Ministry of Justice of the Republic of Azerbaijan provides that the Ministry of Justice organises professional legal training for appropriate judges and the staff of the justice bodies.<sup>9</sup>

The Justice Academy of the Ministry of Justice of the Republic of Azerbaijan is an educational-scientific institution established by the Decree of the President of the Republic of Azerbaijan<sup>10</sup> based on the statute<sup>11</sup> The Academy has the status of a legal entity.

The Ministry of Justice is supervising compliance of the Academy's activity with the legislation of the Republic of Azerbaijan and present Statute. The structure and staff member list of the Academy is approved by the Minister of Justice. The rector is appointed by the President of the Republic of Azerbaijan on the proposal of the Minister. Vice-rectors are appointed by the Minister on the proposal of the rector.

The Scientific Council, a body of the Justice Academy, was established in order to consider important issues of the Academy's activities. The Scientific Council is composed of a rector (chairman of the council), vice-rectors, a scientific secretary, faculty deans, chairmen of departments, the leading staff of structural units of the Academy (selected on a competitive basis) as well as representatives of state bodies, leading scientists of other

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<sup>9</sup> Approved by the Decree of the President of the Republic of Azerbaijan on 18 April, 2006.

<sup>10</sup> No 446 dated 17 August, 2006 "On Development of Justice Bodies."

<sup>11</sup> Approved by the Decree of the President of the Republic of Azerbaijan No 24 on 21 October, 2008.

educational and scientific institutions. The composition of the Scientific Council is approved by the Minister following the proposal of a rector.

The Academy may participate in the improvement of training or any scientific-methodical and educational activity conducted with a view to raising the professional level of judges and public prosecutors.

The staff of the Academy are composed of scientific-pedagogical (professorial-teacher staff, research fellows), engineering-technical, administrative-logistical, training auxiliaries and other staff members.

The Academy provides initial training for candidates to the position of judge and on-going training of judges, as well as arranging the compulsory training for the staff of judicial and prosecutorial bodies.

Teachers (trainers) of the Justice Academy are composed of judges of high instance, staff from the prosecution services, lawyers, university professors, specialists from state structures and non-governmental organisations and international experts.

The Judicial-Legal Council (JLC) is a body established by law.<sup>12</sup> It is a permanently functioning independent body and according to the law does not depend on the legislative, the executive, judicial authorities, local self-government or legal and natural persons in organisational, financial and other matters. The Judicial Legal Council operates jointly with the legislative, executive and judicial authorities, the Bar Association of the Republic of Azerbaijan and the scientific organisations. The Council ensures the organisation and operation of the court system, arranges the selection of candidates to judicial posts and implements self-governance functions of the judiciary. The Judicial-Legal Council is financed by the state budget.

The Judicial-Legal Council is composed of fifteen members: mainly of judges, representatives of executive and legislative bodies, the Prosecutor's Office and the Bar Association. Its nine members are judges.

It arranges the selection of candidates to judicial posts, takes measures in order to raise the professional level of judges and prepares candidates for judicial posts. It also supplies wages for the candidates filling vacant judicial posts sent to the preliminary training courses, arranges specialised courses, arranges various seminars and training in training centres in order to raise the professional level of judges and arranges long-term training for candidates to vacant judicial posts in the training institutions.

The authorities of the Judicial-Legal Council form the Judges' Selection Committee. The later collects the application documents of the candidates for the vacant judicial posts and organises written tests and oral examinations, in a transparent manner, in order to test the candidates' aptitude and worthiness to occupy a judicial post. It also engages judicial candidates in long-term training and determines their professional aptitude by means of interview.<sup>13</sup> It is made up of eleven members, including six judges.

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<sup>12</sup> Law of the Azerbaijan Republic on Judicial-Legal Council of 28 December, 2004.

<sup>13</sup> The activities of the Judges Selection Committee are regulated by: the Law on Courts and Judges of 10 June, 1997; Law of the Azerbaijan Republic on Judicial-Legal Council on 28 December, 2004; the Charter of the Judges Selection Committee approved by the Judicial-Legal Council.

## **Summary and recommendations**

The European Charter on the Statute for Judges (Para. 2.3) states that any authority responsible for supervising the quality of training programmes should be independent of the executive and the legislature and that at least half its members should be judges. This highlights the importance attached to the independence and composition of the authority responsible for training and its content. This is a corollary of the general principle of judicial independence. The judiciary should play a major role in or itself be responsible for organising and supervising training. Both the Judicial-Legal Council and the Judges' Selection Committee fulfil these criteria as they are independent bodies composed largely of judges.

The Academy of Justice is a special establishment with its own budget and legal entity. It is fully supervised by the Ministry of Justice, which makes it closely connected to the executive branch. It is fully dependent on the Ministry of Justice. The Minister appoints the candidate for rector; appoints deputy rector and members of the scientific committee. This position might be examined in the light of European standards. As already mentioned, European standards call for an independent training institution, yet exception to this principle can be found. In some European countries the establishment responsible for performing judicial training is directly dependent on or closely connected to the executive bodies responsible for the administration of justice. In this situation the limits on the influence of executive bodies are strictly regulated and limited to usually providing for the financial and organisational capacity.

In the case of Azerbaijan, the influence of the Ministry of Justice on the Academy is practically unlimited. It is not limited to providing facilities and means for the Academy. This influence is not adequately balanced by the role of the judiciary within the activities of the Academy. The Academy collaborates closely with the Judicial-Legal Council and the Judges' Selection Committee. This does not guarantee sufficient influence of the judiciary in its activities and does not balance the influence of the Ministry of Justice.

It is also important to stress that training should be carried out by judges and by experts in each discipline. When judges are in charge of training activities, it is important that these judges preserve contact with court practice.

Legislation should guarantee the adequate presence of judges within the Academy of Justice. The experts recommend the introduction of the institution of the secondment of judges to the Academy. The law should guarantee that judges are members of the scientific committee of the Academy and are among the staff of the academy whilst also acting as trainers.

Moreover, it is advisable that the judge or person of similar capacity to be appointed to a high judicial position should be one of the heads of this institution. There is no European standard on appointing only persons with judgeship or prosecutorial experience, but most countries tend to appoint people who have a substantial experience within the judiciary to this office.

### **Current situation**

In Georgia the structure, organisation and activity of the High School of Justice is mainly regulated by the Law of Georgia on the High School of Justice and the Statute of the School.

According to Art. 1 of the law, the School is a public legal person, the purpose of which is to provide “training to the students of justice-persons to be appointed as judges in common courts.”

In fulfilling this duty the School is “charged with ensuring that the students of justice improve their theoretical knowledge of the law and learn the practical skills necessary in their line of work.” It is expected that the School also uses the training of serving judges to prepare them for their role and responsibility vis-à-vis society and to gain a better understanding of their judicial independence.

Art. 1, Para. 3 of the Law stipulates that the school also has to deal with the in-service training of judges. Because the role of the School in initial and in-service training for assistant judges and other legal specialists is beyond the scope of this report, this topic will not be further discussed here.

The Statute of the School, like the Law, repeats the objectives of the School and enumerates under Art. 1, Para. III the same groups of trainees and kinds of training. It should be noted that Art. 2 of the Statute contains a separate regulation which, under the heading “Objectives of the School”, lists additional objectives. According to this Article the School has the following objectives:

- a) to support, through the court, the protection of the rights recognised under the Constitution of Georgia, international agreements and treaties of Georgia;
- b) to ensure a fair and public trial at the general courts of Georgia, independence and impartiality of the judiciary;
- c) to provide for the development of skills necessary for enhancing the knowledge and practical experience of a trainee of justice ;
- d) to ensure comprehension, by a trainee of justice, of the future responsibility and discretion laid down under the law;
- e) to gradually integrate a trainee of justice into the social environment where s/he as a judge will have to work in the future;
- f) to improve the professional level of acting judges.

It is not clear why the objectives of the School are dealt with by two different legal documents, at three different places and with partially different contents. Beside this “technical” question, as far as the experts are concerned, this is overburdening the School's objectives with different topics indirectly linked to its activities. It is still unclear, how the School can (besides through its training programme) ensure fair and public trials at general courts. The situation becomes slightly clearer if we consider Art. 3 of the Statute, which lists the tasks the School has to fulfil in order to achieve these objectives.



It seems that when drafting the different documents, the authors have partially confused the meaning of the words “tasks” and “objectives” and have slightly overdone the definition of all the objectives which are listed in Art. 2 of the Statute.

The School is financed by the State budget with funding deriving from the direct, separate State budget line. This safeguards the financial independence of the institution from executive powers.<sup>14</sup> Most of the trainers at the School are selected from experienced judges, representatives from academia or of other, non-legal professionals who are qualified in non-judicial issues (e.g. psychology, etc).

The experts did not note any issue of concern with regards the issue of the independence of the School, its management and its structure, all of which are regulated by the Law on the High School of Justice.<sup>15</sup> The Independent Board selects the Board of Directors which is entrusted with the management of the school and which consist of the Director and Deputy Director of the School and the Head of the Internship.<sup>16</sup> Although the practice is that the position of the Director and the Deputy Director has been held by people with judicial experience; the regulations in force do not require such experience from the candidates.

The question of whether experience within the judiciary should be one of the eligibility criteria for the selection of Director or Deputy Director of training institutions has been discussed at length during the working meetings especially in the examples of Moldova and Georgia. It has been pointed out that none of the European standards or recommendations requires the inclusion of such criteria and so the decision on that remains with the individual country. The experts are advising countries to consider individually if working experience within the judiciary for one of the top management positions should be considered a requirement or an advantage. This also depends on the concrete mandate of the management of the institution.

### **Summary and recommendations**

More uniformity within the usage of terms “objectives,” “task,” “activities” and clearer distinction between these terms would help to extract the real duties of the School from the main objective to which the School's activities should contribute. At the same time, it has to be pointed out that the current wording of the Statute does not put the School's activities in contradiction with any European standard or best practices.

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## **Moldova**

### **Current situation**

Judicial training in the Republic of Moldova is carried out by the National Institute of Justice (NIJ). Basic rules, which govern the NIJ and its organisational and operational structure, can be found mainly in the “Law on the NIJ and Statute of the NIJ”. The main information regarding the status and structure of the Institute is provided in Art. 2 of the law.<sup>17</sup>

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<sup>14</sup> Article 10: Budget of the School, Law on High School of Justice.

<sup>15</sup> Chapter II: Management and Structure.

<sup>16</sup> Article 5: Board of Directors of the School, Law on HSoJ.

<sup>17</sup> Art. 2. Status of the National Institute of the Justice

According to this provision the NIJ is a public institution, responsible for initial and ongoing training for (candidate) judges and prosecutors and other personnel contributing to the functioning of justice. From this Article one can already understand that Moldova has created an institution which is specialised solely in the training of judges, prosecutors and judicial personnel so the judiciary can now make use of its own training institution. The first hint to the independence of this institution can be found in Para. IV of the Article as it is stipulated there that the NIJ is not part of the “national system of education.”

It has to be noted positively that Art. 2. 3 points out that the activities of the NIJ have to be financed by the state budget, even if other sources of income are allowed according to the same provision. In daily practice it is important to reach and keep up the consensus that the state budget is the guarantor for a minimum or standard set of activities for which additional sources should not be necessary. Otherwise there is a risk that external funding will replace funding from the state budget.

Such a replacement of state funding by other income would challenge the sustainability of a training institution, as external sources such as other donors are worse for midterm planning than funds from the state budget which could be guaranteed by law.

Beside the risk of gradually losing state funding, institutions which are “surviving” on donor's funds also have to make very rigid measures for upholding their independence. In many countries training institutions are implementing training curricula which are mainly donor-driven and not demand oriented. It has been clarified during the working session that in case of Moldova the initial training is completely financed by the state funds so that the risks mentioned above are mainly true for the in-service training of judges.

Experts consider that there are two factors which significantly contribute to increasing the risk of training being less client-oriented, resulting in a lack of financial resources on the one hand and a lack of intellectual resources on the other. It has to be pointed out that the problems described in the chapter for Moldova also exist in the other participating countries due to similar funding structures where donor contributions are significant.

It has to be noted positively that the Law on the National Institute states that the state budget has to cover the costs of the NIJ. It is also positive that beside this general budgetary rule, the law allows for additional funding.

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(1) The National Institute of Justice, hereinafter – “*the Institute*”, is a public institution, which carries out the vocational training of the candidates for judges and prosecutors, the continuous training of judges and prosecutors, as well as of other persons that contribute to the well-functioning of justice.

(2) The Institute has the status of a legal person, manages its own patrimony and enjoys administrative, financial, scientific and pedagogical autonomy.

(3) The financial expenses of the Institute are to be covered from the state budget; Other sources of financing can be allowed if they do not hinder the autonomy of the Institute, and if they are not prohibited by the law.

(4) The Institute is not part of the national system of education, and is not subject to the legal regulations of accreditation and licensing of higher educational institutions and those from the sphere of science and innovation.

(5) The Institute operates according to its Statute, approved by the Council of the Institute, hereinafter – “the Council.”

(6) The Institute’s headquarters are situated in Chisinau.

As European standards call for a sustainable and independent institution for the training of judges and prosecutors, establishing certain limits for external financing for safeguarding such independence could be considered. Experts are not aware of the existence of such ceilings or thresholds for external funding in other European countries. However, for participating countries, where respective institutions have substantial problems of funding, the introduction of limiting rules could be discussed. This is especially true in the light of Rec (2010)12; Para. 56 which clearly states that “Judges should be provided with theoretical and practical initial and in-service training, entirely funded by the state.”<sup>18</sup>

The organisation and functions of the NIJ are regulated by Art. 4-11 of the Law on the NIJ. According to Art. 5 the NIJ has its council and executive director as administrative bodies.

The Council is the highest administrative body and consists of thirteen members, out of which seven are judges, and four are prosecutors. Besides these eleven, there is one representative of the MoJ and one law professor on the board.

As the Council is the main administrative/executive body of the School, the list of competencies is wide-ranging and includes taking a range of important decisions related to training.<sup>19</sup> The composition and functions of the Board do not give any reason for concern. It does not undermine the independence of the body, and thus of the Institute, therefore certain decisions can be taken by the Council only after consultation with the High Council of Justice, the General Prosecutor’s Office (GPO) (since there is the High Council of Prosecutors, this institution should become involved at a later stage) and the MoJ; hence,

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<sup>18</sup> Recommendation CM/REC (2010)12 to member states on Judges: Independence, Efficiency and Responsibilities

<sup>19</sup> Article 7. Council’s Attributions

(1) The Council exercises the following main competences:

- a) approve the strategy on initial and continuous training as well as the action plan for its implementation;
- b) approves the regulation on the organisation of the admission contest to the Institute;
- c) approves yearly but not later than September 1st the syllabuses and the educational curriculum for the initial and continuous training courses;
- d) approves the regulation on the organisation of the contests for filling in the vacancies for teaching staff;
- e) organises the competition and approves the results of the contest for filling in the vacancies for teaching staff;
- f) organises the competition for filling in the vacancy for executive director position;
- g) appoints and dismisses the Executive Director and the Deputy Executive Director;
- h) approves the number of vacancies proposed within the admission contest for initial training for judges and prosecutors, taking into consideration the real necessities and the available resources;
- i) examines, approves and submits to the Ministry of Finances the Institute's annual draft budget, according to the legally established procedure;
- j) authorises cooperation agreements with similar institutions from abroad and donors contributions;
- k) approves the salaries of the non permanent teaching staff of the Institute;
- l) approves the composition of the Admission and Graduation Examination Commission;
- m) organises the admission contest in the Institute for initial training for judges and prosecutors;
- n) approves the results of admission and graduation exams;
- o) approves the activity annual report of the Institute, submitted by the Institute's Executive Director to the Superior Council of magistracy, General Prosecutor Office and Ministry of Justice for the purpose of keeping them informed on its; activity. Publishes and disseminates annual report of activities and financial report;
- p) approves the functions' establishment and the list of personnel of the Institute;
- q) approves the Internal Regulations of the Institute.

(2) In its functions, the Council may also perform other attributions in accordance with the present law.

(3) Decisions under Para. (1), letters a) d), h), l) can be adopted only after preliminary consultation with Superior Council of Magistracy, General Prosecutor’s Office and Ministry of Justice.

such this provision ensures a certain degree of cooperation without limiting the Board in its freedom of decision.

According to Art. 9 of the Law on the NIJ, the Council selects an executive following an application process. According to this article, the director can be a person with “a degree in law, with high professional skills and who has at least seven years of working experience in a law-related sphere, higher education or scientific research sphere.” There is no European standard to appoint only persons with previous experience as a judge or prosecutor, but most countries tend to appoint into this office people who have a substantial experience within the judiciary. Furthermore, Moldova has so far appointed only directors and vice-directors, who are high ranking judges or prosecutors. Reference can be made to what has been said in the section above on Georgia.

There is a doubt as to how the selection will be organised in the future, as according to the law, being a judge or prosecutor does not offer any competitive advantage. The experts recommend introducing professional experience within the judiciary or experience within the judiciary as one of the eligibility criteria and as an advantage for candidates to the post of executive director. This condition should be reflected in the respective regulations and laws.

Art. 10 of the Law on the NIJ regulates the internal structure of the Institute. It should be pointed out that the law expressly allows for the secondment of judges and prosecutors to the School. The Law on the NIJ itself does not contain any regulation or reference with regards to the rules of secondment. The experts have learned during the working group meeting (through materials provided) that Art. 24 of the Law on the Status of Judges (and similar Art. 64 of the Law on Prosecution) regulates that a judge can be seconded with his/her consensus for a maximum period of thirty six months (18+18) to the NIJ, with their status and salary being preserved. With this set of regulations the NIJ and Moldovan judges and prosecutors have the necessary tools to organise the secondment process. With the limitation of the secondment to a maximum of thirty six months, Moldovan legislation takes fully into account CCJE opinion number 4, which states under Para. 21 that “when judges are in charge of training activities, it is important that these judges preserve contact with court practice.”

The general structure of the NIJ also has to be measured against its functions which are regulated by Art. 4 of the Law on NIJ.<sup>20</sup>

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<sup>20</sup> Article 4. Functions of the Institute

(1) The main functions of the Institute are:

a) drawing up a national strategy on initial and continuous training of judges, prosecutors and of other persons that contribute to the well-functioning of justice and submit it for approval to the Superior Council of Magistracy – for judges and the General Prosecutors Office – for prosecutors;

b) initial training of candidates for judges and prosecutors;

c) continuous training of acting judges and prosecutors;

d) initial and continuous training of persons that contribute to the well-functioning of justice, in cases provided by law;

(2) The Institute can perform other functions on:

a) organisation and conducting of vocational and continuous training for other categories of legal professions on contractual basis ;

b) international cooperation in its fields of activity;

c) drawing up and publication of didactical and other materials drawn up as a result of its activity.

(3) The Institute can carry out other activities required for the performance of its functions.

The competencies include the drafting of strategies for the initial and ongoing training for judges and prosecutors and those who are contributing to the well-functioning of justice and the implementation of training for these professions (assistant to judges, court administrators, bailiffs and court registrars as to the amended Art. 4 of the Law on the NIJ).

The NIJ is allowed to train other legal professionals on a contractual basis. It seems that that the target of such training is primarily advocates; but in the expert's opinion advocates also contribute to the well-functioning of justice.<sup>21</sup> If other lawyers who are working without any link to the judiciary are considered in this category, it does not seem logical to involve the NIJ in their training. If overburdened with (even if financially attractive) the training of professions which are "extra judiciary," the institute might quickly lose sight of its real focus, namely the training of judges and prosecutors.

### **Summary and recommendations**

To sum up, one can say that Moldova has a fairly independent and modern institution, the NIJ, which is governed by a majority of judges and prosecutors. Some improvements within the legal framework as described above could be considered in order to support the sustainability of the institute and foster a demand driven training process. Experts recommend the refining of the required qualifications of an executive director.

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## **Ukraine**

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### **Current situation**

In Ukraine, the key role in the process of judicial training is attributed to the High Qualification Commission of Judges (HQCJ). The Commission:

- manages the admission process to judicial training;
- assesses candidates for initial judicial training: place the announcement, accept applications, conducts the formal verification, conducts the background check;
- organises exams within the process of initial judicial training, including the final qualification exam;
- evaluates the performance of trainees after each stage of initial training;
- rates candidates on the basis of the qualification exam;
- enters candidates onto the reserve list;
- announces judicial vacancies;
- selects candidates for appointment;
- supervises the National School of Judges;
- approves the curricula for initial training.<sup>22</sup>

The High Qualification Commission of Judges of Ukraine is a permanent body in the judicial system of Ukraine.<sup>23</sup> It has eleven members, including six judges elected by the Congress of Judges of Ukraine.

There are two main actors performing the task of judicial training: the National School of Judges and the Higher Law Schools:

*The National School of Judges:*

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<sup>21</sup> Thus, training of the advocates should be considered by the NIJ on the same conditions as for the Judges and Prosecutors.

<sup>22</sup> Art. 90, Law of Ukraine on the Judiciary and the Status of Judges.

<sup>23</sup> Article 90 of the Law of Ukraine on the Judiciary and the Status of Judges.

- conducts the organisation of initial training
- conducts in-service training for judges
- conducts in-service training for court staff

The National School of Judges of Ukraine is a state institution with a special status.<sup>24</sup> The legislation on higher education is not applicable to the National School of Judges of Ukraine. It is established under the High Qualifications Commission of Judges of Ukraine and operates according to this law and the charter is approved by the High Qualifications Commission of Judges of Ukraine.<sup>25</sup>

The National School of Judges of Ukraine is headed by a rector appointed by the High Qualifications Commission of Judges of Ukraine. Vice-rectors are appointed by the High Qualifications Commission of Judges of Ukraine based on the motion of the rector of the National School of Judges of Ukraine. The employees of the National School of Judges of Ukraine, in terms of remuneration, are given the same status as public servants. The law introduces the process of secondment of judges and provides that judges could be seconded to serve at the National School of Judges.

The National School of Judges of Ukraine is a legal entity. It can have regional branches. The central apparatus (in Kiev) exercises the general management of activities of the National School of Judges and organises the work of its regional offices. Seven regional offices of the National School of Judges of Ukraine are situated in Dnepropetrovsk, Donetsk, Lvov, Odessa, Sevastopol, Kharkov and Chernovtsy. These offices implement the in-service training of judges and staff members of courts.

#### *High Law Schools*

High Law Schools conduct initial training of candidates to judicial positions.<sup>26</sup>

The list of the schools which conduct the initial training is approved by the High Qualification Commission in accordance with the criteria determined in the regulations on the procedure of special training of candidates to a judicial position.

The other state players participating in the process of judicial training are:

- The State Judicial Administration:
  - responsible for the maintenance of the National School for judges;
  - requests the training of court staff;
  - ensures the necessary conditions for raising the professional profile (in-service training) of judges and court staff;
  - creates a system of professional developments (continuous training).
- The Presidents of Courts
  - ensure the compliance of in-service training requirements.

The other entities providing the judicial training are NGOs. For example, the Centre for Judicial Studies (CJS) conducts seminars, training and round table discussions with the participation of judges, other legal professionals and the civil society.

### **Summary and recommendations**

It is important to highlight the complexity of the current situation and organisation of the system of bodies and entities which are involved in and responsible for judicial training.

<sup>24</sup> Set up by the High Qualification Commission of Judges of Ukraine on Decision № 822\4-3п of 21 December 2011.

<sup>25</sup> Para. 2 of Article 81 of the Law on the Judiciary and the Status of Judges.

<sup>26</sup> Para. 2, Art. 69 of the Law on the Judiciary and the Status of Judges, as amended by the Law № 2982-VI on Amendments to the Law of Ukraine on Judiciary and the Status of Judges Regarding Special Training of Candidates for Judicial Positions, 3 February 2011.

The complexity of the system makes understanding the functioning of the judicial training very confusing. The system is vague, which makes its assessment *vis-à-vis* European standards difficult.

The way this system is created leads to the overlapping of the tasks of the following institutions:

*National School of Justice and the State Judicial Administration*

The former is responsible for the in-service training of judges and court staff (Art. 82 of Law on the Judiciary and the Status of Judges), whereas the Higher Law Schools are entrusted with ensuring the necessary conditions for raising the professional level of judges and court staff and creating a system of professional development (Art. 146 of the same Law). There is no strict division of tasks between these institutions in the field of in-service training.

*National School of Justice and High Law Schools*

The School is responsible for organising initial training whereas the High Law Schools are responsible for conducting this training. In this case too, there is no strict division of tasks as regards the responsibility of each of the institutions. Due to the lack of precise description of initial training and its phases, the notions of “organising” and “conducting” are blurred. Additionally, there is no clear distinction between the entities responsible for performing the judicial training and those monitoring them. The responsibilities of the HQC are clear in this matter, whereas the overlapping functions of the National School and High Law Schools and State Judicial Administrations are not settled. It is not clear if there is any hierarchy between these institutions, described as “conducting organisation” and “conducting” in the legislation or the institution “ensuring necessary conditions” or “creating the system.”

The experts recommend clarifying the strict division of the tasks of supervising the implementation of training from one hand and developing the curricula, organising and conducting the training on the other. The former should be with the HQC, the latter with the National School of Judges of Ukraine.

The experts recommend that the position of the National School of Judges in this regard should be defined and strengthened. In the light of its legal position and composition, it seems to be the best institution to be entrusted with developing the curricula and organising and conducting the training. Consequently, the position of the State Judicial Administration needs clarification. Its responsibility within the judicial training should be limited to providing the maintenance of the National School of Judges.

The experts commend the recent amendment of the Law on the Judiciary and the Status of Judges, which limits the powers of the High Law Schools (specialised higher law schools of fourth level of accreditation). Nevertheless, the High Law Schools have an obligation to conduct the training of candidates for a judicial position. These institutions must be deprived of any decisive powers within the process of judicial training. In addition there is a need for transparency in the process of their accreditation. The rules of financing the training should be outlined. It must be noticed that once the academic institution is entrusted with the duty to provide initial training – there is a danger of this process being academic or becoming the continuation of university studies instead of a much needed professional development course.

Experts were provided with information that the position of the High Law School in the judiciary training process is to be modified, but no draft legislation was provided.

The experts recommend strengthening the position of the National School of Judges as an autonomous establishment in the process of the judiciary training.

Any authority responsible for supervising the quality of the training programmes must be independent of the executive and the legislative powers and at least half of its members should be judges. The High Qualification Commission fulfils these conditions. The judiciary is represented adequately in it.

The legislation in force does not guarantee the adequate presence of the judges among the staff of the National School of Judges. The Law introduces the institution of the secondment of judges and provides that judges might be seconded to serve in the National School of Judges (Art. 53.4). This is significant and praiseworthy, as it fulfils the recommendation that judges should be involved in judicial training. Nevertheless it must be underlined that this institution should be defined in depth by the law. It might be a serious interference with the independence of judges; therefore the rights and obligations of the seconded judges must be precise and clearly defined in law. Para. 9.5 of the Procedure for Training of Judges and Court Staff does not offer that. The legal form of the act is not appropriate and the regulation is incomplete.

Furthermore, it is of the utmost importance that the training is carried out by judges and by qualified external experts (of no legal background when the non legal training is concerned) in order to ensure a holistic approach. Trainers should be chosen from among the best in their profession and be carefully selected by the body responsible for training, taking into account their knowledge of the subjects taught as well as their teaching skills. The experts must preserve the updated knowledge and be aware of the present and future challenges for the judiciary deriving from the present situation and training needs. The experts also recommend limiting the engagement of retired judges as trainers.

### **General Conclusions on the Institution Responsible for Judicial Training**

Independence of the institutions responsible for the process of judicial training is a cornerstone principle for building an efficient system for training and retraining judges. The experts have stressed the importance of ridding these institutions from the influence of executive or legislative powers in accordance with the European Charter on the Status for Judges. It has to be pointed out that all participating countries have created a body responsible for judges' training, which is a very positive development. Analysis of the legal frameworks regulating the status and activities of these training institutions shows, however, that not all countries demonstrate that a sufficient level of independence has been granted for their management and operation (Azerbaijan), or regardless of their independence the competences are not entirely clear, due to the involvement of some other institutions (Armenia, Ukraine). In some participating countries, independence of the training institutions has been fully achieved (Georgia, Moldova) and these countries can serve as an example of best practices in the region.

It has become a trend that most training institutions not only train judges and candidate judges but also are responsible for the training of other professionals working in the sphere of Justice. It cannot be ignored that, due to the size of some participating countries and the limited economic resources, a joint training institution for different (judicial)



professions is advisable. Beside the economic effect a joint training institution might create additional synergies. In this context we would like to again bring to the attention of the participating countries that opinion No 4 the CCJE “recommends the practice of providing for a period of training common to the various legal and judicial professions (for instance, lawyers and prosecutors in countries where they perform duties separate from those of judges). This practice is likely to foster better knowledge and reciprocal understanding between judges and other professions.” In order to fulfil this recommendation it is not sufficient to have a common institution, which then organises training for the different professions in complete separation. It is also important to develop common courses.

Despite the economic necessity and desirable synergies achieved by common institutions/courses, one has to emphasize that schools, with a range of clients on the one hand and a very limited budget on the other, constantly face the risk of losing their primary goal - namely the training of judges. Such a risk has been discussed in-depth in the chapter on Moldova but other countries should also be more mindful of this point.

Substantial attention needs to be given to the issue of financial resources for training institutions. Participating countries should secure sufficient budgetary means for the training institutions in order to make them independent from external donors. This way, they can avoid that training activities becoming driven by donors instead of being demand driven. Guaranteed financial resources will also reduce the risk of institutions focusing on “selling” their services to professionals outside the core target group (e.g. lawyers) in order to improve the financial status of the institution.

### **3. Admission to the Training**

#### **Relevant European Standards**

Apart from legal study, diploma and regular requirements for application, the training institutions usually require passing the entrance exam for a candidate judge/prosecutor to be admitted to the initial training programme. According to the practice of the European countries, the number of trainees is fixed, with a threshold (cap) defined each year. This fixed number of attendees is set on an annual basis according to identified needs for new judges/prosecutors. The selection is made based on scores received from the entry examination. The entry exam is usually administered by an assessment commission established by the training institutions for the selection process. The selection process usually includes several stages including written and oral examinations and psychological tests. The goal of the entrance competition should be, apart from assessing the legal knowledge, a careful and thorough assessment of non-cognitive skills and personality aspects. The assessment commission is usually composed of judges, prosecutors, law professors, and well-known jurists. The right of appeal against the commission’s decision is guaranteed.

To avoid subjectivity, the procedure for the examination is regulated in detail with the by-laws of the training institutions.

#### **Regulatory Framework of the Participating Countries**

### **Current situation**

Citizens who are 22-60 years old and have obtained a Bachelor's degree or a "specialist with diploma" degree in higher legal education are eligible to sit in the qualification exam.<sup>27</sup> With the recent legislative changes (26.05. 2011) all candidates have to pass a qualification exam, including those with prior professional experience (such as advocates, investigators and prosecutors) and those coming directly from universities. An exception is made only for former judges (Art. 118 Para.1 Judicial Code).<sup>28</sup>

According to the Judicial Code (article 115) "The Judicial School Governing Board shall, not later than September 30<sup>th</sup>, define and publish the type of written exams, the procedure of conducting them, the procedures of checking, grading, and appealing against the grading of exam papers and the procedure of calculating the total sum of an aspirant on the basis of the exam paper grades." The deadline for applications is October 25<sup>th</sup> every year, and the School year starts in January the coming year.

The qualification exam was organised only once since the establishment of the School in 2007. The last generation of candidate judges entered the Judicial School's initial training programme without a qualification exam having passed a reduced initial training programme.

With the legislative changes mentioned above, the two much criticised procedures for selection of the list of candidates were abolished. The entrance to the Judicial School since 26.05.2011 is only through a competitive qualification exam. However, in practice these new provisions are not yet implemented.

### **Summary and recommendations**

The new legislative changes are positive steps towards improving professionalism in the judicial training. However, minor additional changes could make the situation even better. For instance, to avoid turning the Judicial School into an institution offering only reduced initial training with criminal law specialisation, there is a need to establish a balance between candidates with prior experience and those coming straight from universities. This

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<sup>27</sup> Participation in the qualification exam is open to citizens of the Republic of Armenia, who are 22-60 years old and have obtained in the Republic of Armenia a Bachelor's degree or a "specialist with diploma" degree in higher legal education, or have obtained a similar degree in a foreign state, which has been recognised and confirmed in terms of adequacy in the Republic of Armenia in accordance with the procedure stipulated by law, provided that they have a command of the Armenian language, have not been deprived of the right to apply to the Judicial School based on Article 185 hereof, and comply with the requirements of Article 119(1) hereof (Para. 4, Article 115, Judicial Code).

<sup>28</sup> Article 118. The Procedure for Including Former judges in Lists of Judicial Candidates and Promotion "Persons that worked as judges in the past and had their powers terminated prematurely on a ground stipulated by either of sub-paragraphs 1, 3, 5, or 9 of Para. 1 of Article 167 hereof (hereinafter, "former judges"), and have worked as a judge for two years during the last 10 years, may be included in the list of judicial candidates and in the promotion list in accordance with the procedure stipulated by this Article. Judges, whose powers were terminated prematurely on a ground stipulated by either sub-paragraphs 5 or 9 of Para. 1 of Article 167 hereof, may apply to be included in the list of judicial candidates and in the promotion list, if the circumstances that justified the premature termination of their powers no longer exist."

could be achieved by establishing the numbers for both groups before the announcement for vacant places is made. Introducing a balance in different profiles of the attendees will secure the sustainability of the School and enrich the judicial system by ensuring that future judges come with diverse professional background.

Furthermore, a number of technical issues related to the Judicial School are tightly regulated by statutory law, specifically by the Judicial Code. Thus, every time the School needs to improve its work, it encounters legislative barriers and a lengthy procedure of introduction of amendments in the legislation should be followed in order to improve just a simple everyday operation. Experts recommend that details such as disciplinary measures against the School's attendees, the methodology of training, the examination process and other purely technical matters covered by the articles of the Judicial Code are to be regulated by the Charter of the Judicial School or by other relevant by-laws.

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## **Azerbaijan**

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### **Current situation**

According to the Law on Courts and Judges, applicants to the post of judge take a written and an oral exam. The Judges' Selection Committee arranges these exams to select candidates. The results of these exams are then evaluated by the Judges' Selection Committee.<sup>29</sup> The Judges' Selection Committee may engage an ad hoc commission for the implementation of this function, staffed from its members.<sup>30</sup>

The detailed procedure for the selection of candidates is regulated in the "Rules for the Selection of Non-judicial Candidates to Vacant Judicial Posts Approved by Decision of the Judicial-Legal Council of March 11, 2005."

These steps, which are part of the procedure for the selection of non-judge candidates to judicial posts, and include the following stages:

1. Test of legal knowledge (multiple-choice questions);
2. Written exam (case-based);
3. Oral exam;
4. Initial training;
5. Written exam based on the training;
6. Oral exam based on the training;
7. Interview with the members of the Judge Selection Committee & final assessment;
8. Conversation with the Judicial Legal Council & proposal for nomination.

The rules for the selection of candidates provide that "[the] Judge's Selection Committee (JSC) shall constantly publish in the media and internet information on commencement dates and deadlines of submission of applications by candidates to the vacant judicial posts." This provision means that during the time between the announcement of a new selection cycle and the deadline for submitting applications, the JSC will publish the information relevant to this particular cycle several times. The purpose of such repeated

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<sup>29</sup> Law on Courts and Judges of 10 June 1997.

<sup>30</sup> Para. 2.3 Rules for the Selection of Non-judicial Candidates to Vacant Judicial Posts Approved by Decision of the Judicial-Legal Council on 11 March, 2005.

publication is to attract the widest possible interest and to encourage eligible candidates to apply.<sup>31</sup>

New selection cycles are launched at irregular intervals depending on the changing needs of the judiciary and vacancy forecasts and planning done by the JLC. Information about the launch of the selection process is published on the official website of the JLC., It includes the examination programme, the list of legislation covered by the exam, the fields of law covered by the entrance exam as well as tests examples and lists of documents to be submitted by the candidates.<sup>32</sup> The number of vacancies to be filled is not published, nor is the information on the specific courts or geographic locations where the vacancies are expected to arise.

The Judge's Selection Committee appoints the Examination Chief and supervisor to conduct written examinations. The answers are checked by the Judge Selection Committee and the results are published.

The applicants who have succeeded in these exams are automatically admitted to perform a long-term training period. This training period is organised by the training centre. The working places and salaries of the applicants admitted to perform long-term training are kept active. The Judicial-Legal Council provides scholarships to the applicants who are unemployed. The amount of scholarship is defined by the Judicial-Legal Council and paid from the resources assigned to the Council from the state budget.

At the end of this training, each trainee is evaluated (details described under the section on initial training). The applicants are classified according to their merits, based on the grades obtained. The results of this evaluation are submitted to the Judicial-Legal Council. The Judicial-Legal Council proposes to the relevant executive body of the Republic of Azerbaijan the appointment of the candidates according to the number of the judicial positions available.

The applicants who complete the training successfully, but fail to receive appointment may be appointed to administrative positions in the judicial bodies or may be admitted to the serve in the Prosecutor's Office. And, if a vacancy becomes available, may be appointed to a judicial post.

Appeals against the decisions of the Judges Selection Committee may be filed with the Judicial Legal Council. Appeals against the decisions of the Judicial-Legal Council on the judges or judicial candidates can be lodged with the Plenary Board of the Supreme Court and can concern only legal matters. Decisions of the Plenary Board of the Supreme Court on the appeal against decisions of the Judicial-Legal Council are final.

### **Summary and recommendations**

The process of admitting candidates to judicial training is extensively regulated in the law and bylaws. This creates a transparent system based on objective criteria. The entrance

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<sup>31</sup> Report of the European Commission for the Efficiency of Justice (CEPEJ) – Assessment of Policy and Procedures for Selection of Judges in Azerbaijan (January 2012) – CEPEJ –COOP (2011)1.

<sup>32</sup> 3.1 Rules for the Selection of Non-judicial Candidates to Vacant Judicial Posts Approved by Decision of the Judicial-Legal Council on 11 March, 2005.

exams provide a guarantee that this process is based on merit, with regard to the qualifications, integrity, ability and efficiency.

The key element of fair access to the judicial training is accessibility of information concerning the details of this process. Announcement of the published new selection cycle should be more detailed and should include for example the number of places available. The announcements with all required important details should be published in time, reasonably in advance (a limit of five day seems not to be sufficient) and the time limits should be regulated in relevant by-laws.

The requirements mentioned above are especially crucial as the selection cycles are not regular (which in itself is not questioned). The authority of the institution taking the decision on the selection fulfils the European recommendations. Detailed conditions of appointment and functioning of the competition team (authors of the test) and commission (assessing team) should be defined. The system established in Azerbaijan guarantees the candidate's right of appeal against a decision of the JSC, and in this case, general rules of appeal apply.<sup>33</sup>

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## **Georgia**

### **Current situation**

The main regulations regarding the admission to the school can be found in chapter IV of the law on the School and chapter III of the Statute.

According to Art. 11 of the law, admission to the School has to be exclusively based on a formal competition, which, as a rule, takes place twice a year. Eligibility criteria are also stipulated by this regulation and do not require any specific comment.

The competition as such is conducted by the High Council of Justice (Art. 13 of the law) and the details are regulated by the Statute of the School.

With regards to the competition, we should focus specifically on the selection criteria for candidates, as laid down in Art.8 of the Statute. According to this Article the following criteria are to be used:

- a) the results of the qualifying examination
- b) moral character
- c) personal qualities
- d) professional skills
- e) qualifications
- f) ability to prove and express
- g) analytical-logical thinking and decision-making skills

Having a list of criteria is an important precondition for organising a transparent and fair selection process so its existence has to be noted positively.

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<sup>33</sup> Law of the Azerbaijan Republic on procedures for review of citizens' applications.

Moreover, it is very positive that the Statute exactly defines the meaning of the different criteria.<sup>34</sup> However, the regulation is unclear on how much each criterion influences the final decision and how some of these criteria can be measured.

The situation becomes even more unclear when looking into the “types of evaluation [which] shall be applied in the selection of candidates” as Art.8, III lists: a) significantly overqualified; b) partly overqualified; c) qualified; d) less qualified; e) unqualified.”

For the experts it is not clear how, for example, the moral character of an applicant can result in them being deemed “overqualified.” The same is true for professional skills: Can one be too good to become a judge (and in this case have to become a lawyer)? In this regard it is also unclear if there is a hierarchy within the evaluation results. For example, is a less qualified candidate better than a significantly overqualified candidate?

During the working group session, members have expressed their concerns regarding the increasing tendency, observed by some members, that during the last few years a significantly high number of former prosecutors became judges. The discussion focused on the question of whether former prosecutors, in their professional role as judges, could be influenced by their former professional experience and habits. Following the discussions and some brief research carried out, the experts are of the opinion that in general the fact that prosecutors are becoming judges is not a problematic issue. However, every judiciary should ensure the maximum possible diversity among their members. Such diversity could be compromised by allowing an unlimited number of prosecutors a quick and easy access in the sense of a career change. Having said this, it can be recommended to organise the entrance exam in a way that does not give much advantage to career changers as, for example, prosecutors. Experts would like to point out that discussions on this topic were not based on clear facts and necessary statistics have not been provided by the delegation thus the described situation has neither been limited to Georgia and the general discussion concerned the whole region.

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<sup>34</sup> Art. 8, II Evaluation Criteria shall mean the following:

- a) Moral Character – perception of public values, of moral and ethical norms; impartiality; public perception regarding his/her character;
- b) Personal Qualities – well-balanced, reliable, honest, communicative, determined, objective;
- c) Qualification – knowledge of substantive and procedure law, judicial practice and methodology, law interpretation techniques, as well as aspiration to deepen legal knowledge; professional work experience; academic degree;
- d) Professional skills - professional, hard-worker, dedicated, diligent, productive, forward-looking; person’s ability to perform the assigned tasks with high sense of responsibility, carefulness, fundamentally, honestly and reliably; treat his/her work in a scheduled and cost-effective, as well as concentrated manner, and if necessary smoothly combine other area of duties with his/her official duties;
- e) Ability to prove and express – person’s ability to argue and accurately demonstrate his point of view in cases where s/he should act with constructiveness, tactfulness and self-criticism; express his view explicitly with competence, clearly, flexibly, concentratedly and convincingly both verbally and in writing; limit himself/herself to interpretations on merits and exhaustively substantiate the problem;
- f) Analytical-logical thinking and decision-making skill – person’s ability to properly comprehend complicated and unfamiliar circumstances and correlations of the case; in consideration of social, economic and other extra-legal background of the relations in life, by applying professional knowledge, to analyse and logically systemise them; focus on merits of the case; demonstrate the ability of weighing the pros and cons and the sense of justice in applications and decisions; where appropriate take correct and founded decision at his own responsibility.

The decision of the Commission can be appealed in the administrative court. The right to appeal against any administrative decision, including the decision of the HCoJ on admission to the School, is guaranteed by the administrative law.

### **Summary and recommendations**

The admission to the school is not very clear in detail. This is especially true when measuring the selection criteria and the evaluation levels. The Statute could be re-drafted in a way which allows more transparency in the selection process.

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## **Moldova**

### **Current situation**

Admission to the Institute is regulated by Art. 13 of the Law on the NIJ, which stipulates that admission to be based “on a contest exclusively, observing the principles of transparency and equality of rights.” This is also reflected in the Regulation on the Organisation of Competition for Admission to Courses for the Initial Training of Judges and Prosecutors at the National Institute of Justice, which is the internal decision of the NIJ Board.<sup>35</sup>

In order to participate, all eligibility criteria for becoming a judge or prosecutor have to be fulfilled.<sup>36</sup>

Before starting the admission process the Board of the NIJ, jointly with the High Council of Magistrates, the GPO and the MoJ, decide on a number of training places for initial training, which should reflect the number of vacancies to be filled. The first years of existence of the NIJ have demonstrated that, especially in the case of judges, an insufficient number of candidates have been trained to fill the vacancies and in many cases candidates without initial training were appointed to become judges.

It is a positive development that a date and place for the competition already has to be publicly announced “in the media and internet” no later than sixty days before the competition. Topics and other important details of the examination have to be published on the institute’s web site. For the latter, unfortunately the time limit is not determined. Experts also consider that the time-limit for publishing the topics and organisational details should be determined by the regulation. The publishing of a date and place on the NIJ website should be explicitly mentioned in the legislation in order to avoid any confusion.

The test itself consists of two stages: during the first stage candidates answer written legal questions, which are elaborated by the NIJ department for teaching and during the second stage they undergo legal tests and exercises.<sup>37</sup> The latter are prepared by a working group, appointed by the Institute’s Board.

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<sup>35</sup> Regulation No 7/1; 29.06.2011.

<sup>36</sup> Details regarding the access to the profession and the respective criteria can be found in the report of Working Group on “Independent Judicial Systems” of this project.

<sup>37</sup> 4.1. There are two stages of the competition process:

The first stage consists of a written exam in the form of test on following subjects:

a) civil law  
b) law of civil procedure;

There are no specific comments with regards to the set up of the Examination Commission.

As described above, Art. 13 of the Law on the NIJ regulating entrance competition is the basis of the Regulation on Organisation of Competition for Admission (No 7/1; 29.06.2011). According to Para. 3 of this Regulation “the admission contest should be organised by the Executive Director according the Board's decision.” The Regulation is in many aspects quite detailed and also contains clear rules on the contents of the written and oral exams and their assessment/evaluation criteria. Art. 5.5 of the Regulation stipulates that in the oral exam “for the purpose of assessment, the Commission takes into account” the:

- quality of the answer's presentation, accuracy and reasoning
- level of knowledge received within the framework of higher education
- ability to assess and apply the substantive and procedural laws
- ability to analyse and generalise
- ability to respond to questions quickly and precisely
- other relevant criteria”

It is a positive development that the Regulation lists the criteria for assessing the oral exam. However, when it comes to a final appraisal of the candidate, the regulation lacks clear guidelines on how to weight the different criteria. The experts recommend regulating the weighting of importance of the different criteria. The experts are also concerned about the last point of the list of assessment criteria - possibility to take into account “other relevant criteria”. This general clause is in strong contrast to the detailed list above and allows for considering inappropriate criteria.

The main concern held by the experts arises from a different thought: As mentioned above, the Law on the NIJ empowers the NIJ Board in Art 7 and also (indirectly) in Art 13 to adopt a decision with regard to the organisation of the admission contest. In this respect it seems more than doubtful if the “organisation” of the admission contest does also include the determination of appraisal criteria. The experts are convinced that the word “organisation” does not grant such all-encompassing powers to the Board. This is especially true as the appraisal criteria are decisive for access to the profession of judges and prosecutors and the right to adopt regulations regarding such criteria should be granted expressively (as in the case of Georgia). Having said this, it seems highly questionable whether Regulation No 7/1 is valid with regard to the determination for the examination criteria. One can conclude the regulation was drafted and adopted by a body which was lacking the necessary mandate and power. If the Regulation is invalid, this might have consequences for past and future examinations and admission decisions as they would have been done by applying a null and void regulation.

The Regulation foresees the right of a candidate to appeal the result of the entrance exam to the examination commission (Art. 6.1). In this sense it seems that the examination

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c) criminal law

d) law of criminal procedure.

The second stage includes solving of exercises on civil and civil procedural laws, and criminal and criminal-procedural laws.



commission is the “first and the second instance” and *de facto* the candidate does not have a chance of a real review of his/her results.

Experts consider that candidates should have the chance to appeal to an administrative court which would make the admission process fully transparent and fair. It would then be a matter of discussion whether only the administrative aspects of the examination or also the substance (like for example in Germany) should be checked by the competent court.

### **Summary and recommendations**

The system of admission to the NIJ is tightly linked with the selection of judicial candidates and therefore is of crucial importance. The NIJ has elaborated a well defined system of admission criteria driven by a fairly independent commission. However there are some important factors which should be improved.

The regulation does not give sufficient information with regard to the appraisal of the examinations and the right to appeal is not fully developed. Beside the possibility to appeal to the examination commission according to the information received from the delegation, candidates have the possibility to appeal the decision on the admission in the administrative court.

It seems questionable whether the Regulation itself is valid because experts are of the opinion that a solid delegation of power (by whom and to who) is missing. In general the power to adopt legal acts solely rests with the legislative power. This is especially true if the regulation in question is interfering with the rights and freedoms of citizens. In the given case, the regulation under question is a decisive document with regard to access to the profession of judge as it determines the examination criteria of candidate judges. In order to have the competence to adopt such a regulation a body like the NIJ Board would need a clear and concrete mandate from the legislator. Such a mandate, in the form of a delegation of power, is missing in the case of Moldova.

Finally, the practise has demonstrated that the establishment of the number of training places for judges does not always fully reflect the number of vacancies to be filled so that candidates without initial training have also been appointed in the past. The law allows up to 20% of the total numbers of places for new judges to be filled in that manner; this weakens the crucial role of the NIJ with regard to the fair and objective appointment of judges. There are changes planned concerning this matter, namely that candidates will undergo a brief training of three months, is an improvement if in parallel the percentage of places to be filled this way is also reduced.

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## **Ukraine**

### **Current situation**

The Law on the Judiciary and the Status of Judges provides that judicial training is to be a prerequisite for judicial appointment (Art. 65.1).

The procedure for appointing candidates to a judicial position is outlined in Art. 66. This procedure consists of an entrance exam before the High Qualification Commission,

theoretical and practical training and a qualification exam. This process is described in Articles 69 – 71 of the same law.

The first stage of the procedure is access to initial judicial training. It consists of the following steps:

- the notification by the High Qualification Commission of Judges of Ukraine of the selection procedure of candidates to the position of a judge;
- the submission of applications and documents to the High Qualification Commission of Judges of Ukraine by persons wanting to become judges;
- the verification of the information and the candidate;
- an exam which determines the level of general theoretical knowledge of an applicant in the field of law.

The procedure of background checks is defined in Art. 68.2 as the process of collection of information about the candidate, inquiring to firms, institutions and organisations of all forms of ownership in order to gather relevant information on a candidate. Additionally, Art. 68.1 provides for special inspection/verification of whether the applicant meets the established requirements for a judicial position. The law is silent as to the criteria of this process, its goal and its possible outcome.

The entrance exam is taken before the High Qualifications Commission of Judges of Ukraine. It is an exam on general theoretical knowledge performed anonymously. The details of the entrance exam are regulated. Regulation on the Procedure of Passing Anonymous Testing (examination) by Candidates to Judicial Position and the Methodology of its Evaluation is approved by the Decision of the High Qualification Commission of Judges of Ukraine on 21 April, 2011.

The Regulation contains the detailed provisions on four stages of entrance testing:

- Development and approval of test items;
- Organisational preparation for testing;
- Passing the test;
- Processing testing results.

The experts also learned that further regulation is expected to be issued including Regulation on the Procedure of Issues Consideration and Preparation of the Materials Regarding Selection of Candidates to Judicial Position for the First Time.<sup>38</sup>

The legislation does not regulate the process of appealing to the decisions taken within the admitting and testing process nor refer to the general rules on it.

### **Summary and recommendations**

Two key elements regulated by law must be examined here:

- formal requirements and their verification;
- entrance exams and their evaluation.

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<sup>38</sup> Para 1.1 of the Regulation on the Procedure of Passing Anonymous Testing (examination) by Candidates to Judicial Position and the Methodology of its Evaluation, approved by the Decision of the High Qualification Commission of Judges of Ukraine on 21 April, 2011.

In the light of the requirement that the selection and career of judges should be based on merit, considering the qualifications, integrity, ability and efficiency of the candidate, there is a need to make the process of recruitment to the initial training transparent and predictable. The justified expectations of the candidates must be met.

The key element of fair access to judicial training is accessibility to information concerning the number of places available for the training or the clear provision that this number equals the estimated number of vacancies in the judiciary – in this case estimation should be published (announced as stated in Art. 66.1.1 of the Law on the Judiciary and the Status of Judges). Consequently, it is required that the announcement of the competition (entrance exam) should include the number of trainees who will be accepted. This issue should be defined by law. Para. 7.2 of Regulation on the Procedure of Passing Anonymous Testing (examination) is unacceptable because it gives the HQC broad discretion in the process of the test assessment. The law should provide for the conditions of announcing the detailed scope of the examination.

The experts recommend developing a syllabus for the applicants, including all information relevant for preparing, registering, and taking the test, receiving scores and appealing against given scores, which should be available in print and digital format at all times - before and after the test.<sup>39</sup>

The applications are assessed prior to the entrance exam. This assessment consists of the acceptance of the applications, formal verification and background checks (Art. 66.3 Law on the Judiciary and the Status of Judges).

The first issue to be raised is the question of background checks. It is defined (Art. 68.2 of the Law on the Judiciary and the Status of Judges) as a process of collecting information about candidates, inquiring to enterprises, institutions and organisations of all form of ownership in order to receive this information. In addition, Art. 68.1 of the Law on the Judiciary and the Status of Judges provides for special inspection/verification of whether the applicant meets the established requirements for a judicial position. The law is silent as to the criteria used in this process, its goal and possible outcome. This makes the background check unacceptable in the light of the requirement of objectiveness of selection criteria.

The background check should be limited to the formal verification of the application and whether this meets the requirements stated in the law.

The Law on the Judiciary and the Status of Judges must provide a uniform terminology for this instrument in order to avoid ambiguity. It must be clear that “background checks” (66.1.3.), “inspection” (66.1.5) and “checks” (66.1.5) are all the same and regulated. It should be pointed out that in Art. 66.1.3 the background checks can only cover information that candidates are obliged to provide (mentioned in Art. 64 and Art. 67, as well as in the Constitution of Ukraine). It must not exceed beyond that and cover the verification of information that the candidates are obliged to present. It must be clear that the background check is an instrument of a preliminary nature to be followed by the exams. Lastly, as the

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<sup>39</sup> Recommendation included in the Review of Regulation on Selection Tests for Judicial Position, by Steven Baker, prepared within the framework of the Fair Justice Project/USAID, February 2012.

check is a formal inspection of the documents, there should be a possibility to supplement the discrepancies within the given timeframe.

The experts are aware and fully understand and support the determination of the HQC of Ukraine<sup>40</sup> to perform the background check in order to prevent appointment of the person not complying with the requirements provided in the Constitution of Ukraine and Law of Ukraine on the Judiciary and the Status of Judges.

The experts are aware that the regulation on the background check in question is based on the Ukrainian legislation, in particular provisions of Article 11 of the Law of Ukraine on the Basis of Preventing and Combating Corruption and issued in accordance to the Presidential Decree on the Procedure of Conducting a Background Check of Persons who Apply for Positions Related to Discharge of Functions of the State or Local Self-Government, and aim at developing a regulation on the background check for the candidates for the first appointment to judiciary.

However, the recommendation given above aims at providing for a clear and transparent mechanism for conducting the background check. The mechanism of the background check as enacted might jeopardise the fairness and transparency of the selection system.

The last element of the process is the application for initial training and the process of collection of information as provided in Art. 68.3 of the Law on the Judiciary and the Status of Judges. It gives organisations and citizens the right to present to the High Qualifications Commission of Judges of Ukraine any information that they may have about the candidate. This provision is difficult to understand as it is not clear how the collected information could influence the decision on the candidate's admission.

The key element in the process of access to the initial judicial training is the entrance exam. The entrance exam is taken before the High Qualifications Commission of Judges of Ukraine. It is an independent state body, with the majority of members being judges. The scope and the form of this exam are prescribed by law. This makes the law entirely in line with the European standards and recommendations.

The experts consider that it is also important to review the Regulation on the Procedure of Passing Anonymous Testing (examination) by Candidates to Judicial position. The Regulation leaves room for the establishments of higher education to be active in the process of testing the candidates for the judicial position (Para. 1.6, 3.2), which is surprising and not understandable in the light of the standards in question, in particular the autonomy/independence of judicial training process.

The Regulation does not sufficiently normalize the way the tests are prepared, the rules of appointment of the team of authors of the tests and the mode of operation, which are the key issues of testing process. On the other hand, the regulation covers many issues of a purely technical nature (e.g. Para. 5.6 in the light of Para. 2.3.5) that should not be included in this norm. Many provisions of the Regulation are not precise; for example Para. 2.1.3 guarantees the rights of candidates to receive information on the testing process but it leaves out the form and time-frames for information to be accessible and available to the

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<sup>40</sup> Conclusions of the Working Group regarding "Improving the Initial Judicial Candidates Selection," 8 February, 2012, Kyiv.

candidates. The time limits provided within the testing process are too short (Para. 4.2) or not specified at all (*ibid.* second sentence). The issue of appealing the decisions of the HQC should also be regulated (directly in this Regulation or referring to other legal provisions).

### **General Conclusions on Admission to the Training**

The process of admission of the candidates to judicial training has been reformed in all Eastern Partnership countries in recent years. The legislative changes have been a positive step towards improving the professionalism in the judicial training. The legal position and composition of the authorities granted with the duty of taking decisions on the selection are in line with European standards.

The new legislation in some countries (**Armenia, Ukraine**) needs some amendments and simplifications because whilst these laws regulate many issues of a purely technical nature (overregulation) they also miss some basic provisions stating issues of policy nature.

The way the announcement on the launch of the admission process is regulated is not sufficient in most countries. The announcements lack the precise number of vacancies to be filled (**Armenia, Azerbaijan, Moldova, Ukraine**), the detailed information of the admission process (**Armenia**), methods of appraising the examinations (**Moldova**), detailed conditions of appointment and functioning of the competition team (authors of the tests) and assessing commission (**Azerbaijan, Ukraine**), explicit rules and procedures for appealing the decisions within the admission process (**Ukraine**).

The mechanism of the background check being the element of the admission process in Ukraine is enacted in a way that could jeopardise the fairness and transparency of the selection system, which it should guarantee.

All the assessed countries introduced systems which utilised entrance exams based on written tests (all of them) and oral examinations (some of them). The rules governing the performance of the examination process are comprehensive however attention must be given to the assessment process, specifically of the oral examinations in order to avoid subjectivity. All of these countries should undertake every available effort to implement the new provisions or to continue executing them in a fair and transparent manner.

## **4. Initial Training**

### **Relevant European Standards**

#### ***Nature of judicial training (mandatory or voluntary)***

There are differences in approach among European countries with respect to the initial training programme for judges. These differences appear mainly because of different recruiting methods. Some countries offer lengthy formal institutionalised training, followed by intensive further/specialised training. Others provide a kind of apprenticeship under the supervision of an experienced judge/mentor. European civil law countries place greater emphasis on entry-level training, while common law countries focus on in-service training. Civil law systems are recruiting judges among recent law graduates and trainee judges had

to demonstrate competence after a period of training in order to be appointed. Common law judges have traditionally been recruited from among experienced lawyers, often with substantial advocacy experience. In most EU countries, prosecutors are considered part of the judiciary and receive the same judicial training as judges. However, there are also countries, where prosecutors are not considered to be part of the judiciary. Namely, those are the countries that are influenced by common law system as well as the Nordic countries.

Even so, every professional lawyer appointed to become a judge in a common law or similar system requires some initial training focused on the skills and abilities s/he needs to display as a judge ("judgecraft"). This initial training in judicial skills should generally be undertaken before the newly-appointed judge takes up his/her judicial duties and it constitutes a minimum requirement to ensure that any newly appointed judge has the basic skills required of any judge to assess the evidence in a case, to control his courtroom and to be able to deliver a reasoned judgment.

No matter whether the judges recruited are selected from among the best lawyers or recruited from universities or training institution, in the CCJE's opinion, "*both groups should receive initial training: the performance of judicial duties is a new profession for both, and involves a particular approach in many areas, notably with respect to the professional ethics of judges, procedure, and relations with all persons involved in court proceedings*" (Para. 24). However the specific features of recruitment methods should be taken into consideration in order to target and adapt the training programmes appropriately for each individual group.

The CCJE therefore "*recommends mandatory initial training by programmes appropriate to appointees' professional experience*" (Para. 26).

### ***Duration and Content of the Initial Training***

The school's curriculum includes a schooling part and a type of apprenticeship in either a prosecutorial or judicial setting. The duration varies: from 16 months to 54 months. The schooling part is usually from 6 – 12 months and the apprenticeship from 9 – 24 months including practice in courts, prosecutor's offices, lawyer's offices, investigation bodies, administration, etc.

However, the duration of the initial training is also directly related to the length of professional experience. Therefore the CCJE standing on this issue is that "*depending upon the existence and length of previous professional experience, training should be of significant length in order to avoid its being purely a matter of form*" (Para. 26 v).

The European Charter on the Statute for Judges recommends that the training of judges should not be limited to technical legal training, but should include social and cultural issues, in order to make the judge independent from social bias.

The schooling part is mostly focused on the procedural application of substantive laws, whilst the apprenticeship/judgeship part is targeted towards developing judicial skills (planning and implementation of hearings, drawing up of judgments, settlement in civil proceedings, examining magistrates, special problems of taking evidence, particularly of evidence given by witnesses and experts, etc.). In addition, the opening up of borders means that future judges need to be aware that they are European judges and be more aware of European issues. In the EU, it is recommended that every candidate judge (trainee)

participates in an exchange in another European country. This apprenticeship is organised under the guidance of experienced mentors. The initial training syllabus and the intensiveness of the training differ greatly according to the chosen method of recruiting judges: i.e. with professional experience or directly from the universities.

In this line the CCJE recommends “*that these theoretical and practical programmes should not be limited to techniques in the purely legal fields but should also include training in ethics and an introduction to other fields relevant to judicial activity, such as management of cases and administration of courts, information technology, foreign languages, social sciences and alternative dispute resolution (ADR)*” (Para. 28 iii).

The CCJE also recommends the practice of providing for a period of training common to the various legal and judicial professions. This practice, in the opinion of the CCJE, is likely to foster better knowledge and reciprocal understanding between judges and other professions.

### ***Training Assessment***

The reason for evaluating training is to determine the effectiveness of a training course or programme. Therefore, much thought and planning should be given to the programme design to make sure that it is effective. In order to continually improve the quality of judicial training, training institutions should conduct frequent assessments of programmes and methods. Trainers, trainees and training programmes as a whole package, should be evaluated. However in most of the EaP countries, evaluation is mostly understood and used as tool to assess the knowledge of the participant (examination) and not as a tool for improving the effectiveness of the training/activity.

With regards the system of evaluating the candidates, in the countries selecting judges from the ranks of experienced lawyers, objective evaluation methods are applied before appointment, with training occurring only after candidates have been selected. Therefore, in those countries, evaluation of candidates during initial training is not appropriate. In the countries that train judges at the start of their professional career, the situation is reversed, and the CCJE considers evaluation of the results of initial training to be necessary in order to ensure the best appointments to the judiciary.<sup>41</sup> In the latter there are usually two methods of evaluation of candidates: evaluation along the programme duration and the final examination. The first is based on evaluating the candidates’ performance in each course and the final grade is a sum of the scores received from all courses. The second is evaluation through a final exam based on the knowledge gained through the schooling part, usually including a practical examination organised through moot court or by participating in a real adjudication.

### **Regulatory Framework of the Participating Countries**

#### **Armenia**

#### **Current situation**

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<sup>41</sup> CCJE (2003) Opinion No 4.

The School offers initial training only to future judges. Prosecutors are trained independently in a special Prosecutor's School.

The current initial training programme has two curricula: one full length initial training curriculum divided into three modules (composed of thirty two courses); general, civil law and procedure and criminal law and procedure implemented in 952 hours (realised in 133 days ) accompanied by fourteen days of traineeship; while the second reduced initial training programme (for candidates with previous experience as a prosecutors, advocates and investigators) has more or less the same three modules (composed of twenty five courses) implemented in reduced number of 152 hours followed by ten days of traineeship.<sup>42</sup>

Since the establishment of the School, only one generation went through the whole initial training cycle in 2008. Until now the School is implementing only a reduced initial training programme. The candidates come to the School with legal professional experience and are therefore entitled to a reduced training programme. The school year starts in January and ends in June each year.

The Judicial Code (Art. 190) envisages a mandatory trial period (traineeship) for judicial candidates, however it does not prescribe its duration. It does mention that "*An attendee shall pass a trial period in different judicial instances, including specialised courts.*" (Para. 2 Art. 191) Currently attendees to the initial training programme at the Judicial School have fourteen days practice in total for those attending the full length programme and ten days for those attending the reduced initial training programme, which is not sufficient time for meeting even the requirements stated in the Judicial Code.

The attendee does not pass to the next trial period stage, and is removed from the Judicial School, if the exam credit scored is lower than the minimum credit established by the Board to consider such courses completed.

According to Art 191 Para. 4 of the Judicial Code, at the end of the traineeship period, "*the mentor shall submit to the Judicial School a written description covering the attendee's practical and moral characteristics displayed by the attendee during the trial period, including a positive or negative evaluation of the attendee's trial period*". In case of negative evaluation "*then the attendee shall have the right to pass once more the trial period in accordance with the procedure established by the Board, but in such case shall not retain the right to receive a stipend.*"<sup>43</sup>

The scholarship is equal to the salary of an assistant to a judge in a universal jurisdiction court, which gives candidates the possibility to concentrate on their studies and is considered as a positive in step contributing to effectiveness of the initial training programme.

The trainer's profile is briefly tackled in Para. 2 Art.188 of the Judicial Code "*The teachers (lecturers) of the Judicial School are specialists invited to work in the Judicial School on contractual grounds.*" In practice, most of the trainers are recruited from the Court of Cassation and some lecturers are invited from the State University Law School. There are

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<sup>42</sup> Ordinance 23, October 2008, adopted by the School's Governing Board.

<sup>43</sup> Art 190, Para. 4 Judicial Code.



trainers who have also been selected through public competition. The decisions are taken by the Judicial School Board. The Justice Council and the Council of Court Chairmen have no role in the selection of the trainers.

### **Summary and recommendations**

The curriculum leaves the impression that it was drafted for academic studies rather than for practical training. It consists of formal academic training with very limited topics for practical judicial skills and concludes with “traineeships” (fourteen days presence in different institutions and courts of different instances). One may assume that the curriculum was drafted by university professors and meant to be an extension to the university programme.

With respect to the identified subject courses, they apply an approach which is more theoretical than practical. The judges do not need to study law as they already did so during legal studies however they need to gain the practical skills needed for administering justice. It is therefore necessary to remove most of the academic subjects from the curriculum and add courses that offer practical skills.

In order to ensure that candidate judges master their future profession, the extension of the trial period (traineeship) is inevitable. Six months is the recommended minimum traineeship. This “traineeship/apprenticeship/judgeship” should include practical work at a first instance court based on the mentorship approach. Short-term presence at other relevant institution (Law Office, Prosecutor’s Office, Ministry of Interior, Customs, etc) during the traineeship or during a study period is also welcomed. The traineeship should also be evaluated based on the criteria developed and made available in advance to the mentor judge. All mentors should be trained in training methodology to secure standardised training and evaluation to all mentees.

It seems that the existing evaluation process has too many tests with very little positive outcome of the testing and scoring process. Therefore it is recommended that each course has a separate evaluation, dependent on the course’s content and nature. Some courses could be evaluated by preparing an essay or a case study, some through assignments and presentations made during classes, some through moot court exercises, some could use Multiple Choice Questions (MCQs) tests, and some courses should not be evaluated at all. The final score of a candidate should derive from the scores received during the study at the school and the traineeship scores.

With respect to the announced merger of the Judicial and Prosecutor School, the experts strongly support the envisaged reforms. However, it should be emphasised that the merger should not be only administrative but also more contextual. To make the transfer to the new joint training programme efficient, it is recommended that the merger of the initial training curricula for judges and prosecutors is made gradually.

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## **Azerbaijan**

### **Current situation**

The Law on Courts and Judges envisages that candidate judges pass obligatory initial training courses. The duration of the course is determined by the Judges’ Selection

Committee and no minimal duration is required.<sup>44</sup> The training is carried out by the Judicial-Legal Council together with the Judges' Selection Committee.

The training curricula are prepared by the Judges' Selection Committee and the Academy of Justice and are approved by the Judicial-Legal Council and Judges' Selection Committee.<sup>45</sup>

Initial training currently lasts one year. The programme (curricula) for the initial training of candidate judges consists of 1138 training hours: 520 hours of in-class courses and 596 hours of internship at different court instances.

The following number of candidate judges participated in the initial training courses by years: 52 in 2006; 102 in 2007; 78 in 2010.<sup>46</sup>

The Judges' Selection Committee, in conjunction with training institutions, conducts examinations at the end of the training that consist of written and oral examinations. Each candidate must pass these written and oral examinations. These examinations reveal the abilities of candidates to analyse legislation, issue written comments on certain legislative provisions or draft court decision on a legal case. The Committee is entitled to involve legal specialists in the examinations.<sup>47</sup>

The internship programme for candidate judges is based on the distribution of candidate judges at different court instances. It has an established internship programme with appointed supervisors (mentor judges). The internship consists of participating in the court hearings, preparing of draft documents, etc. The evaluation of the internship programme is based on an internship diary; and on the recommendation (evaluation) of a candidate judge, which is presented to the Judges' Selection Committee. The evaluation of this stage of the training is not regulated by the law.

The Judge's Selection Committee conducts the final interview with the candidates who successfully passed the final exams.

Final classification of the candidates is done by the Judges' Selection Committee and is based on results of the training and final interview.<sup>48</sup>

### **Summary and recommendations**

It is essential that judges selected after completing their legal studies, receive a detailed, in-depth and diversified training so that they are able to perform their duties satisfactorily. The model of initial training in Azerbaijan is of a satisfactory length, with a proper balance between theoretical and practical training. However, the length of the initial training fully

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<sup>44</sup> 4.1. 3.1 Rules for the Selection of Non-judicial Candidates to Vacant Judicial Posts Approved by Decision of the Judicial-Legal Council on 11 March, 2005.

<sup>45</sup> Para. 4.3. 3.1 Rules for the Selection of Non-judicial Candidates to Vacant Judicial Posts Approved by Decision of the Judicial-Legal Council, 11 March, 2005.

<sup>46</sup> Out of 2200 candidates approximately; Mr Fikrat Mammadov for News.Az, available on <http://www.news.az/articles/52660>

<sup>47</sup> Para. 4.4 – 4.6 Rules for the Selection of Non-judicial Candidates to Vacant Judicial Posts Approved by Decision of the Judicial-Legal Council, 11 March, 2005.

<sup>48</sup> 5.1. 3.1 Rules for the Selection of Non-judicial Candidates to Vacant Judicial Posts Approved by Decision of the Judicial-Legal Council, 11 March, 2005.

depends on the decision of Judges' Selection Committee. The law does not provide for a minimum duration of the training. Therefore it is recommended that the minimum duration, based on the current experience, is guaranteed by the law.

Judges should have an in-depth and diverse knowledge which extends beyond the technical field of law to areas of important social concern. The initial judicial education should be based on the theoretical legal knowledge acquired at the university. The aim of initial training activities is not to learn law but to learn 'judgecraft', the ability to apply the law. The curriculum of initial training should cover, apart from legal issues, court management, case management and economic and social sciences. It should equip the trainee with the proper knowledge, skills and abilities required of a judge. Selection of proper training methods, including interactive and e-based forms of training, is essential.

This is why the theoretical part should cover non-legal issues to a larger extent than it does at present. Experts recommend regulating the process of designing the training curricula in the bylaws. It should be based on extensive analysis of the training needs performed in cooperation with variety of judicial and non-judicial bodies, guaranteeing the proper diversification of training topics. Bylaws should prescribe the way the training goals are defined and the way in which training methods, trainers and trainees profiles are identified to match these goals. The procedure of distribution of the training curriculum among the judiciary, rules on selection of participants of training and the rules on allocation of places should be regulated. The process should end with the proper evaluation of training and trainers, constituting the part of the training needs analyses for the following training curricula.

The internships should also be regulated in bylaws and clear goals for this part of training should be set. There is a further need to enact in regulations the system of selection of mentors, their profiles and responsibilities.

The Moldovan Regulation on the Organisation and Holding of Traineeships for Trainees of the National Institute of Justice and Candidates for Positions of a Judge or Prosecutor is a good example of the regulation detailing the requirements. Para. 4 of this special Regulation lists the objectives of the traineeship and therefore it can be regarded as a guideline for both, trainees and mentors.<sup>49</sup>

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<sup>49</sup> Art.4. Objectives of traineeship:

- strengthening and deepening of theoretical knowledge, development of skills acquired during the initial training;
- development of practical and professional skills;
- acquiring knowledge of the rules of professional behaviour and moral qualities specific for this profession;
- acquiring knowledge of the administrative system, the specificity of the activity of the institutions where the traineeship takes place and normative acts, regulating their activity;
- using management instruments for monitoring and flexible realisation of practical activity;
- cooperating with all parties involved in the professional activity;
- development of professional skills necessary for the performance of the duties of a judge or a prosecutor;
- development of skills of drafting and editing procedural documents;
- using logical and legal arguments based on interpretation of the legislation of Republic of Moldova, jurisprudence of the Constitutional Court and the European Court of Human Rights and other international legal acts in the course of court proceedings.

Experts also advise providing for the training of trainers and mentors. The former should provide for the ability to apply modern and interactive training methodology, create proper training materials (case studies, presentations, power point presentations, handouts, etc.), interact appropriately with trainees and address adequately their training needs. Additionally, the training institution should provide for judges to participate in training in their fields of specialisation (organised for example by European training institution). The latter should provide the involvement of the trainee in the daily professional activities of judge, provide him/her with the systematic knowledge of the methodology of ‘judgecraft’, and provide mentors with the skills to teach drafting the judicial decisions. The mentors should be trained on the uniform and objective system of assessment of trainees.

The oral exam and the final interview as part of the initial selection procedures seem to be potentially the most subjective. The criteria of candidates’ performance and evaluation should be defined with special care. Although the entrance and written exams exist, their organisation and evaluation are regulated to guarantee the transparency of the selection process, the final classification of the candidates depend on a subjective final interview that is equivalent to the results of the all training stage. It is recommended that the final evaluation be based on objective criteria.

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## **Georgia**

### **Current situation**

Initial training is regulated by Art. 19-28 of the Law on HSoJ as amended by the law n. 4788 of 17 June 2011 and Art. 13-25 of the Statute as well as the Decision of the Independent Board of the High School of Justice of 14 July 2011. It stipulates that the training is for 10 months and is to consist of theoretical courses, an internship and seminars. The initial training has recently been shortened from 14 to 12 to 10 month. This trend raises concerns as European practice has shown that longer training periods are necessary in order to get a well prepared corps of judges. The delegation has explained during the working group meeting that the decrease of the duration of the training has been done in order to swiftly fill in current vacancies and that the quality of the training did not suffer. However experts are convinced that a decrease of training length of almost 40 % can hardly be done without a diminishing of quality. The experts want to reiterate that, in accordance with CCJE Opinion 4, Para. 28, “training should be of significant length.”

The theoretical course lasts 5 months and has a strong ‘judgecraft’ character (students are inter alia trained on how to hear cases, draft procedural documents, as well as ethical rules). The methodology used ranges from seminars, moot courts and discussions to practical training. Theoretical courts are followed by a 4-month internship in a court or prosecution office and by a one-month period of seminars.

Apart from the topics of training, the Law on HSoJ in Art. 21 foresees that lecturers should be contracted for no longer than two years. The Law does not give any criteria for teachers and lecturers at the school, but foresees the periodical involvement of experts in different fields. In practice, School teachers are high-ranking judges and non-judicial professionals such as psychologists and journalists. The possibility of seconding people to the School is not mentioned.

After completion of the theoretical part of the training the candidates are evaluated by means of examination. The aim of the final examination of the theoretical part is to assess the theoretical knowledge acquired during the course. The Board of Examiners are established and approved by the Independent Board, upon submission of the candidates by the Director of the School.<sup>50</sup> The candidate judges are tested again at the final school examination, which is a written exam. Trainees are then given concrete court case practice and they draft procedural documents. The results of this examination is evaluated by the Commission, consisting of a Supreme Court judge, member of the HCoJ, law professor of the state university, members appointed by the Independent Board and the Director of the School.<sup>51</sup>

After successful participation in the theoretical training it is foreseen that, as a part of initial training, every trainee should participate in an internship lasting three months as a part of an initial training programme (Art. 19, II of the Law on HSoJ and Art. 13, Art. II of the Statute; also Article 1, Para. 3 of the Decision of the Independent Board of the High School of Justice of 14 July 2011). According to Art. 24 of the Law there exists a compulsory and an alternative internship, depending on the institution where the internship takes place.<sup>52</sup> A compulsory internship is conducted in courts of general jurisdiction and alternative internships are conducted in notaries' offices, prosecutor's offices or other administrative institutions. According to Art. 25 of the Law each institution conducting internships has an internship coordinator who:

- a) conducts and supervises the internships of the students of justice.
- b) grants qualification scores and written recommendations to the students of justice assigned to them at the end of the internship.
- c) submits to the Head of Internship a report on the activities carried out concerning performance of the program at the end of the internship.

It seems that within the institutions the internship coordinator is the person who takes care of the education/training of the trainee and, at the same time, has a supervisory role. According to the information received during the working group meeting, the coordinator is responsible for assigning daily tasks, which would include the drafting of decisions and preparing procedural documents and other assignments within daily court practice. Considering this point, it seems that the internship is very well developed and focused on practical exercises. This is especially true as according to the information received during the meeting, all mentors are selected among experienced judges and receive special training and clear guidelines for each group to be trained with regard to the objectives and practical aspects of the internship.

Experts are convinced that a daily appraisal through the coordinator might be too time consuming and shift the focus of the relation between trainee and mentor (coordinator) more towards a "constant evaluation" relation than towards a "knowledge transfer" one. However experts would like to stress that they have not had the same insights as members of the delegation, who have pointed out that experiences with weekly evaluation had a

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<sup>50</sup> Art.23. Final Examination of the Theoretical Course and Rules of Conducting it.

<sup>51</sup> Art 28.Final School Examination.

<sup>52</sup> The candidate judges must fulfill the requirements of the compulsory internship; if they have time and wish – in addition they can undergo alternative one too. Although such an opportunity exist, in practice, due to the intensive nature of the compulsory internship, the candidate judges have no time for the alternative one.

negative impact on the quality of evaluations of the mentees and was therefore a reason for moving towards daily evaluation.<sup>53</sup>

### **Summary and recommendations**

Making the initial training mandatory for future judges and consisting of various modules that also include a three month traineeship are positive developments. Therefore, the trend to constantly shorten the training period should be reversed.

Experts also recommend to improve and apply a better methodology for early identification of the number of judicial vacancies arising and the number of future judges needed. It would be an excellent initiative to reflect the good practice of coordination/mentorship responsibilities and work in the regulations, for instance by making reference to the qualities and level of experience of coordinators and describing the training they undergo in great details.

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## **Moldova**

### **Current situation**

The organisation of initial training courses is regulated in Art. 14 of the Law on the NIJ. It lasts for 18 months and includes theoretical and practical training. As a matter of principle, the law foresees separate training for judges and prosecutors but also allows for some mixed groups (Art. 14, II Law on the NIJ).

There is one crucial clause in Para. IV of the same provision, according to which the candidates for the position of judge or prosecutor are entitled to a monthly scholarship equal to 50 per cent of the basic salary of a court judge. This provision allows candidates to fully concentrate on their studies and at the same time shows appreciation to the State for their training. Both factors contribute to successful and effective training and therefore the experts regard this as a positive progression.

A separate Regulation on Initial Training and Graduation, approved in the meeting of the Board of the NIJ on 21 June 2007 and amended subsequently on different occasions, provides more detailed rules for the initial training courses for judges and prosecutors. It determines that the training has to be conducted in a three semester (two theoretical and one practical) structure and that the respective curriculum has to be coordinated with the Superior Council of Magistracy and the GPO. Taking into account the setup and role of the (newly created) Superior Council of Prosecutors (SCP), it should replace the GPO in this process of coordination. Keeping in mind the roles of these two bodies for the training and career development of judges and prosecutors, their involvement in the development of the curricula is very positive. The curriculum (general list of topics) also includes “Human Rights.”

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<sup>53</sup> The Deputy Director of the School was convinced of the benefit of such daily assessments; the weekly assessments tested earlier seemed to be shallower. While this system may appear administrative *prima facie*, in practice it seems to work well, as until now on average each mentor had only one trainee to coach. The delegation explained that approximately 65 experienced judges from large-size courts have been identified as coordinators and perform this work on a voluntary basis. It is considered an honour and prestigious to work with trainees.

Chapter II of this Regulation describes more specifically the three semester-long initial training. It determines that the first semester is organised jointly for judges and prosecutors. The benefit of joint training, namely improving the understanding of both professions has already been described numerous times and it is very positive that the Moldovan NIJ has taken this idea on board.

Another milestone with regard to the initial training, which can be found in the same Regulation, determines that the third semester is organised as an internship and that during the period of the internship, one day every week, the trainees should attend practical courses which include moot courts and drafting procedural documents.

Details of the internship are stipulated by a separate Regulation on Organisation and Holding of Traineeship for Trainees of the National Institute of Justice and Candidates for Positions of Judge or Prosecutor. Para. 4 of this Regulation lists the objectives of the internship and therefore it can be regarded as a guideline for both, trainees and mentors. The list clearly shows the strong practice-related nature of the internship.<sup>54</sup> A special curriculum for internship was approved by the NIJ Council on 10 June 2011.

In the experts opinion, it is very positive that during the semester all trainees have a chance to look at the different professions that are closely linked with the judiciary and that e.g. candidate judges beside spending sixteen weeks in court , two weeks in the Prosecutor's Office, two weeks in criminal prosecution offices and one week at the Bar. This way the understanding for the whole chain of justice is improved and a common understanding within the system is built up.

A decisive factor for the success of the traineeship is the mentors' involvement. To this end the Regulation stipulates in the Para.6 that "the traineeship mentor shall be appointed from among judges, prosecutors, criminal prosecution officers and advocates having a high level of theoretical and practical knowledge, by the head of the above mentioned institutions."

It has been explained by the Moldovan delegation that the NIJ pays a supplement to the salaries for mentors for coaching the trainees and in fact, a competition exists for this role. In these circumstances it would be important to develop a system of measuring the mentor's coaching qualities and to take these results into account during future appointments. The experts also advise the offering of some special training sessions for

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<sup>54</sup> 4.Objectives of traineeship:

- strengthening and deepening of theoretical knowledge, development of skills acquired during the initial training;
- development of practical and professional skills;
- acquiring knowledge of the rules of professional behaviour and moral qualities specific for this profession;
- acquiring knowledge of the administrative system, the specificity of the activity of the institutions where the traineeship takes place and normative acts, regulating their activity;
- using management instruments for monitoring and flexible realisation of practical activity;
- cooperating with all parties involved in the professional activity;
- development of professional skills necessary for the performance of the duties of a judge or a prosecutor;
- development of skills of drafting and editing procedural documents;
- using logical and legal arguments based on interpretation of the legislation of Republic of Moldova, jurisprudence of the Constitutional Court and the European Court of Human Rights and other international legal acts in the course of court proceedings.

(future) mentors. The one day event, as offered last year by the NIJ, was a very good step towards this direction.

### **Summary and Recommendation**

The NIJ has a clear and very practice oriented structure for its initial training courses. The trainees receive a scholarship which allows them to fully focus on their training without having to resort to other means of income.

It is a very positive development that judges and prosecutors have joint courses during the initial semester and that both groups of trainees gain experience in different institutions during their traineeship. The selection and preparation of mentors could be improved. The concrete initial training curriculum is not a part of this appraisal.

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## **Ukraine**

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### **Current situation**

The initial training of candidates to a judicial position consists of theoretical and practical training. It is organised by the National School of Judges of Ukraine and conducted by High Law Schools approved by the High Qualification Commission. Its curriculum, timetable and procedure are approved by the High Qualifications Commission of Judges of Ukraine. Training lasts six months at the expense of the State Budget of Ukraine. During the training period the candidate for a judicial position shall retain his/her principal position and receive a scholarship of at least two thirds of the official salary of a judge from a local court of general jurisdiction.

Although the law is in force, the process of initial training has not yet been launched. At present, the National School of Judges of Ukraine carries out the preparatory work for the introduction of the mandatory initial training and develops a concept and educational program for candidates to the position of judge. Experts were informed that it is envisaged that the initial training will consist of 40% theoretical and 60 % on-job training. The experts did not have access to the drafts regulating this issue at the time of drafting this report.

### **Summary and recommendations**

The legislation in force requires some comment on the following issues: the duration of the initial training, the topics of the training, the practical part of the initial training and the role and position of the High Law Schools.

The duration of the initial training is connected to the length of professional experience. Therefore the CCJE's opinion on this issue is that "depending upon the existence and length of previous professional experience, training should be of significant length in order to avoid its being purely a matter of form."

The minimum initial training time should be at least one year. The current requirement of six months training will not provide the detailed, in-depth and diversified training required. The clear-cut timeframes of both parts of the training course are a prerequisite. The timeframes of the training should be precise and clear, with the date when it starts and



when it is expected to finish, making the timeframes of the recruitment and evaluation processes known. The time span between both parts of the special training must be elucidated. The time frames must take into account the time for appealing the decisions during the training process.

The European Charter on the Statute for Judges recommends that the training of judges should not be limited to technical legal training but should include social and cultural issues in order to ensure that the judge are independent from social bias. As a result, the CCJE recommends “that these theoretical and practical programmes should not be limited to techniques in the purely legal fields but should also include training in ethics and an introduction to other fields relevant to judicial activity, such as management of cases and administration of courts, information technology, foreign languages, social sciences and alternative dispute resolution (ADR).” The current legal situation in Ukraine is not a guarantor of this kind of training as it is entrusted with the High Law Schools.

The schooling part should mostly be focused on the knowledge of the candidates in the areas mentioned, whilst the internship part should target developing judicial skills (case management, court room management, drawing up of judgments, interactions with parties, lawyers, prosecutors, witnesses, expert witnesses, etc.) and the proper attitude of candidates. The notion of practical training needs clarification. It must be stressed that the training that provides a sort of apprenticeship under the supervision of an experienced judge (mentor) is of great value. It should include work with a mentor who imparts knowledge and professional advice on the basis of concrete examples, showing what approach to take and avoiding any kind of didacticism. The apprenticeship should provide candidates with the ability to manage the courtroom and the skills to manage cases and to deal appropriately and sensitively with the persons involved.

In order to achieve this goal the National School should exercise the monopoly on the execution of practical training, and should play an important role in the theoretical part of the training. It should not be treated as only an organiser.

The law prescribes that the High Law Schools will conduct the judicial training. In the light of the remarks made above, the feasibility of this provision might be questioned.

The law provides that there might be many law schools active in the initial judicial training process and all that will be approved by the High Qualification Commission. This may lead to the following ambiguities. It might lead to a serious diversification of the level of knowledge and skills of the trainees. This system cannot guarantee the uniformity of the judiciary. The possible differentiation of the level of initial judicial education might lead to unfair competition as the candidates with different level of initial training will have to compete during the final exam. Finally, the capability of the High Law Schools to provide the required and diversified training described above can be questioned. It should be clarified in the law, at least on grounds of principle, how the successful candidates would be directed to specific theoretical training institution.

### **General Conclusions on Initial Training**

In general, it can be said that there are attempts to institutionalise initial training in all participating countries. The initial training consists of schooling and traineeship phases and is mandatory in all countries (except **Ukraine**, where the relevant legislation is

already in place, though still not enforced).

Some countries meet this obligation of initial training more fully than the others but meet fewer of the CCJE standards for initial training of judges. It seems that the biggest deviations are observed in the duration and the content of the initial training programme. The duration of the traineeship and its content should be improved to avoid the possibility that the traineeship becomes just a matter of formality. Initial training should be of significant length, at least of one year, with 6 months for the schooling and subsequently 6 months or less for the internship part.

Based on the curricula that were made available to the experts, in most of the countries the content of the initial training curriculum seems to be rather theoretical. Experts recommend regulating the creation of training curricula in the bylaws which would guarantee the proper balance of theoretical and practical training topics. The ECHR should also be mainstreamed in the curricula.

The methodology of training merely focuses on transferring knowledge rather than on transferring the skills needed for a judge to master ‘judgecraft’. In order to improve the training methodology the experts recommend that all trainers/lecturers/mentors, pass Training-of-Trainers (ToT) courses where the ‘judgecraft’ aspect is carefully dealt with. Furthermore the selection of trainers should be based on a trainer’s profile and pre-defined in the bylaws.

All countries (except **Moldova**), train judges and prosecutors separately. Once again the experts would like to restate the importance and value of joint trainings among all members of the legal professions. It is recommended to start gradually by introducing joint courses for judges and prosecutors to provide better understanding among both professions.

There is a need to strengthening the capacities of National Training Institutions (NTIs) to be able to secure quality in all trainings. The training institutions should do more than just the administrative and logistical support of the trainings. They need to be more involved in the whole training cycle - from the phase of design until its evaluation.

## 5. In-Service Training

### *Relevant European Standards*

Initial training, delivered before or on taking up duties, must be complemented by lifelong learning to help legal practitioners to stay up-to-date and to know where and how to acquire new skills and information. In the course of their career, judges must receive training which keeps them abreast of important new developments, such as recent trends in legislation and case-law, social trends and relevant studies on topical issues or problems. The in-service training should be detailed, in-depth and diverse (Para.4 Opinion No 4 CCJE). It should extend beyond the technical field of law to areas of important social concern, as well as courtroom and personal skills; it should aim at equipping judges with skills which would enable them to manage cases and deal with all persons involved appropriately and sensitively. Training is essential for the objective, impartial and competent performance of judicial functions, and also to protect judges from inappropriate influences (Para.5 Opinion

No 4 CCJE). States should have regard to the judges' time away from the courts for training purposes as an investment in the quality of justice. States also have a duty to make available to judges the financial resources, time and other means necessary for in-service training.

### ***Nature of Judicial Training (mandatory or voluntary)***

In-service (or continuous) training is available in all European States but *is not always obligatory*. In-service training must be attractive enough to induce judges to take part in it, as participation on a voluntary basis is the best guarantee for the effectiveness of the training. This should also be facilitated by ensuring that every judge is conscious that there is an ethical duty to maintain and update his or her knowledge.

The amount and nature of continuing training for individual judges should depend on various factors, including the nature of the judicial system and the extent to which judicial career progression or judicial specialisation are features of the system. Continuing training at all levels of the judiciary should be promoted and the culture of continuing training should be disseminated among members of the judiciary, making available to judges the financial resources, the time and other means necessary for continuing training.

Moreover, there are some European countries where judges acquire new responsibilities when they take up new posts, assuming a specialised jurisdiction in a specific legal area or assuming new judicial offices such as the presidency of a chamber or court. In those legal systems continuing training programmes offer the possibility of training in the event of career changes or even impose attendance to an appropriate training course before the required authorisation for the career change is granted. Consequently, decisions to promote judges may, at least in part, depend on their record in updating and improving their knowledge and skills, for instance by participating in continuing training activities. In the same vein, judges who want to change to a division dealing with another area of the law may be required to refresh their knowledge and skills necessary to work in that division and extra training may also be required if a judge wants to work in a specialised area of the law.

Continuing judicial training should therefore be considered a right of every judge, as well as a duty imposed on judges by judicial ethics, since judges should constantly update their knowledge and develop their proficiency.

As a result of this diversified need for in-service training in practice, the CCJE recommends that *“the in-service training should normally be based on the voluntary participation of judges”* although *“that there may be mandatory in-service training only in exceptional cases; examples might (if the judicial or other body responsible so decided) include when a judge takes up a new post or a different type of work or functions or in the event of fundamental changes in legislation”* (Para. 37 i and ii, CCJE Opinion No 4).

### ***Training Assessment***

According to Opinion No 4 of the CCJE, paragraph 37 and 38, *“training programmes should take place in and encourage an environment, in which members of different branches and levels of the judiciary may meet and exchange their experiences and achieve common insights”*. *“In order continuously to improve the quality of judicial training, the organs responsible for training should conduct frequent assessments of programmes and*

*methods. An important role in this process should be played by opinions expressed by all participants to training initiatives, which may be encouraged through appropriate means (answers to questionnaires, interviews)."*

*"While there is no doubt that performance of trainers should be monitored, the evaluation of the performance of participants in judicial training initiatives is more questionable. The in-service training of judges may be truly fruitful if their free interaction is not influenced by career considerations." The CCJE recommends "that, in principle, participation in judges' training initiatives should not be subject to qualitative assessment; their participation in itself, objectively considered, may however be taken into account for professional evaluation of judges" (Para. 42 ii, CCJE Opinion No 4).*

### **Regulatory Framework of the Participating Countries**

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#### **Armenia**

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##### **Current situation**

In-service training is mandatory for judges and individuals included in the List of Judicial Candidates<sup>55</sup> and the Official Promotion List. Both categories, aspiring and practicing judges, are required to participate in the mandatory training hours, especially considering the fact that sometimes 2-3 years pass between the time the person is put on the list until the taking of the post.

Para. 2, Art. 193 of the Judicial Code defines the minimum and maximum hours for in-service training "... *no fewer than 80 and no more than 120 academic hours per annum.*" Based on the guidelines given by the Qualification Committee, the Judicial School develops a training programme and presents it to the Board for approval, before 1<sup>st</sup> November each year. The training is organised in two sessions: namely the winter and spring sessions. Before each session a list of courses/subjects to be taught is prepared and sent for approval to the School's Board. From the approved courses some are mandatory and some are elective and therefore can be chosen by judges themselves. In addition, judges have a right to participate in other educational and training programs, conferences, and other professional gatherings of lawyers (Para.1, Art. 77, Judicial Code).

Although training is defined as mandatory, there is great freedom and flexibility for judges to choose what suits them most. The mandatory aspect is seen as an exceptional case in terms of the CCJE recommendation "*in the event of fundamental changes in legislation*" which is the case in Armenia. Therefore the mandatory part is fully justified and in line with the EU standards and best practices.

The trainers themselves are responsible for the training curriculum development as well as for the training materials. The selection of trainers is done the same way as for the initial training. The Judicial School administration is providing only logistical support for the training. As a result, the School has limited control over the content and quality of the training and therefore is not confident if the training has reached the desired outcome.

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<sup>55</sup> Candidates who have completed the initial training and waiting for appointment to judge's position.

The School is also responsible for the “continuing training” of judicial servants organised with one purpose only - to prepare them for the re-qualification exam organised every three years.

### **Summary and Recommendation:**

Mandatory in-service training, according to the experts’ opinion, is a good solution for the current situation in Armenia, having in mind the fact that the country is implementing several reforms in parallel and the legislation changes frequently.

Greater involvement of the professional staff in the Judicial School at the stage of design, implementation, monitoring and evaluation of the training activities should bring better results and secure quality of the training programmes.

There is no habit of training evaluation in Armenia. Only training sessions supported by international community requires evaluation through questionnaires, thus trainees/judges are still reluctant to evaluate the training as well as trainers (who in most of the cases are their colleagues). To improve the quality of in-service training, continuous evaluation should be introduced. The Experts recommend at minimum to assess the training at the end of each session through evaluation questionnaires and post-training assessment after six months period that will serve as an improvement tool but also as a tool for identifying future training needs.

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## **Azerbaijan**

### **Current situation**

In-service training of Judges is arranged by the Judicial-Legal Council together with the Academy. The contents and duration of the in-service training of judges in the Academy are determined on the basis of specialisation programs elaborated in compliance with the state education standards and taking into account the needs of the Judicial Legal Council together with the Academy.

The Law of the Republic of Azerbaijan on Courts and Judges envisages, for the first-time appointee judges, appointed for five years, obligatory participation in the in-service training at least once a year during this period. For other judges participation in the training is voluntary.

The duration of the in-service training courses for judges is 1-2 days (eleven training sessions on seven different topics in 2011)<sup>56</sup> or 5 days (seven training sessions on five different topics in 2011).□<sup>57</sup>

According to the information provided by the delegation during the working group meeting, the process of the preparation of in-service training curricula is not formally regulated and there are no relevant bylaws. The practice described by the delegation consists from annually sending a letter of request prepared by the Judicial-Legal Council to

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<sup>56</sup> Presentation by Elchin Khalafov, Justice Council of Azerbaijan Republic on Professional training of Judges of 13th October 2011.

<sup>57</sup> Presentation by Elchin Khalafov, Justice Council of Azerbaijan Republic on Professional training of Judges of 13th October 2011.

all courts/court chairmen to provide them with the ideas and requests for the in-service training courses. The Judicial-Legal Council drafts tentative plan and training topics based on feedback from the courts.

### **Summary and recommendations**

The CCJE recommends that the in-service training should normally be based on the voluntary participation of judges. There may be mandatory in-service training only in exceptional cases. The current situation in Azerbaijan is in line with this recommendation and therefore the obligatory training for judges at the beginning of their career and before the life appointment is fully justified.

It is important to diversify training methods and apply appropriate methods for achieving the aims of each given training session. The Academy should not be obliged to apply the state education standards. Firstly, this potentially jeopardises the independence of the training process of the judiciary. Secondly, the adult education requires specific methods and forms based on the andragogy rather the pedagogy. Lastly, the training of judges, due to their needs, tasks and constitutional position should be treated with special care.

Training programmes should be drawn up under the authority of the judicial or other body responsible for initial and in-service training and by trainers and judges themselves. Experts recommend regulating the process of the establishment of training curricula based on the following training circle. The creation of training curricula must be based on extensive analyses of the training needs of the judges from different courts of different instances, on analyses of the perception of judges and the judiciary in the society, as well as on analyses of the legal, social and economic reality. This should be a foundation for selecting the training topics, methodology, form and duration of training sessions and the profiles of trainers. All of the above should be evaluated in a way that ends the process of creation of the curricula from the one hand and from another is a starting point for the analyses of training needs for the following curricula.

The in-service training curriculum should focus on legal and other issues relating to the functions performed by judges. It must provide a wide range of in-service training sessions. Training activities should provide the possibility to enhance the knowledge, skills (including soft skills) and attitude of trainee judges. The training curricula of the Academy of Justice do not offer a necessarily wide range of training topics. It focuses mostly on the legal issues; only in exceptional cases it covers skills training. The offer of in-service training should be broader and more diversified.

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## **Georgia**

### **Current situation**

As described in the sections above, the School is also responsible for planning and implementing the in-service training of judges (see also Art. 1, Para. III; Art. 32 Law on HSoJ and Art. I, Art III of the Statute).

Art. 33 of the Law on HSoJ determines that it is the duty of the deputy director to draw up the programme of activities, after agreement from the Council of Lecturers. In Para. V of the same article, it is also stipulated that “during the drawing of training programmes, the

School shall apply for recommendations to chairmen of cassation, appellate and first instance courts". At the first glance, it seems that the current system of preparing training programmes is mainly based on the ideas and input of the Deputy Director and some selected courts. Such a system would not ensure a demand driven in-service training programme. However, experts learned during the working group meeting that in practise the Deputy Director is coordinating the input from all judges (who receive questionnaires), trainers, NGOs, Supreme Court and others, who are all given the chance to express their training needs or ideas of judges' training. Such a system, if implemented correctly, will build a good basis for putting together training curricula which fully reflects the current training needs of the judiciary. It is a lengthy process of 3 - 3,5 months coordination among these stakeholders. The Deputy Director is only responsible for coordinating these discussions and shaping the results into the finalised programme. In order to safeguard the continuation of current practise it is advised to explain the role of the Deputy Director and the process more explicitly, in more details, in the respective regulation.

The Georgian law gives judges the right to participate in in-service training activities and to choose their courses from the annual programme (Art. 34 Law on HSoJ). Each application for a training course has to be approved by the Board of Directors and refusals have to be well-founded. In return, judges also have to give reasons for their specific application. The system seems to be quite complicated and applications or certain training that have to be explained by judges are hardly compatible with the judges' right to a training programme.

It would be much easier to control the situation if one assumed that judges can decide on their own which training events are most helpful to them and which are not. The fact that, according to the Georgian delegation, an explanation is never required does not change the appraisal in this point. The experts recommend removing these clauses from the text of relevant legislation.

### **Summary and recommendations**

Fixing the guiding principles of the current system of assessing the training needs of judges in the respective regulation is advised in order to safeguard current good practise. The experts also recommend removing the clauses from the Law on HSoJ requiring the Board's approval of a judge's request for in-service training.

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## **Moldova**

### **Current situation**

The law on the NIJ contains only one article with regard to in-service training. Article 19 stipulates that:

- (1) The Institute organises in-service training of judges and prosecutors, based at the annual program. The program is submitted to the Board for approval, but not later than July of the year preceding the academic year envisaged by it;
- (2) The judges and prosecutors have a right to continuous training and may choose from the subjects proposed by the program, but they have the duty to cumulate at least 40 hours of training annually. The selected subjects are communicated to the Institute by the end of October;
- (3) The Board can establish compulsory subjects for judges and prosecutors respectively.

This Article establishes that one can build on the concept of a modern training programme with few words. The provision stipulates that in-service training is a right of judges but that they have to accumulate at least 40 hours of training per year. Thus, it reflects European best practices.

However it has to be noted that the right of the NIJ Board to establish compulsory subjects is very disputable. The experts do not see any justification for giving this body decision-making power on the issue of mandatory training, which could be regarded as an infringement of judges' independence. It should be the SCM and SCP determining the matter of mandatory training.

In comparison with older regulations, the current one has been significantly improved as now the judges have a right to choose their training topics and only some compulsory subjects could be imposed. It is important to ensure that this right is implemented in practice and that judges have a real possibility of choosing the topics they deem relevant for their professional development. The long promised database of courses and participants, as well as the possibility of online registration, is not yet in place.

The details stipulated in the Regulation on In-Service Professional Training, as approved by the NIJ Board on 21 June 2007, are slightly confusing. According to this regulation the curricula for in-service training should be coordinated with the Superior Council of Magistrates (SCM), the GPO and the MoJ. It remains unclear if each institution has to agree to the curricula of each profession, or if the GPO has to agree to the in-service training of prosecutors only and the MoJ has influence only on the curriculum for bailiffs and court secretaries or also for judges and prosecutors. It is also unclear what happens if a consensus between the stakeholders cannot be reached.

It is a worthy idea to establish the rule that “in the process of drafting of a curriculum on in-service training there should be taken into consideration (not obligatorily, however) the suggestions of the Council of Europe, of future trainees, of the Institute’s trainers and of other specialists in fields of law and civil society, as well as the practices of other states and the assessment of results of training in previous years,” but in practice it will be of no real relevance if there is no coordination mechanism in place. The first and so far the only comprehensive Training Needs Assessment (TNA) has been developed and conducted by the Joint Programme of EU and CoE entitled “Increased Independence, Transparency and Efficiency of Justice” and should be repeated on a regular basis.

As mentioned above, the law clearly stipulates that judges and prosecutors “... may choose from the subjects proposed by the programme.” This right, which is the backbone of a modern form of in-service training, is undermined by Para. 2.5 of the regulation which stipulates, with regard to the selection of attendees, (undertaken by the SCM, the GPO and the MoJ) that the “...preferences of judges, prosecutors... should be taken into account”. Not even the detailed description of the selection process and ranking the participants depending on their preferences that follows, can mend this contradiction in the law.

The Regulation on in-service training does not refer to evaluation of in-service training programmes by judges and prosecutors, but provides for such evaluation after each course when the beneficiaries are “other professions contributing to administration of justice”. Despite this lack of regulation the NIJ evaluates some of the training courses for judges and draws conclusions for their improving.



The statistical data provided in the chapter “Activities of In-service Training” of the Activity Report of the NIJ for 2010 (the latest published report at the time of preparation of this report) reveals a number of troubling facts:<sup>58</sup>

- in 2010 there were 82 events organised relating to the in-service training of judges and prosecutors, sometimes also including lawyers, court clerks, bailiffs etc. The majority of them were financed by development partners. Judging by the covered topics, most of them are proposed by the donors and are based on the priorities of these organisations. Therefore it can be affirmed that in-service training programme of the NIJ is driven by donors rather than by demand;
- 291 judges (67% of the total number) participated in one of these training events, usually lasting 1-2 days. To conclude, judges are not offered the possibility to fulfil the legal obligation for cumulating the 40 hours of in-service training and the later is not implemented in practice;
- few training sessions are dedicated to non-legal skills. Even if it can be argued that older judges need more training on modern legal concepts and recent legislation, lack of programmes for developing non-legal skills related to judges’ profession is a result of the insufficient capacity for developing such training.

### **Summary and recommendations**

The in-service training in Moldova has a very modern legal basis in Art. 19 of the Law on NIJ. The corresponding regulation on in-service training does not contribute to more clearly defining the process and is partially in contradiction with the law. Experts therefore suggest overhauling the said regulation to bring it into full compliance with the law.

The high management of the NIJ must fight for its financial and academic independence, especially to counterbalance the donors influence, as the latter seems to cover most of the expenses related to the in-service training of judges. With their financing, the external partners tend to bring in their priorities and to a large extent substitute the lack of capacities (human resources included) on the NIJ’s part by their own, jeopardising the sustainability of the NIJ. It is of major importance that the state budget of the Republic of Moldova provides the NIJ sufficient means for organising in-service training courses which would suffice to cover the statutory obligation of judges and prosecutors to undergo at least 40 hours of in-service training per year.

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## **Ukraine**

### **Current situation**

According to Art. 54.3 of the Law on Judiciary and Status of Judges, a judge has a right to improve his/her professional skills and, for that purpose, take appropriate training.

The Ukrainian law distinguishes two kinds of in-service training: obligatory training of judges and voluntary or periodical training.

The scope of this obligation to undergo in-service training is defined in Art. 54.6 in the Law on Judiciary and Status of Judges.<sup>59</sup> A judge appointed for the first time to a judicial

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<sup>58</sup> [http://inj.md/files/u4/Raport\\_privind\\_activitatea\\_INJ\\_in\\_anul\\_2010.doc](http://inj.md/files/u4/Raport_privind_activitatea_INJ_in_anul_2010.doc)

<sup>59</sup> Repeated in p. 3.1 of the Procedure for Training of Judges and Court Staff at the National School of Judges of Ukraine, approved by order of the Rector of the National School of Judges of Ukraine, 6 June, 2011, №

position shall be required to take a two-week training course annually in the National School of Judges. A judge holding a lifetime judicial position shall be required to take a two-week training course not less than once every three years.

The obligatory in-service training is designed to be threefold: training of judges appointed to a judicial position for the first time, elected to a lifetime judicial position and appointed to administrative positions in courts. The chief judge of a local court, a Court of Appeal and a High Specialised Court, ensures compliance with the requirements regarding the in-service training of judges of the court. The voluntary, periodical training is defined in Para.3.2 of the Procedure for Training of Judges and Court Staff.<sup>60</sup> It is performed at the request of judges.

The in-service training is conducted in accordance with the Model Plan of Training, separate for each appropriate category of judges and staff of court apparatus; also according to the schedule of training for judges and court staff and the program of training of the relevant category of judges and court staff appointed for a fixed term.

The schedule is developed for one year and approved by order of the Rector of the NSJU. The Model Plan provides a list of topics distributed in separate spheres of law, and the recommended duration for teaching in the framework of training. Training is conducted in accordance with the Schedule and is based on the programme. Development of the program is the responsibility of the department for judges and court staff of the NSJU which is under the supervision of the Pro-rector for training for the judicial staff and is approved by him/her not later than one week before the start of training.<sup>61</sup>

The trainers in the in-service training sessions are judges from courts of all instances and staff members of the Ukrainian institutes of higher legal education. They are selected by the Rector of the NSJU on the basis of the proposals made by the department of judges and court staff and regional offices of the NSJU.<sup>62</sup>

In 2011, during 9 months, the National School of Judges (including training organised by regional branches) has trained 3037 judges through the in-service training sessions.

### **Summary and recommendations**

In-service training is not extensively covered in law. It focuses on the obligatory nature of the training. The process of in-service training is elaborated more in the Procedure for Training of Judges and Court Staff at the National School of Judges of Ukraine, approved by order of the Rector of the National School of Judges of Ukraine, 6 June, 2011, amended on 1 February, 2012.

Chapter 4 of this Procedure provides the details of the process of the planning of in-service training. This regulation is unbalanced in the sense that it is fairly explicit in certain

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220 as amended on 1 February, 2012, № 7a.

<sup>60</sup> Para.3.2. Procedure for Training of Judges and Court Staff at the National School of Judges of Ukraine, approved by order of the Rector of the National School of Judges of Ukraine, 6 June, 2011, № 220 as amended on 1 February, 2012, № 7a.

<sup>61</sup> Chapter 4 Procedure for Training of Judges and Court Staff at the National School of Judges of Ukraine, approved by order of the Rector of the National School of Judges of Ukraine 6 June, 2011, № 220 as amended on 1 February, 2012, № 7a.

<sup>62</sup> Para.5.17 Procedure for Training of Judges and Court Staff at the National School of Judges of Ukraine, approved by order of the Rector of the National School of Judges of Ukraine 6 June, 2011, № 220 as amended on 1 February, 2012, № 7a.

respects, as for instance determining the schedule of trainings (Para.4.4), but rather reticent in others, such as conducting analysis of training needs, participation of the judiciary in establishing the curricula, etc. It is dominated by provisions of a technical nature and is lacking the regulations specifying policy. It declares creating the conditions for the participation of the judiciary in the preparation of the Model Plan, schedule and programme but does not provide the legal tools for these tasks.

The activities of the institutions responsible for in-service training, as regards the procedure of training, must focus on three elements: the analysis of training needs of the judiciary, the creation of the curricula of on-going training and their evaluations, with all of this being part of the analysis of training needs and starting the following process. Creation of training curricula must be based on the extensive analysis of the training needs of judges of different courts of different instances, the analyses of the perception of judges and the judiciary in society, as well as on the analyses of the legal, social and economic reality and the changes and challenges of Ukrainian society.

The aim of evaluating training is to determine the effectiveness of a training course or programme. Therefore, much thought and planning should be given to the programme itself to make sure that it is effective. In order to continuously improve the quality of judicial training, training institutions should conduct constant assessments of programmes, methods and trainers.

The curricula must provide a very broad span of in-service training events. Training activities should provide the possibility to enhance the knowledge, skills (including soft skills) and attitude of trainee judges. It should include training in ethics and an introduction to other fields relevant to judicial activities, such as the management of cases and the administration of courts, information technology, foreign languages, and social sciences.

The Ukrainian model, as defined in the Procedure for Training of Judges and Court Staff, does not offer that. The Model Plan provides a list of topics distributed in separate spheres of law (p. 4.7.), lectures aiming to develop the basic knowledge of certain subjects (5.3.), and the main didactic goal of the workshop is an expanding, deepening and detailing of knowledge (5.5.). Short-term seminars are devoted to the most topical legal issues (5.11.) however it must be noted that the Model Plan for training approved in December 2011 provides for training sessions on non-legal issues, as well as aiming at the development of the skills of judges.<sup>63</sup>

The issue that needs some clarification is the duty of serving judges to undertake training. This duty is applicable for both first-time appointed judges and lifetime appointed judges. Presidents of courts are made responsible for ensuring that judges fulfil this requirement. Several questions arise: what are the consequences of not complying with this duty? Will it influence to any extent the status, position or rights exercised by a judge? Will non-

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<sup>63</sup> To name some: Judiciary and media; Psychology of the judge's work and the psychological aspects of dealing with court cases; Psychology of personnel management; Psychology of court hearings; Means of optimising interpersonal relationships of court staff, relationship with the judge's assistant judges, court secretary, and other staff of the court; Psychological and social factors and their impact on judicial proceedings in the courts; Preventing burnout effect; Art of legal writing and procedural documentation; Use of technology in court's work; Art of being a judge: personal and procedural ethics; Ethical aspects in the formation of professional skills; Code of Judicial Ethics; Managing court hearings; Communication with the parties who are not familiar with the requirements of the judicial process, etc.

compliance by first-time appointed judges influence his/her lifetime appointment? The law should regulate this issue once the obligatory training is enacted. In case the violation of this obligation is not sanctioned, it is advisable to attract judges with the quality of training and not with their duty to participate.

The other issue to be mentioned is the scope of ongoing training. The law provides for obligatory training sessions lasting two weeks. It is doubtful if one long single training session will answer the training needs of any judge. Ongoing training should rather answer the different training needs, depending on the professional profile of a judge – his position, jurisdiction, knowledge, shortcomings, skills and attitude. The amount and nature of continuous training for any individual judge should depend on various factors, including the nature of the judicial system and the extent to which judicial career progression or judicial specialisation are a feature of the system.

Finally, on the one hand, the provision that training is held in the state language of Ukraine is understandable;<sup>64</sup> however, if strictly followed, this might create obstacles to perform linguistic and other international training.

### **General Conclusions on In-Service Training**

In-service training is mandatory in all reviewed countries (except **Georgia**). Although the CCJE recommends that the training “*should normally be based on the voluntary participation of judges*”, the mandatory approach in these countries is justifiable. The defined mandatory hours are in line with the exemptions listed as exceptional cases in the CCJE recommendation (Para. 37 i, CCJE Opinion No 4).

However, five reviewed countries have very a different approach when it comes to choosing the training topics. In some countries judges are free to choose the topics (**Azerbaijan, Moldova, Georgia and Ukraine**), in others they can choose freely only a certain percentage of the topics/mandatory hours (Armenia) or they can be imposed with compulsory topics if a need arises (**Moldova**). Also in some countries they make a distinction in the mandatory hours for newly appointed judges and life-long appointed judges (**Azerbaijan and Ukraine**). All these different approaches are in line with European standards and best practices.

In order to improve the quality and the efficiency of training the experts recommend:

- to build the process of preparation of the training curricula on extensive training needs analyses (TNA) based on the information received from the judges from different courts of different instances but also including other sources of information such as opinion polls, country reports, analysis, studies, etc.
- to improve the quality of in-service training, continuous evaluation should be introduced. It will serve as an improvement tool but also as a tool for identifying future training needs.

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<sup>64</sup> Para.5.19 Procedure for Training of Judges and Court Staff at the National School of Judges of Ukraine, approved by order of the Rector of the National School of Judges of Ukraine 6 June, 2011, № 220 as amended on 1 February, 2012, № 7a.

## 6. Training in Human Rights

### Relevant European Standards

CCJE Opinion No 4, paragraphs 43-44, provides that “*Judges in Europe cannot ignore European law, be it the European Convention on Human Rights or other Council of Europe Conventions, or if appropriate, the Treaty of the European Union and the legislation deriving from it, because they are required to apply it directly to the cases that come before them. In order to promote this essential facet of judges’ duties, the CCJE considers that member states, after strengthening the study of European law in universities, should also promote its inclusion in the initial and in-service training programmes<sup>65</sup> proposed for judges, with particular reference to its practical applications in day-to-day work*”.

The Committee of Ministers Recommendation (2004) 4 Recommends that member states:

*I. ascertain that adequate university education and professional training concerning the Convention and the case-law of the Court exist at national level and that such education and training are included, in particular:*

- *as a component of the common core curriculum of law and, as appropriate, political and administrative science degrees and, in addition, that they are offered as optional disciplines to those who wish to specialise;*
- *as a component of the preparation programmes of national or local examinations for access to the various legal professions and of the initial and continuous training provided to judges, prosecutors and lawyers;*
- *in the initial and continuous professional training offered to personnel in other sectors responsible for law enforcement and/or to personnel dealing with persons deprived of their liberty (for example, members of the police and the security forces, the personnel of penitentiary institutions and that of hospitals), as well as to personnel of immigration services, in a manner that takes account of their specific needs;*

*II. enhance the effectiveness of university education and professional training in this field, in particular by:*

- *providing for education and training to be incorporated into stable structures – public and private – and to be given by persons with a good knowledge of the Convention concepts and the case-law of the Court as well as an adequate knowledge of professional training techniques;*
- *supporting initiatives aimed at the training of specialised teachers and trainers in this field;*

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<sup>65</sup> There are many initiatives promoting European law training where judges can share their experiences, implement joint programmes and promote knowledge of legal systems, thereby enhancing the understanding, confidence and cooperation between judges and prosecutors. These initiatives are undertaken by different institutions such as the CCJE, CEPEJ, European Institute of Public Administration (EIPA), Academy of European Law (ERA), Lisbon Network and the European Judicial Training Network (EJTN), supported by the CoE and EU. They contribute to the increase of public confidence in both national and transnational judicial institutions and enhance mutual confidence among judges from the different jurisdictions within the EU, consequently contributing to the attainment of a common European judicial culture.

*III. encourage non-state initiatives for the promotion of awareness and knowledge of the Convention system, such as the establishment of special structures for teaching and research in human rights law, moot court competitions, awareness-raising campaigns;*

With regard specifically to human rights training, for many years the CoE has been running training programmes and developing training tools in the field of human rights for judges, prosecutors and lawyers (for further details, see the website <http://www.coe.int/t/dghl/cooperation>). It must be noted that the annual reports on supervision of the execution of judgments of the ECtHR often point at the training of judges and prosecutors in the ECHR and the ECtHR's case-law as a necessary measure to remedy violations indicated in the ECtHR judgement.

All the EaP countries have benefited from these training programmes. Most recently, special emphasis was placed on strengthening the ownership of CoE member states over human rights training, in particular through the inclusion of the ECHR into the training curricula and the development of new training tools. This was first done through the European Programme for Human Rights Training for Legal Professionals (the HELP Programme) which was launched in 2006. Its aim was to integrate the ECHR in the initial and continuous training for judges and prosecutors throughout the 47 CoE member states. After it ended in 2008, a follow-up project was launched in 2009. The HELP II Programme's overall aim is to strengthen implementation of the ECHR in member states by raising the level of knowledge of the Convention and the case law of the European Court of Human Rights among all groups of national legal professionals. The methodology centres around training and self-learning, and the HELP II Programme develops and disseminates all the materials and tools necessary to this end.

The main interface is the HELP Website where the products are available free of charge, in a number of languages (<http://www.coehelp.org>). The types of resources range from thematic curriculum content over case studies, lecture notes, slides, and videos, to self- or group-learning E-courses aimed at illustrating the ECtHR's case law and the Court's principles of interpretation.

In addition, the HELP II Programme works directly with national training institutions and professional organisations to help them fulfil their role and make optimal use of the HELP products. The Programme also includes an important peer-to-peer and networking dimension, all with the aim of continuously enhancing the ability and readiness of the relevant national actors to use the Convention where it was intended, at the national level.

### **Regulatory Framework of the Participating Countries**

#### **Armenia**

##### **Current situation**

Within the initial training curriculum there is a special course on the ECHR implemented in 46 hours (22 hours dedicated to lecture, 22 hours to practice and 2 hours for exams). Training in human rights is conducted on an *ad-hoc* basis in a continuous training programme and is mostly a donor-driven activity. Even though the training is conducted irregularly, due to the vast international community presence there is a sufficient number of

training modules on different Articles of ECHR, as well as UN mechanisms and other relevant international human rights instruments.

In order to tailor the courses towards human rights needs and to make the training sessions more practical, a thorough revision of the whole curriculum is envisaged through the Joint Programme supported by the EU and implemented by the Council of Europe entitled “Support to Access for Justice in Armenia.”

### **Summary and recommendations**

The training in human rights should be included into the initial training for judges. The ECHR should be mainstreamed into different courses in the curriculum and training materials.

Human rights training should be based on ECtHR jurisprudence and therefore made more valuable for future judges as well as professional judges. The emphasis of the training should be based on a proper training needs analysis. The training manual on the ECHR prepared by the CoE Help Programme, as well as materials available through the HELP web page, could be a good starting point for improving the methodology of ECHR training.

## **Azerbaijan**

### **Current situation**

The initial training programme (curricula) for candidate judges consists of 520 in-class training hours, including 22 hours devoted to Human Rights protection issues, 6 hours of lectures and 16 of practical studies.

Three training sessions organised in 2011 were devoted to human rights issues: one, five days in length, on “Issues on application of international responsibilities in the area of human rights by the Republic of Azerbaijan” and two one day sessions on “The Case law of the European Court of Human Rights.”<sup>66</sup>

### **Summary and recommendations**

The goal of the judicial training in human rights is to familiarise all the judges with the basic issues of the system of Human Rights protection and to create a group of “judge specialists” who can become a source of information and a consulting point for all the other judges. Therefore, a systematic approach is required, based on the extensive analyses of training needs. Irregular sessions aimed at a limited number of judges will not increase the awareness of the judiciary to protect human rights.

The training methodology and profile of invited experts are important. The training should not be purely theoretical lectures on the standards and jurisprudence of the court in Strasbourg. Judges must see the real impact of the standards on their everyday work and duties and be taught how the judicial decisions can violate or observe these standards. Training must be practice-oriented.

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<sup>66</sup> Presentation of Elchin Khalafov, Justice Council of Azerbaijan on status of initial and continuous training for judges of Azerbaijan.

### **Current situation**

According to the information available on the website of the High School of Justice concerning the 2011 training curriculum, the School provides a one-week course covering a variety of human rights topics in the initial training for candidate judges. Training sessions are conducted by short-term experts. There is one day of training on international legal norms on human rights protection. During this training, the trainees discuss different international human rights conventions such as the Universal Declaration of Human Rights, the ECHR and its additional protocols, the UN Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, etc. The course focuses on the responsibilities of the Georgian state arising from these international legal instruments. A three-days training course is dedicated to the ECHR. The course focuses on the case law of the ECtHR, including discussions on the ECtHR case law with regard to Georgia. One day is also dedicated to the work of international courts. During the training, the trainees get to know the work of the existing international courts and the connections between them. The training focuses on the jurisdiction of these courts, their efficiency, their importance for national courts and their relation to national legislation.

The School also conducts follow-up training, usually focusing on specific articles of the ECHR (in 2011, the trainees discussed Articles 5 and 6 in-depth and the Court's case law in relation to them). The training is usually followed up with a study visit to Strasbourg, supported and organised by the CoE. In total, there are two weeks dedicated to human rights issues during the initial training for judges, which makes up approximately 9 % of the total theoretical part of the initial training.

As regards the continuous training for judges and court staff, on average the School conducts training once every two months related to human rights issues. 75% of the training sessions are dedicated to the ECHR and its case law. The remaining training covers UN human rights instruments, thematic issues related to the prohibition of torture and ill-treatment, rights of children and juveniles, women's rights, refugee and IDP rights, etc. The source of funding for these training sessions are mixed, with shared costs between international organisations and the School.

### **Summary and recommendations**

Human rights training is included in the initial training curriculum for judges and seems to ensure a proper balance between a theoretical and a more focused approach which takes into consideration the Georgian specifics (for instance the issue of application of international and European law into the Georgian legal system).

The only shortcoming that the experts can identify is the use of short-term experts in human rights training sessions rather than judges' or prosecutors' national trainers (this applies both to initial and continuous training). As it was previously stated, a better approach would be to establish a pool of permanent human rights trainers who would be a contact point for their Georgian colleagues on human rights related issues. This would ensure a better sustainability of human rights training. The Georgian authorities are encouraged to



take such a step, also bearing in mind that the issue of sustainability might become more sensitive should donors decide to decrease the level of their support in the future.

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## **Moldova**

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### **Current situation**

Within initial training the ECHR is expressly mentioned giving it a legal basis for sufficient training in this field. The respective regulation foresees that for the development of the ongoing training the law and proposals of the CoE should be taken into account so that for the time being there is a certain guarantee that the human rights aspect is included in the curriculum. The concrete human rights curricula have not been appraised during the drafting of this report.

### **Summary and recommendations**

There are certain safeguards for the inclusion of Human Rights courses in the training programmes for judges and prosecutors. As the concrete influence of the CoE for yearly elaboration will naturally diminish, the regulations on in-service training and on initial training should expressly incorporate Human Rights training into the mandatory curriculum.

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## **Ukraine**

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### **Current situation**

The National School of Judges regularly conducts training where human rights protection issues are addressed. The Model Plan of training includes topics devoted to human rights issues. The schedule for 2012 includes 10 sessions (out of a total of 97 sessions) on the following one day seminar: “Application of the European Convention on Human Rights and Fundamental Freedoms and the European Court of Human Rights (for example, Article 3 of the ECHR in relation to Art. 5 and 6 of the Convention).”

The Centre for Judicial Studies (CJS) provides training modules for judges on the following topics:

- ECHR;
- Protection of citizens’ rights and interests in civil proceedings;
- Right to freedom and immunity of person;
- Efficient investigation of ill-treatment episodes;
- Humanisation of criminal proceedings;
- International standards of judicial independence.

The CJS performed:

- 100 regional one-day seminars for judges of appeal and local courts (with a total attendance of 4960 judges);
- Over 30 in-depth seminars on the ECHR and the relevant case law ;
- Study visits of judges of the Supreme Court of Ukraine, appeal and local courts to the European Court of Human Rights.

### **Summary and recommendations**

According to the report “The training needs of judges and lawyers in Ukraine on the European Convention on Human Rights” by Jeremy McBride produced in the framework on the EU/CoE Joint Programme on Ensuring Transparency and Efficiency of the Judiciary in Ukraine,

*“Despite all the difficulties involved, there is a well-founded recognition that, for judges especially, there is a need for further training on the ECHR, which is matched by a genuine openness to being involved in it. Any such training should, however, only be undertaken if it is going to be substantial and sustained, focusing on practical issues of implementation and requiring active engagement by the participants.*

*159. In the absence of these conditions being fulfilled, further training is unlikely to make any useful contribution towards achieving the effective implementation of the ECHR. That goal cannot be achieved through training alone. Nevertheless training which is rightly perceived as relevant and which fully engages the participants can be expected to provide important support for the cultural shift that is still needed in Ukraine.*

*160. It is thus recommended that:*

*a. the prime focus of further ECHR training in the short-term should be on the judges in the higher courts;*

*b. the substantive focus of this training should be on (i) issues giving rise to applications to the ECtHR, (ii) the relevance of the ECHR for recent and forthcoming legal changes and (iii) the role of courts in giving effect to judgments of the ECtHR;*

*c. the training should be designed in a manner that (i) gives a sound understanding of the case law methodology employed by the ECtHR and (ii) focuses both on the use of that case law in the specific context of Ukraine and on its application through existing legal provisions;*

*d. the participants in training sessions should be expected, and be able, to undertake preparatory reading and to take an active part in them;*

*e. training should be facilitated primarily by Ukrainians but might also be undertaken with judges from countries in the Council of Europe with similar legal traditions and experience;*

*f. training should be linked to the specific work of those taking part in it;*

*g. study visits to Strasbourg should build on training previously undertaken and participation in such visits should entail a commitment to be involved in the training of others;*

*h. comprehensive record-keeping of training provided and its recipients, as well as of those acting as trainers, should be undertaken with the assistance of the Council of Europe;*

*i. enhanced access to training material in Ukrainian should be facilitated through the Council of Europe's HELP Programme and steps should be taken to enhance the visibility of that programme in Ukraine;*

*j. enhanced sharing of translations of the ECtHR's case law into Ukrainian should be undertaken by national associations in collaboration with the HUDOC portal of the ECtHR); and*

*k. the range of systematically organised collections of the case law of the ECtHR that is available in Ukrainian should be increased.”*

The goals of human rights training should be to familiarise all judges with the basic issues of the system of human rights protection and to create a group of “specialist” judges who could become a reference point for all other judges.

The training performed by the National School of Judges should fulfil the obligations under Art.14. Para.2e and 3b of the Law of Ukraine on the Execution of Sentences and Practice of European Court of Human Rights (2006/30/260).

Training should be preferably carried out mainly by individuals who have practical experience in practice of the European Court of Human Rights in Strasbourg, i.e. those judges who underwent training in the Court of Human Rights in Strasbourg, as well as other persons professionally engaged in the issue of the protection of human rights (such as academics or members of NGOs). As part of the training, in addition to the general knowledge on the European Convention on Human Rights, proceeding with a complaint addressed to ECtHR (mainly at the domestic stage) and the relationship between domestic remedies in the form of constitutional complaints and the convention (before ECtHR) should be discussed.

### **General Conclusions on Human Rights Training**

All the countries discussed have included human rights courses in their initial training curricula. Therefore, we can say that they are harmonised with European standards and best practice. At the same time, it should be noted that the in-service curriculum, human rights courses/topics in most of the countries are designed on an *ad-hoc* bases and training is not a demand-driven activity but a donor-driven one, based on the priorities of each donor organisation. The content of the training is mostly theoretical and based on particular Articles of the ECHR and the UN protection mechanisms, rarely with links to domestic remedies.

The training in human rights should be made more practical and based on ECtHR case law. ECHR training should be mainstreamed in different courses in the curricula and training materials. The emphasis in the training should be considered on a proper training needs analysis. Statistics available from the ECtHR are valuable data when identifying training needs. The training manual on the ECHR prepared by the HELP Programme of the CoE, as well as materials available through the HELP web page, can serve the national trainers well as a good basis for improving the methodology of human rights training.

The goals of human rights training should be to familiarise all the judges with the basic issues of the system of human rights protection. The creation of a group of “specialist” judges, who could become a reference point for all other judges, appears a suitable means to achieve this objective.

The experts recommend that the training is carried out preferably by individuals who have practical experience in the case law of the European Court of Human Rights, such as judges or prosecutors who underwent the training in the Court (or the Commission) of Human Rights in Strasbourg and other persons professionally engaged in the issue of the protection of human rights (academics, members of NGOs, etc).

## **APPENDIX 1**

### **Laws of the Republic of Armenia**

#### **Judicial Code of the Republic of Armenia (Extracts)**

#### **PART 2. THE JUDICIAL SCHOOL**

#### **SECTION 4. STATUS AND STRUCTURE OF THE JUDICIAL SCHOOL**

#### **CHAPTER 19. STATUS OF THE JUDICIAL SCHOOL**

##### **Article 172. Purpose and Legal Status of the Judicial School**

1. The Judicial School is a state non-for-profit non-commercial organization that has the status of a legal entity.
2. The founder of the Judicial School is the Republic of Armenia, acting through the Council of Court Chairmen.
3. The activities of the Judicial School shall be governed by this Code, the By-Laws of the School, and the Republic of Armenia Law on State Non-Commercial Organizations insofar as such Law is substantively applicable to the Judicial School and does not contradict this Code. The requirements of the Republic of Armenia Law on Education shall not apply to the Judicial School.

##### **Article 173. Assets and Financing of the Judicial School**

1. The Judicial School shall be financed from the state budget under a separate budgetary line.
2. The founder shall assign to the Judicial School the assets necessary for its operation for an indefinite amount of time, with the right of use at no cost.
3. The Judicial School shall have the right to place assets assigned to it by the founder under a lease on behalf of the State in accordance with the procedure specified in this Code and the By-Laws of the Judicial School.
4. Income received by the Judicial School from the use of assets assigned to it shall belong to the School.

##### **Article 174. By-Laws of the Judicial School**

1. The By-Laws of the Judicial School shall, upon presentation by the Head of the Judicial Department, be approved by the Council of Court Chairmen in accordance with the Republic of Armenia Law on State Non-Commercial Organizations insofar as such Law is substantively applicable to the Judicial School and does not contradict this Code.

##### **Article 175. Functions of the Judicial School**

In accordance with this Code and its goals under its By-Laws, the Judicial School shall:

- 1) Organize the qualification test conducted for purposes of compiling the List of Judicial Candidates;
- 2) Organize the professional preparation of persons included in the List of Judicial Candidates as a result of the qualification test;
- 3) Organize and conduct the training of Judicial School graduates and persons included in the official qualification and promotion list (with the exception of the law academics referred to in Article 139 of this Code);

- 4) Organize and conduct the professional training of judicial servants
- 5) Organize and conduct seminars and conferences on improving the legal system, the legislation, and the administration of justice, publish academic literature, and so on;
- 6) Develop the curricula of the School; and
- 7) Carry out other activities prescribed by its By-Laws.

## **CHAPTER 20. STRUCTURE OF THE JUDICIAL SCHOOL**

### **Article 176. Bodies of the Judicial School**

The School shall be governed by the Judicial School Governing Board and the Director of the Judicial School.

### **Article 177. Judicial School Governing Board**

1. The Judicial School Governing Board shall carry out the general governance of the School and oversee its current activities.
2. The following shall be members of the Governing Board of the School:
  - 1) One person appointed by the Minister of Justice;
  - 2) One person appointed by the Cassation Court Chairman; and
  - 3) All the members of the Training Committee of the Council of Court Chairmen.
3. The Chairman of the Training Committee of the Council of Court Chairmen shall be the Judicial School Governing Board Chairman.
4. The Judicial School Governing Board members shall carry out their duties without any compensation.
5. The powers of a Judicial School Governing Board member shall terminate:
  - 1) In the event of dismissal, termination of office, or expiry of the term; or
  - 2) Under Paragraph 2(3) of this Article, on the basis of his written request, or by decision of the Governing Board, if the member is not properly carrying out his duties as a Governing Board member.

### **Article 178. Functions of the Judicial School Governing Board**

1. The Judicial School Governing Board:
  - 1) Approves the strategic plan and curricula of the Judicial School;
  - 2) Approves the number and names of teachers at the Judicial School;
  - 3) In accordance with guidelines developed by the Training Committee of the Council of Court Chairmen, approves the training plan and training timetable of judges, judge candidates, and persons included in the Promotion Lists;
  - 4) Approves the Judicial School's annual budget and its amendments, as well as the annual report, including financial reports;
  - 5) In accordance with the procedure established by it, recruits by means of a competitive procedure and dismisses the Judicial School Director;
  - 6) In accordance with Article 115(3) of this Code, defines and announces the type of written exam, the procedure of conducting it, the procedures of checking, evaluating, and appealing written tests, the procedure of calculating the sum of credits scored by an applicant on the basis of the evaluation of written tests, and gives appropriate instructions to the Judicial School Director in this respect;
  - 7) Makes decisions on giving the assets of the Judicial School on lease;
  - 8) Makes decisions on how to use the profit of the Judicial School;
  - 9) Approves the auditor of the Judicial School;
  - 10) Hears the reports of the Judicial School Director at the frequency established in the By-Laws;

- 11) Approves the grounds and procedure of granting postponement to and applying disciplinary sanctions in respect of the Judicial School attendees;
  - 12) Upon presentation by the Judicial School Director, discusses and resolves issues contemplated in Article 185 of this Code;
  - 13) Every year, publishes the annual report of the Judicial School, including financial reports and the income and expenditure statement, containing a breakdown and analysis with reasonable level of detail;
  - 14) Approves the terms of the employment contract with the Director;
  - 15) Upon presentation by the School Director, applies disciplinary sanctions;
  - 16) Approves the procedure and terms of conducting exams in the Judicial School;
  - 17) Approves the procedure of evaluating the knowledge of attendees, calculating exam credits, and re-taking exams;
  - 18) In accordance with this Code and the Judicial School By-Laws, adopts decisions, procedures, and other internal legal acts, and supervises their enforcement; and
  - 19) Performs other functions vested in it by this Code and the By-Laws.
2. Functions vested in the Judicial School Governing Board may not be assigned to another body.

**Article 179. Judicial School Governing Board Sessions and Decision-Making Procedure**

1. The Judicial School Governing Board acts through sessions. Sessions of the Judicial School Governing Board may be summoned by the Chairman of the Governing Board at his initiative or at the request of the Republic of Armenia Cassation Court Chairman, the Minister of Justice, or the Judicial School Director. The Judicial School Director may take part in the sessions of the School Governing Board, but only with the right to a consultative voice.
2. A session of the Judicial School Governing Board shall have power to act, if two thirds of the members are in attendance.
3. Decisions of the Judicial School Governing Board shall be taken by majority of the votes of the total number of its members.

**Article 180. Chairman of the Judicial School Governing Board**

1. The Judicial School Governing Board Chairman shall:
  - 1) Organize the work of the Judicial School Governing Board;
  - 2) Summon and chair sessions of the Judicial School Governing Board;
  - 3) Organize the taking of session minutes;
  - 4) Conclude an employment contract with the Judicial School Director; and
  - 5) Carry out other functions as prescribed by this Code and the By-Laws.
2. In the absence of the Judicial School Governing Board Chairman, his functions shall be performed by the oldest member of the Training Committee of the Council of Court Chairman, who is a member of the Governing Board.

**Article 181. Director of the Judicial School**

1. The day-to-day activities of the Judicial School shall be managed by the Director of the Judicial School, who is appointed by the Judicial School Governing Board for a five-year term.
2. The Judicial School Director manages the day-to-day activities of the Judicial School, with the exception of matters reserved to the authority of the Judicial School Governing Board by this Code and the By-Laws.

3. The Director of the Judicial School shall:
  - 1) Manage the educational process;
  - 2) Organize the execution of Governing Board decisions;
  - 3) In accordance with the procedure stipulated by the By-Laws of the Judicial School, manage the Judicial School's assets, including the financial assets, and execute transactions on behalf of the Judicial School;
  - 4) Represent the Judicial School in the Republic of Armenia and in foreign states;
  - 5) Present to the Judicial School Governing Board for approval the Internal Work Regulations of the School, including the staffing list and the internal work discipline rules;
  - 6) Present to the Judicial School Governing Board for approval the strategic plan, curricula, and training programs of the Judicial School;
  - 7) Within the limits of his authority, issue decrees and orders, give binding instructions, and monitor their execution;
  - 8) Make recommendations to the Governing Board on the application of disciplinary sanctions in respect of the attendees;
  - 9) Carry out logistical work related to the performance of qualification test in order to supplement the List of Judge Candidates; and
  - 10) Carry out other functions prescribed by this Code and the By-Laws.
4. The School Director may also have other functions prescribed by the By-Laws.
5. If it is temporarily impossible for the Judicial School Director to carry out his duties, a person elected for such purpose by the Governing Board shall replace him.

## **SECTION 5. STUDIES IN THE JUDICIAL SCHOOL**

### **CHAPTER 21. STATUS OF SCHOOL ATTENDEES AND INDIVIDUALS INCLUDED IN THE OFFICIAL QUALIFICATION LIST OF JUDGES**

#### **Article 182. Status of Judicial School Attendees**

1. Persons included in the List of Judge Candidates in accordance with Articles 117 and 118 of this Code, with the exception of ex-judges, shall be attendees of the Judicial School.
2. During studies, a Judicial School attendee shall receive a stipend equal to the salary of an assistant of a judge in a universal jurisdiction court.

#### **Article 183. Organizing the Employment of Judicial School Graduates**

1. From the first day of the first month following graduation of the Judicial School, the School graduates shall be engaged in work in the central body of the Judicial Department and shall receive a salary corresponding to the position, the functions typical of which they perform.
2. Judicial School graduates may take the initiative to work as judge assistants instead of becoming engaged in work in the central body of the Judicial Department.

#### **Article 184. Disciplinary Sanctions Applied against Judicial School Attendees**

1. In the cases and procedure defined in the Judicial School By-Laws, an attendee may be subjected to disciplinary liability.
2. The following types of disciplinary sanctions may be applied:
  - 1) Warning;
  - 2) Reprimand, which is combined with deprivation of 25% of the stipend for a three-month period;

- 3) Severe reprimand, which is combined with deprivation of 25% of the stipend for a six-month period; and
  - 4) Removal from the School.
3. If an attendee was successively subjected to disciplinary sanctions that result in lowering of the stipend, then the total lowering of the stipend during any given month may not exceed 50% of the stipend.
4. An attendee may file a court appeal against a decision to apply a disciplinary sanction against him, within one month of receiving a copy of such decision.

**Article 185. Removal or Dismissal of an Attendee from the Judicial School**

1. Upon presentation by the Judicial School Director, the Governing Board may remove an attendee from the Judicial School—as a disciplinary sanction—in the following cases:
- 1) If he regularly misses class without an acceptable excuse;
  - 2) If his exam credit received for a course taught at the Judicial School is lower than the Board-established minimum credit required to graduate a course, or if he fails the appropriate phase of the trial period a second time, as defined in Article 190(4) of this Code; or
  - 3) If he has committed an act that is a ground for termination of judge powers in accordance with the Judicial Code of Ethics.
2. An attendee removed from the Judicial School shall be deprived of the right to be admitted again to the Judicial School.
3. An attendee shall, upon presentation by the Judicial School Director and the decision of the Board, be dismissed from the Judicial School, if:
- 1) He so requests, with the exception of the cases stipulated by Paragraph 1 of this Article;
  - 2) As a consequence of temporary work incapacity, he misses class for more than one consecutive month or any two cumulative months;
  - 3) A final judgment of court has proven that he was included in the List of Judge Candidates by violation of the requirements of law;
  - 4) A final judgment of court has recognized him to be incapacitated, to have limited capacity, to be missing, or declared dead;
  - 5) A convicting judgment against him has entered into legal force, or a criminal case against him was terminated on a non-acquittal ground; or
  - 6) A physical handicap or disease became known, which hinders his appointment to the position of a judge.
4. If the ground specified in Paragraph 3(6) of this Article is prima facie present, then the Judicial School Director shall request Judicial School Board to invite the competent state body to organize the attendee’s medical examination. The attendee must undergo the medical examination. If the medical examination justifies that the ground prescribed by Paragraph 3(6) of this Article is present, then the attendee shall be dismissed from the Judicial School in accordance with the procedure stipulated by Paragraph 3 of this Article.
5. In cases of entitlement to yearly postponement established by a decision of the Governing Board, the Judicial School attendee may be dismissed from the School on the basis of his application, but retain the right to be reinstated in the School during the course of a regular academic year.

**CHAPTER 22. LEARNING AND TEACHING IN THE JUDICIAL SCHOOL.  
COMPLETION OF STUDIES IN THE JUDICIAL SCHOOL**

**Article 186. Studies of Attendees in the School**



1. The Judicial School Curriculum shall be structured in such a way as to aim at preparing impartial, competent, capable, and professional judge candidates.
2. In the Judicial School, studies shall be conducted in the form of lectures, seminars, moot court games, debates, discussions of issues related to adopted judicial acts and their peculiarities, familiarization with specific cases in courts, and didactic materials, video tapes, audio-recorded lectures, and other contemporary techniques of education, which promote self-learning on the part of the attendees.

#### **Article 187. Stages of Education**

Studies in the Judicial School shall end with a trial period. Studies in the Judicial School shall begin in January, after summarizing the results of the qualification tests in accordance with Article 117 of this Code, and shall end no later than July 31 of the same year.

#### **Article 188. Teachers of the Judicial School**

1. Teaching of attendees in the Judicial School shall be carried out by teachers (lecturers).
2. The teachers (lecturers) of the Judicial School are specialists invited to work in the Judicial School on contractual grounds.

#### **Article 189. Exams Taken during Studies**

1. At the end of each subject course taught in the Judicial School, attendees shall take an exam, the purpose of which is to evaluate the theoretical knowledge and practical skills obtained.
2. The exam evaluation is used to calculate the total credits of an attendee at graduation of the Judicial School.

#### **Article 190. Trial Period of Attendees**

1. The trial period shall be mandatory.
2. An attendee shall pass a trial period in different judicial instances, including specialized courts.
3. If the exam credit scored from an exam/exams (including repeat exams) taken in a course/courses taught at the Judicial School is lower than the minimum credit established by the Board to consider such course completed, then the attendee shall not pass the trial period and shall be removed from the Judicial School.
4. If the evaluation of the respective stage of the trial period by the trial period mentor in accordance with Paragraph 4 of Article 191 of this Code is negative, then the attendee shall have the right to pass once more the trial period in accordance with the procedure established by the Board, but in such case shall not retain the right to receive a stipend.

#### **Article 191. Mentor of the Trial Period**

1. The Governing Board shall, upon presentation by the Judicial School Director, appoint trial period mentors for each stage of the trial period.
2. Only a judge may be a mentor of the trial period.
3. The trial period mentors shall ensure that the attendee undertakes the trial period in accordance with the program.
4. At the end of each stage of the trial period, the mentor shall submit to the Judicial School a written description covering the attendee's practical and moral characteristics displayed by the attendee during the trial period, including a positive or negative evaluation of the attendee's trial period.

#### **Article 192. Completion of Studies**

1. Upon completing the studies, the attendees shall not take graduation exams.

2. Upon completing the studies, the Judicial School Governing Board shall sum up the total exam score (for subject courses taught at the Judicial School) of an attendee that received positive evaluation for all the stages of the trial period, and shall declare the attendee a graduate of the Judicial School.

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**Enclosure to the Ruling № 05-H  
of the Council of Court Chairmen  
of the Republic of Armenia of 10 July 2007 r.**

**CHARTER**

**OF THE STATE NON-PROFIT ORGANISATION  
“JUDICIAL SCHOOL OF THE REPUBLIC OF ARMENIA”**

**I. GENERAL PROVISIONS**

1. “The Judicial School of the Republic of Armenia” is a state non-for-profit organisation (hereafter Judicial School) with a status of a legal entity.
2. Activities of the Judicial School are defined by laws, rulings of the Council of Court Chairmen of the Republic of Armenia, the present Charter and other legal acts.
3. The Judicial School has its own balance, a bank account. The School can gain and exercise material and non-material rights, carry duties, act as a plaintiff or a defendant in court.
4. The School can, by decision of founder, set up or participate in other organisations.
5. The School has a round seal with its name and the national emblem of the Republic of Armenia, [document] blanks, a symbol and other means of individualisation.
6. The name of the Judicial School is “Judicial School of the Republic of Armenia” state non-for-profit organisation, in short “Judicial School” SNPO.
7. The Judicial School is situated at the address: Republic of Armenia, 0091, Tbilisi Avenue, 3.

**II. SUBJECT OF ACTIVITY AND OBJECTIVES OF THE JUDICIAL  
SCHOOL**

8. The subject of activity and objectives of the Judicial School:
  - a) carrying out the qualification test for the purpose of drawing a list of candidates to the position of a judges, professional training of persons included in the list of candidates to judges following results of the qualification examination, re-training of graduates of the Judicial School, persons included in the professional qualification and promotion list, providing individual re-training courses, professional re-training of court servants, re-training and educating of bailiffs;
  - b) theoretical and practical researches, expert conclusions;
  - c) international academic cooperation;
  - d) preparation of information and analytical materials.
9. Following to the established set objectives, the Judicial School:
  - a) organises the qualification test which is carried out with the purpose of drawing a list of candidates to judges;
  - b) organises the professional training of persons included in the list of candidates to judges on the basis of the qualification test;
  - c) organises and carries out the re-training of graduates of the Judicial School, persons included in the professional qualification and promotion list;
  - d) according to paragraph 2 of Article 118 of the Judicial Code of the Republic of Armenia, organises and provides individual courses of re-training of persons included in the list of candidates to judges;
  - e) organises and provides professional training of court servants;
  - f) organises and provides re-training and customized education of bailiffs;

- g) organises and provides seminars, conferences, publishes educational and other materials; it can have its own media;
  - h) develops curricula of the Judicial School;
  - i) in the prescribed manner, sets up own academic councils, or within its competences cooperates with other academic councils;
  - j) organises the legal library, methodological, audiovisual, cinematographic archives and ensures their storage;
  - k) concludes agreements with individuals and legal entities of the Republic of Armenia and foreign states, cooperates with foreign institutions, joins foreign organisations and networks;
  - l) in accordance with its objectives, can pursue entrepreneurial activities allowed by the founder;
  - m) performs other functions specified by law, the present Charter, rulings of the Council of Court Chairmen and other legal acts.
10. As regards entrepreneurial activities, the Judicial School can do:
- a) analysis of studies and concepts relating to social sciences;
  - b) publishing and printing.
11. As regards activities which are subject to licensing, the Judicial School can undertake such activities only having obtained a license.
12. The Judicial School can pursue entrepreneurial activities by itself or can on the basis of decision of the founder set up for this purpose another organisation.

### **III. MANAGEMENT AND GOVERNING OF THE JUDICIAL SCHOOL**

13. The management and governing of the Judicial School are carried out in accordance with the legislation of the Republic of Armenia and the present Charter, functions of the founder, the Governing Board and director.
14. The exclusive competence of the founder – the Council of Court Chairmen of the Republic of Armenia includes:
- a) setting up the Judicial School;
  - b) approval of the Charter of the Judicial School and making amendments;
  - c) re-organisation and liquidation of the Judicial School;
  - d) appointment of the liquidation commission of the Judicial School and approval of the liquidation balance;
  - e) resolving of other issues specified by law.
15. The general management and control over current activities of the Judicial School are carried out by the Governing Board of the Judicial School.
16. The Governing Board of the Judicial School:
- a) approves strategic plans and curricula of the Judicial School;
  - b) defines structural departments of the Judicial School and their functions;
  - c) defines the appointment of the Director of the Judicial School by means of a competitive procedure competition, appoints and dismisses the Director, approves conditions of the employment contract which is concluded with the Director, defines terms and conditions of Director's remuneration;
  - d) once in a year hears a report of the Director of the Judicial School;
  - e) exercises control over usage and protection of the state property assigned to the Judicial School;
  - f) on recommendation of the Director, gives its agreement to lease or dispose the property of the Judicial School;
  - g) defines the manner of pursuing of entrepreneurial activities which are carried out by the Judicial School, takes decisions on using the profit of the Judicial School;

- h) approves the nature of activities, internal documents which regulate the activity of the Judicial School, templates of letters of recommendations to persons who participate in the qualification test for the purpose of drawing the list of candidates to judges, and charters of the Judicial School establishments, branches and representations;
- i) defines grounds and the procedure of postponement [for study?] for attendees of the Judicial School, application of disciplinary measures towards them, applies the disciplinary measures by Director's decision;
- j) approves the number of the teaching staff of the Judicial School;
- k) defines terms and conditions of exams at the Judicial School, the procedure of assessment of attendees, the points' count and re-sitting of the exams;
- l) defines the procedure and conditions of providing individual courses for re-training of persons included in the list of candidates to judges in accordance with paragraph 2 of Article 118 of the Judicial Code of the Republic of Armenia;
- m) in compliance with indications prepared by the Commission of the Council of Court Chairmen for Educational Questions, approves programs and schedules for re-training of persons included in the list candidates to judges and [the list for] promotion;
- n) defines the procedure and the schedule of the implementation of programs for re-training of persons included in the professional qualification list, the procedure of notification, remuneration of trainers who carry out the re-training;
- o) discusses and submits for approval of the founder suggestions for making amendments to the present Charter;
- p) performs out other functions specified by law and the present Charter.

Questions which fall within the competence of the Governing Board of the Judicial School cannot be delegated to other body.

17. The management of day-to-day activity of the Judicial School is carried out by the Director of the Judicial School.

18. The Director of the Judicial School, within competence prescribed by law, decisions of the Governing Board and the founder, the present Charter, manages the activities of the Judicial School.

19. The Director of the Judicial School:

- a) acts in name of the Judicial School and represents its interests, make transactions;
- b) in the manner prescribed by the legislation of the Republic of Armenia, decisions of the Governing Board and the founder, and the present Charter, manages the property of the Judicial School, including financial assets;
- c) signs authorities [documents] to act in name of the Judicial School, including authorities [documents] with power to substitution;
- d) appoints and dismisses staff members of the Judicial School, applies towards them disciplinary measures and measures of reward;
- e) opens bank accounts;
- f) within competences prescribed by law and the present Charter, issues orders and regulations, gives binding instructions and exercises control over their execution;
- g) performs out other functions which do not contradict to the legislation of the Republic of Armenia and are not assigned to other bodies of management of the Judicial School.

#### **IV. PROPERTY AND FINANCIAL ACTIVITY OF THE JUDICIAL SCHOOL**

20. Property of the Judicial School is formed on the basis of assets provided to the Judicial School at the moment of its setting-up in the quantity defined by founders' decision, as well

as gained in the process of functioning of the Judicial School. [Other] sources for forming property of the Judicial School can also be:

- a) means provided from the state budget;
- b) results of entrepreneurial activities;
- c) grants;
- d) other legal sources.

The profit received as a result of its activities, the Judicial School uses at its own discretion for the purpose of attaining its objectives.

21. In compliance with law, founder's decisions and the present Charter, the Judicial School possesses uses and disposes its property.

22. The founder can provide the Judicial School with any assets for the unlimited duration and free of charge. The founder is entitled to claim the return of the given assets.

#### **V. ORGANISATION OF THE METHODOLOGICAL PROCESS OF THE JUDICIAL SCHOOL**

23. Education provided at the Judicial School is carried out in forms specified by the Judicial Code of the Republic of Armenia, decisions of the Council of the Court Chairmen of the Republic of Armenia, on full-time, part-time basis and by way of external studies.

24. Graduates of the Judicial School receive certain qualification and a certificate or a diploma of prescribed form.

25. Methodological works are processed and systemized in accordance with the Judicial Code of the Republic of Armenia, decisions of the Council of Court Chairmen of the Republic of Armenia and the present Charter.

#### **VI. REORGANISATION AND TERMINATION OF ACTIVITY OF THE JUDICIAL SCHOOL**

26. The reorganization and termination of the activity of the Judicial School are carried out in compliance with the procedure established by law.



**Republic of Armenia**  
**Judicial school**  
**Management board**

**Decision N 70**

*On the type and order for passing of written examinations of qualification checking for completing the list of judges' candidates*

**Order**

**On passing and the type of written examinations of qualification checking for completing the list of judges' candidates**

**1. Acceptance of application for completing the list of judges' candidates and the type of written examinations of qualification checking**

1. In the application it must be indicated in which qualification (civil, criminal, administrative) checking of specialization of the list of judges' candidates the applicant wants to take part in.
2. The types of written examinations of qualification checking for completing the list of judges' candidates (hereinafter Examination) are
  - a) section of civil specialization of the list of judges' candidates - 2 questions- on civil law and civil procedure law,
  - b) section of criminal specialization of the list of judges' candidates - 2 questions- on criminal law and criminal procedure law,
  - c) section of administrative specialization of the list of judges' candidates - 2 questions- on administrative law and administrative procedure law,

The committee which checks and assesses written tasks of qualification checking certify questions the day of examination.

3. The applicant must draw judicial act on the background of examinational question.

**2. The order of passing examination**

4. The applicant who satisfy the criteria for taking part in qualification checking is given certificate (hereinafter Certificate) by Judicial school of Republic of Armenia (hereinafter School). The Certificate includes the name of "RA Judicial school", name and surname of the applicant, his (her) photo, with information indicated the place, day and hour of taking qualification checking, the number of Certificate as well. The Certificate is signed by the head of School, and then it is sealed by the seal of School.
5. Every applicant must appear the place of taking Examination with passport and Certificate.

The entrance of examination room of applicant who will not show his (her) passport or Certificate, as well will be late before mentioned hour is forbidden. The reason of not appearance or appearance late is not debatable.
6. The applicants are allowed to appear with followed normative acts
  - a) civil specialization candidates --- Civil code of RA, Civil procedure code of RA,
  - b) criminal specialization candidates --- Criminal code of RA, Criminal procedure code of RA,
  - c) administrative specialization candidates --- Administrative procedure code of RA, RA Tax Laws (Official Bulletin 2011), Law on administration basis and administration proceedings.

7. The applicant can not take computers to the examination room with her (him) or other electronic equipments.
8. The examination lasts 5 hours.
9. In the examination room each applicant take an apart desk. During the examination talking among the applicants is forbidden. The applicant can leave examination room only with the consent of School representative. During the examination applicant can not take or bring any material to the examination room.
10. Before examination the applicant is given an envelope where his (her) name and number of Certificate is written and which includes
  - a) examinational questions,
  - b) papers sealed with Schools seal,
  - c) pen.
11. In the examination room the process of examination is organized by the head of School and School representative authorized by the head of School and they wear proper emblems. People who are not authorized are forbidden to enter the examination room. After starting examination only Management board president of School and its members can enter the examination room.
12. Examinational tasks must be written with given pens on the sealed paper. It is forbidden to make any notes which will personalize the written task.
13. After finishing examinational task the applicant hands his task and envelope to School representative. The representative of School after marking the quantity of pages on the envelope closes the envelope and hands to the head of School. When the examination is finished the head of School hands the envelopes of written tasks to the head of Management board to organize the encryption of tasks and provide them to the Committee of checking and assessing of written tasks of qualification checking.
14. If applicant breaches this order the representative of School makes protocol and gives it to the head of School. If the head of School presumes that made violation is a background to exclude the applicant from examination room he (she) will discuss with the member of Management board of School and if it is necessary the applicant will be excluded.





### **Decision N 71**

#### **On the procedure of checking and assessing the written tasks of qualification checking for completing the list of judges' candidates**

##### *Procedure*

*On checking and assessing of written tasks of qualification checking for completing the list of judges' candidates*

1. Management board of Judicial school of RA (hereinafter School) organizes checking and assessing Committee (hereinafter Committee) for civil, criminal and administrative specializations not late than previous day of passed qualification checking. The Council is established to **check and assess** written tasks of qualification checking for completing the list of judges' candidates.
2. Each Committee consists of three judges and one of them is chosen as chairman by them.
3. The work of Committee is passed in secret and close-door procedure. The working conditions of Committee is provided by the head of School.
4. Written tasks of candidates are handed to the Committee anonymously.
5. Each member of Committee when checking and assessing written tasks of candidates is lead with these criterion---legal knowledge, analyzing thought, the smoothness of legal written speech of candidate and how he (she) can solve the problem.
6. Each question of written tasks is appreciated up to 100 score. Written task is appreciated 0 score if it is handed with papers which are not sealed or is written with other pen or there is note which certify the name or surname or signature of candidate or there are other identification notes.
7. The results of written tasks are declared not late than during seven days after taking written examinations. The results of written tasks are put on official website of Judicial system (([www.court.am](http://www.court.am)) in the section "News").



### **Decision N 72**

#### **On the procedure of appealing the checking results of written tasks of qualification checking for completing the list of judges' candidates**

##### *Procedure*

*On appealing the checking results of written tasks of qualification checking passing to complete the list of judges' candidates*

1. The applicant has a right to appeal his (her) marks if he (she) doesn't agree with the mark of Checking and Assessing Committee. When appealing the applicant must point out which question and in which grounds he (she) appeals. If applicant demands he (she) will be provided a photo copy of his (her) work.
2. Written task can be appealed during two days after declaring checking results. The application of appeal is handed to the head of Judicial school (hereinafter School).
3. The head of school hands the envelopes of appealed application to the head of Management board to organize the encryption of tasks and provide appealed applications to the Appealing Committee.
4. Appealing Committees (civil, criminal and administrative specialization) are organized by Management board of School. Appealing Committee consists of three judges and one of

them is chosen as chairman by them. The members of Checking and Assessing Committee can not be a member of Appealing Committee.

5. Written tasks of candidates and the application of appeal are handed to the Appealing Committee anonymous.

6. The work of Appealing Committee is passed in secret and close-door procedure. The working conditions of Appeals Committee are provided by the head of School.

7. Appealing Committee rechecks the written task only in merits of appealed application.

8. The mark of Appealing Committee is final.

9. The results of rechecked written tasks of candidates are declared by Appealing Committee not late than during two days after completed time of appeal. The results of rechecked written tasks are put on official website of Judicial system ([www.court.am](http://www.court.am)) in the section “News”).

## APPENDIX 2

### Laws of the Republic of Azerbaijan

#### Law of the Azerbaijan Republic On Judicial-Legal Council

*(Extract)*

*Baku city, 28 December 28, 2004*

##### **Article 1. Purpose of the Judicial-Legal Council**

Judicial-Legal Council is the body, which, within its competence, ensures organization and operation of the court system; arranges selection of candidates who are not judges (hereafter candidates to the judicial post) to the vacant judicial posts; evaluates the activity of judges; decides on the issues of transfer of judges to different judicial post, their promotion, calling judges to disciplinary liability, as well as, other issues related to courts and judges, and implements self-governance functions of the judiciary.

##### **Article 5. Financing of the Judicial-Legal Council and its attributes**

5.1. Judicial-Legal Council shall be financed from the state budget. *The sum of operational expenses in annual funds allocated to finance the activity of the Judicial-Legal Council may not be reduced in comparison to the previous annual fund.*

5.2. In order to carry out the functions vested in it, the Judicial-Legal Council may be funded from other appropriate sources according to the legislation.

5.3. The Judicial-Legal Council shall have an independent balance; property from the public estate; seal bearing the image of the National Symbol of the Republic of Azerbaijan and its name, appropriate stamp, emblem, blanks, treasury and bank accounts.

##### **Article 11. Functions of the Judicial-Legal Council**

11.0.2. arranges selection of candidates to the judicial posts;

11.0.5. takes measures in order to raise the professional level of judges and preparation of candidates to the judicial posts;

11.0.6. supplies wages to the candidates for the vacant judicial posts sent to the preliminary training courses;

11.0.13. considers the applications and complaints, also against the decisions of the Judges Selection Committee;

##### **Article 12. Authorities of the Judicial-Legal Council**

12.0.3. approve the Charter of the Judge Selection Committee and form the Judge Selection Committee;

12.0.20. arrange specialized courses, different seminars and training in training centers in order to raise the professional level of judges

12.0.21. arrange long-term training for candidates to the vacant judicial posts in the training institutions;

##### **Article 14. Judges Selection Committee**

14.3. Judges Selection Committee shall collect the application documents of the candidates for the vacant judicial posts, and organize written test and oral exam, in a transparent manner, in order to examine their aptitude and worthiness of occupying judicial post, engage judicial candidates in long-term training, determines their professional aptitude by means of interview.

14.4. Judges Selection Committee is funded from the state budget. Maintenance for the members of the Judicial-Legal Council provided by Article 8 of this Law shall also be provided to the members of the Judges Selection Committee.

14.5. Complaint against the decision of the Judges Selection Committee may be made to the Judicial Legal Council. The complaint shall be considered within 10 days period to the effect of leaving the decision of the Committee effective, abolishing or amending it.

**Article 18. Appeals against decisions of the Judicial-Legal Council**

18.1. Appeals against decisions of the Judicial-Legal Council on the judges or judicial candidates, including the ones reflecting the results of the disciplinary proceedings (excluding decisions provided by Article 17.4 of this ACT) shall be lodged with the Plenary Board of the Supreme Court *within twenty days since the day of submitting these decisions to the judge or candidates to the vacant judicial posts* and shall concern only legal matter of proper application of legislation.

18.2. Plenary Board of the Supreme Court shall consider the appeal against decisions of the Council within *three months*, issue a decision to the effect of either letting stand, or abrogating or amending, and presents its decision to the President of the Judicial-legal Council.

18.3. Decisions of the Plenary Board of the Supreme Court on the appeal against decisions of the Judicial-Legal Council shall be final in their effect.

18.4. Plenary Board of the Supreme Council shall consider appeals against the decisions of the Judicial-Legal Council according to the general work practice.



**Law of the Azerbaijan Republic  
On Courts and Judges  
(Extract)**

*Baku city, June 10, 1997 № 310-IG*

**Chapter XVI. Appointment of judges**

**Article 93. Requirements to candidates applying to the judicial post**

Subject to part I Article 126 of the Constitution of the Republic of Azerbaijan, citizen of the Republic of Azerbaijan at the age of 30 and above, entitled to vote in elections, with high judicial education and work experience in legal profession for term of at least 5 years may be a judge.

Person with dual citizenship; obligations to other states; belonging to clergy; recognized totally or partially incapable to work by court; unable to exercise judicial authorities due to physical or mental handicap, as confirmed by the medical conclusions; having conviction record; dismissed from the judicial post for actions incompatible with the status of the judge may not be a judge.

**Article 93-1. Judicial-Legal Council**

Judicial-Legal Council is an institution that carries out functions of self-governing of the judicial power and, which, within its authorities, carries out organizing of the court system, arranging of the selection of candidates for the judicial posts, ensuring of its operation, transferring of judges to another judicial post, promoting of judges, calling of judges to disciplinary liability, evaluating of the work of judges, as well as, resolving of other issues related to courts and judges in the Republic of Azerbaijan.

Organization, legal foundations of the work and authorities of the Judicial-Legal Council are contained in this Law and the Judicial-Legal Council Law of the Republic of Azerbaijan.

**Article 93-2. Judges Selection Committee**

Judicial-Legal Council establishes the Judges Selection Committee to carry out selection of candidates for the judicial posts.

This ACT, Judicial Legal Council Law and the Charter of the Judges Selection Committee approved by the Judicial-Legal Council shall regulate the activity of the Judges Selection Committee.

**Article 93-3. Selection of the nominees for the judicial post**

The applicants for the post of judge are submitted to a written exam and to an oral exam. Judges Selection Committee arranges these exams to select candidates.

The results of these exams are evaluated by the Judges Selection Committee. The Judges Selection Committee may engage ad hoc commission in the implementation of this function.

The applicants who have succeeded in these exams are automatically admitted to perform a long-term training period. This training period is organized by the training center. The working places and salaries of the applicants admitted to perform a long-term training will be kept. The financial providing of the applicants who are not working is conducting by the Judicial-Legal Council. The sum of financial providing is defined by the Judicial-Legal Council and paid from the resources assigned for the Council from state budget.

At the end of this training, each trainee is evaluated. The results of this evaluation are based on the considerations made by the Training Center and summarizing interview with the members of the Judge Selection Committee. The evaluation is based on the mark system. The applicants shall be classified according to their merit, based on the mark obtained. The results of this evaluation are submitted to the Judicial-Legal Council. The Judicial-Legal Council proposes to the relevant executive body of the Republic of Azerbaijan the appointment of the candidates according to the number of the judge positions. The applicants who complete training successfully, but fail to receive appointment may be appointed to the administrative positions in the justice bodies or admitted to the service in the prosecutor's office and in case if there is a vacancy, be appointed to the judicial post.

#### **Article 96. Term of the office of judge**

New judges shall be appointed for a term of five years. During this term judges shall take training course at least once a year. At the end of this period their activity shall be evaluated. If the evaluation does not reveal any professional shortcoming, the mandate of the judge is extended until the age of retirement of 65, by proposal of the Judicial-Legal Council. If there is necessity to benefit from the professionalism of the judge to have reached his/her age limit, his/her term of office may be extended till 70, subject to the proposal of the Judicial Legal Council.

The evaluation is carried out according to Article 13 of the Judicial-Legal Council Law of the Republic of Azerbaijan.

If the judge reaches age of retirement while in the process of considering the case, his mandate shall be valid until he accomplishes presiding in that case.



*Approved by the Decree of the President  
of the Republic of Azerbaijan dated  
18 April, 2006, number 408*

## **Statute of the Ministry of Justice of the Republic of Azerbaijan**

### **III. Functions of the Ministry**

- 9.21. ensures labour and social rights of corresponding judges;  
9.35. organizes work of professional law training of appropriate judges and justice bodies' staff, as well as staff of other bodies and organisations;



*Approved by the Decree of the  
President of the Republic of  
Azerbaijan # 24 dated  
21 October, 2008*

## **STATUTE**

### **of the Justice Academy of the Ministry of Justice of the Republic of Azerbaijan**

#### **I. General provisions**

1. The Justice Academy of the Ministry of Justice of the Republic of Azerbaijan (hereinafter referred to as – the Academy) shall be multi-stage educational-scientific institution established by the Decree of the President of the Republic of Azerbaijan # 446 dated 17 August 2006 “On Development of Justice Bodies” with a view to raise professional level of persons possessing high education in order to appoint them to the positions complying to their specialization; conduct initial training of justice and prosecution service officers (excluding public prosecutors) and other legal professionals and raise their professional skills as well as to meet needs of the society in highly educated personnel (bachelors and masters) and conduct scientific research.
2. The Academy, while implementing its activity, shall be guided with the Constitution of the Republic of Azerbaijan, international agreements which the Republic of Azerbaijan is a Party to, educational legislation and other Laws of the Republic of Azerbaijan, Decrees and Orders of the President of the Republic of Azerbaijan, Resolutions and Decrees of the Cabinet of Ministers of the Republic of Azerbaijan, Decisions, Orders and Resolutions of the Plenary Board of the Ministry of Justice of the Republic of Azerbaijan, other normative legal acts as well as present Statute.
3. The Academy shall be a legal person and shall be entitled to possess independent balance, state property according to the legislation, treasury and bank accounts, seal with the description of State Emblem and its own name, official emblem, relevant stamps and letterheads.
4. Inspection, comprehensive and individual check-up of the activity of the Academy shall be implemented by the Ministries of Justice and Education in the order provided in the legislation of the Republic of Azerbaijan.
5. According to the acting legislation, the Academy, in organization of raining process, is self-dependent to implement scientific, economic and other functions relevant to its competences. The Ministry of Justice of the Republic of Azerbaijan (hereinafter referred to

as – the Ministry) shall supervise over compliance of the activity of the Academy with the legislation of the Republic of Azerbaijan and present Statute.

6. The Academy shall be located in Baku city.

## **II. Structure and management of the Academy**

7. The structure and staff members list of the Academy shall be approved by the Minister of Justice of the Republic of Azerbaijan (hereinafter referred to as – the Minister).

Administration, faculties, departments, units, divisions, secretariat, library and other bodies shall be included to the structure of the Academy.

7.1. Functions of the structural units of the Academy shall be determined by the regulations to be adopted by the Scientific Council and approved by the rector of the Academy (hereinafter referred to as – the rector).

7.2. The management in the Academy shall be implemented in accordance with the legislation of the Republic of Azerbaijan and present Statute.

7.3. Administration of the Academy shall be composed of rector and vice-rectors responsible for basic directions of the activity of the Academy. Administration of the Academy shall deal with and effectively resolve all matters.

7.4. General supervision over the activity of the Academy shall be implemented by the Ministry.

7.5. Current leadership in the Academy shall be implemented by the rector. The rector shall be personally responsible for the implementation of duties and rights entrusted to the Academy.

The rector shall be appointed by the President of the Republic of Azerbaijan on the proposal of the Minister. Vice-rectors shall be appointed by the Minister on the proposal of the rector.

7.6. The rector shall:

7.6.1. represent the Academy in state bodies, departments and organizations and in relations with other local and international organizations; conclude transactions on behalf of the Academy, issue letters of attorney, open accounts in banks and other credit institutions;

7.6.2. manage training, educational-methodical, scientific-research and financial-economic activity in accordance with the legislation of the Republic of Azerbaijan and present Statute;

7.6.3. approve regulations of Scientific Council and structural units of the Academy;

7.6.4. submit proposals to the Minister on the establishment, re-organization and termination of structural units of the Academy;

7.6.5. admit variable staff to (dismiss from) the Academy, transfer them to other faculties and courses;

7.6.6. submit proposals to the Ministry on staff members, present staff members list for approval;

7.6.7. organize registration of material means, supervise over their use, take charge of the property and means of the Academy within his competences;

7.6.8. initiate introduction of issues related to the activity of the Academy for discussion at the Plenary Board of the Ministry, secure preparation of such issues for discussion of the Plenary Board;

7.6.9. secure implementation of relevant measures provided in working plans and decisions of the Plenary Board of the Ministry as well as order and resolutions of the Ministry;

7.6.10. issue orders, resolutions and written instructions to be obligatory for all staff and those studying at the Academy, approve other acts of the Academy;

7.6.11. deal with human resources issues, grant special ranks to the Academy staff and specialization degree to state servants in accordance with his competences, submit



proposals to the Ministry on appointment to the positions of nomenclature of the Ministry and on granting initial, pre-term and senior special ranks;

7.6.12. determine competences of vice-rectors of the Academy and staff members from other category, approve position instructions;

7.6.13. determine amount of fee payable for implementation of training volume norms, educational programs, scientific programs by the professorial and teacher staff;

7.6.14. secure payment of salaries to the staff of the Academy and their awarding;

7.6.15. take measures to implement legislation on service and labor relations at the Academy;

7.6.16. secure carrying out of clerical and archival activity and observation of state secret protection and secrecy regime at the Academy;

7.6.17. receive citizens, secure reception of citizens and consideration of complaints at the Academy;

7.6.18. deal with other matters of the activity of the Academy which are not related to the competences of the Scientific Council.

8. The rector may transfer his various competences to vice-rectors and other officials of the Academy.

9. The Scientific Council shall be established in order to consider important issues of the activity of the Academy.

10. The Scientific Council shall be composed of rector (chairman of the council), vice-rectors, scientific secretary, faculty deans, chairmen of departments, leading staff structural units of the Academy selected on competitive basis as well as representatives of state bodies, leading scientists of other educational and scientific institutions.

According to an agreement with the leadership of the Ministry, directors of structural units of the Ministry may be included to the composition of the Scientific Council.

The composition of the Scientific Council shall be approved by the Minister following to the proposal of the rector. Terms of office of members of the Scientific Council shall be five years. Terms of office of members of the Scientific Council may be terminated before expiration with its decision.

Activity of the Scientific Council shall be arranged in accordance with the relevant normative acts of the Ministries of Justice and Education of the Republic of Azerbaijan and Regulation on Scientific Council.

Decisions of the Scientific Council shall be declared through the orders of the rector.

11. The **Scientific Council** shall:

11.1. hear reports of leadership of the Academy and its structural units, adopt regulations of structural units of the Academy;

11.2. elaborate proposals to change and modify Statute of the Academy;

11.3. deal with training, educational-methodical, scientific-research activity matters;

11.4. elect leadership of faculties, departments and scientific-research divisions;

11.5. arrange competition for occupation of positions of scientific and professorial and teacher staff;

11.6. define the entrance rules and terms of listeners, post-graduates and doctors and work methods with investigators.

11.7. determine priorities of scientific researches, approve scientific-research plans and reports on their implementation, training and re-training curriculum of pedagogical staff.

11.8. adopt scientific plans, training curriculum and separate course programs elaborated jointly with relevant organizations;

11.9. submit, in the order provided in the legislation, proposal to grant professor, associate professor, senior research fellow ranks to scientific-pedagogical staff of the Academy;

- 11.10. recommend candidates for admission to Doctor degree studies as well as for granting creative leave;
- 11.11. institute and grant honorary titles of the Academy;
- 11.12. deal with admission of the Academy to and withdrawal from local and international associations and other institutions;
- 11.13. approve internal house rules of the Academy;
- 11.14. deal with other matters which are related to its competence by the present Statute.

### **III. Basic objectives of the activity, duties and directions of the Academy**

**12. Basic objective** of the activity of the Academy shall be preparation of qualified personnel for justice and prosecution bodies, research of legal studies of those justice employees without economic, medical and other higher legal education and of conceptual problems for the sake of development of justice and prosecution bodies, conduction of fundamental and applied research on various fields of humanities.

13. Basic duties of the Academy shall be:

13.1. arrange compulsory training of candidates to the justice and prosecutor bodies, and also candidates to the Bar Association;

*13.1-1. Improvement professional skill and admission to the subject (work) on the basis of high legal education, specialists of different categories;*

*13.1-2. arrange previous long term education of candidates to the judge positions and training of judges constantly;*

13.3. training, re-training and raising of professional skills of officers on the basis of secondary and high legal education;

13.4. raising of professional skills of scientific-pedagogical staff of higher education institutions;

13.5. meeting the needs of the state and society in highly qualified legal professionals;

13.6. conduction of fundamental and applied scientific research, preparation of information-analytical, scientific-methodical materials and recommendations for judicial, law enforcement bodies and other state institutions;

13.7. ongoing development of logistical-technical and methodical background, training and scientific activity of the Academy;

13.8. protection and preservation of cultural, moral and scientific values of the society;

13.9. implementation of legal awareness activity.

14. The Academy shall conduct training, re-training and raising of professional skills of listeners from the **following categories**:

14.1. justice employees and those candidates admitted to the service in justice bodies for the first time according to the determined positions;

*14.1-1. judges and candidates to the judge positions;*

14.2. candidates according to the determined positions to the prosecutor bodies for the first time;

14.3. court staff members;

14.4. lawyers and candidates of Bar Association;

14.5. specialized notaries;

14.6. state service employees, municipality members and officers;

14.7. staff members of departments, institutions and organizations regardless of property forms;

14.8. other legal categories according to the main purposes and positions of the Academy.

15. The Academy may participate in improvement of training, scientific-methodical and educational activity conducted with a view of raising of professional level of judges and public prosecutors.

#### **IV. Rights of the Academy**

16. In order to implement its duties in the order provided in the legislation, the Academy shall have the following rights to:

16.1. independently conduct training process following to the educational legislation of the Republic of Azerbaijan and present Statute;

16.2. schedule and implement organization of training, methodical, scientific-research, analytical-informational and other activity;

16.3. elaborate education and specialization programs and training curriculum and approve them in the order provided:

16.4. arrange and upgrade methodical background of training process;

16.5. adopt acts which are not contradictory to the legislation of the Republic of Azerbaijan in order to regulate separate directions of activity, including training and scientific-research activity;

16.6. implement current supervision over quality of education and certification of those trained;

16.7. conduct scientific research, implement editorship and publishing related to the justice and prosecution bodies and activity of lawyers;

16.8. implement human resources management activity;

16.9. involve, in the order provided in the legislation, employees, including independent experts and specialists in its activity in order to conduct training exercises on the hourly pay basis;

16.10. adopt internal discipline of the Academy;

16.11. recommend staff members of the Academy for a decoration with honorary titles and state awards;

16.12. establish international relations on directions of the activity;

16.13. arrange and participate at the scientific meetings, seminars, conferences and such other events;

16.14. implement other rights related to realization of its duties.

#### **V. Compulsory education process of candidates to the justice and prosecution bodies and also candidates to the Bar Association**

17. In order to arrange compulsory education process of candidates to the justice and prosecution bodies and also candidates to the Bar Association (after these candidates) is carried out in the Academy.

18. According to the legislation of the Republic of Azerbaijan, those passed the contest shall be attracted compulsory in the Academy. According to the results of compulsory education are arranged examinations for Ministry of Justice for candidates entering to the Justice bodies, Office of Prosecutor General of the Republic of Azerbaijan for candidates entering to the prosecution bodies, Presidium of Bar Association together with the Academy for the candidates entering to the Association. The candidates passing the exams successfully are rewarded certificate of graduation.

19. Contents and duration of the education in the Academy shall be determined on the basis of specialization programs elaborated in compliance with state education standards taking into account the needs of the Ministry, Office of Prosecutor General of the Republic of Azerbaijan, Presidium of Bar Association and other related bodies. Specialization programs shall be adopted by the Scientific Council and approved by the rector.

#### **V-I. Previous long term education of candidates to the judge positions and training of judges constantly**

19-1. It is arranged previous long term education of candidates to the judge positions and training of judges constantly in the Academy The education is carried out accordance with the same faculty by Judicial Legal Council together with the Judge Selection Committee. Training Curricula is agreed with these bodies.

19-2. Accordance with legislation candidates who are not Judges after passing the written and orally examinations to the Judge positions by the Judge Selection Committee those are attracted to the primary long term education in the Academy.

19-3. According to the training results every judge is given written and orally examination to the Judge positions. According to the training results examinations are arranged by Judge Selection Committee together with Academy.

19-4. Training curricula for candidates of Judge positions is prepared by Judge Selection Committee together with Academy and is approved by Judge Selection Committee agreed with Judicial Legal Council.

19-5. Constant training of Judges is arranged by Judicial Legal Council together with Academy. Contents and duration of the Constant training of Judges in the Academy shall be determined on the basis of specialization programs elaborated in compliance with state education standards taking into account the needs of Judicial Legal Council together with Academy.

#### **VI. Arrangement of Trainings in the Academy**

20. Primary long-term training, compulsory training and improvement of professional skills realized accordance with full-time education, preparation of post-graduates and doctors are carried out accordance with full-time and part-time education.

21. The Academy shall provide its graduates and those passed final certification with exemplary official document on level of education or specialization. The Academy, according to the specified sample, shall issue reference to those who did not complete their education. In the course of implementation of other training programs, certificates on the results of such trainings approved by the Scientific Council may be issued.

22. Contents and duration of the education in the Academy shall be determined by the departments on the basis of education and specialization programs elaborated in compliance with state education standards taking into account the needs of the Ministry, Office of Prosecutor General of the Republic of Azerbaijan, public and municipal authorities as well as the duties of the Academy. Specialization programs shall be adopted by the Scientific Council and approved by the rector.

23. Training curriculum of the faculties shall be agreed with the Ministry or the Office of Prosecutor General of the Republic of Azerbaijan, adopted by the Scientific Council and approved by the rector.

24. In the course of training process in the Academy, training forms such as lecture, training experience, course, essay and diploma thesis, consultation, condition and imitation contests, independent work planned under the supervision of teachers, automated training, practical, mobile and probation exercises may be used.

25. Evaluation forms such as seminar, final interview, examination, written work, colloquium, final state certification; automated knowledge verification and testing may be used.

26. Purposeful training of listeners may be implemented through individual programs.

27. Training in the Academy shall be conducted in Azerbaijani language.

28. Legal Clinics may be established at the Academy with a view to achieve organic unity of theoretical and practical aspects of the legal regulation.

29. Matters on training process organization, which are not settled by the legislation of the Republic of Azerbaijan and present Statute, shall be regulated by the acts of the Academy.

30. Additional paid educational groups may be arranged in the Academy in accordance with the legislation of the Republic of Azerbaijan.

### **VII. Scientific-research activity of the Academy**

31. Fundamental and applied scientific research as a separate direction of the activity shall be conducted in the Academy.

32. Basic duties of the scientific-research activity of the Academy shall be as follows:

32.1. provision of unity of training and scientific processes;

32.2. application of results of scientific-research activity in training process and in practical operation of relevant public authorities and institutions;

32.3. comprehensive development of fundamental and applied research on primary directions of humanities;

32.4. research of conceptual problems on primary directions of humanities;

32.5. implementation of joint scientific-research activity with foreign and international organizations;

32.6. studying and summarizing of national and international experience in basic directions of the scientific-research activity;

32.7. raising of scientific specialization of scientific-pedagogical staff of the Academy, preparation and realization of programs on raising of professional skills of scientific staff:

32.8. implementation of analytical, tutorial and forecast activity for public authorities;

32.9. elaboration of legislative acts and implementing of their scientific examination;

32.10. Organization and realization of seminars, conferences, symposiums and congresses with participation of national and foreign experts.

33. Following forms of scientific-research activity shall be used in the Academy:

33.1. preparation and publication of monographs, manuals and educational supplies;

33.2. elaboration of informational-analytical, scientific-methodical materials and recommendations for courts, law enforcement bodies and other state institutions;

33.3. implementation of the scientific-methodical activity directed to the improvement of the quality of experts' training, raising of pedagogical skills of the scientific-pedagogical staff, upgrade of scientific organization of training process; elaboration of forms and methods of use of modern information technologies and technical means in training and of modern training technologies;

33.4. Post-graduates and doctor studies, defending of thesis;

33.5. cooperation with national, foreign and international scientific, training and socio-political centres in realization of fundamental scientific and applied research, arrangement of scientific forums, improvement of skills of scientific staff;

34. The Academy shall implement scientific-research activity on the basis annual working plan to be adopted by the Scientific Council and approved by the rector.

35. Research for justice and prosecution service officers shall be implemented following to the plan-orders will be submitted by the Ministry, Judicial Legal Council and Presidium of Bar Association;

36. Requests of other governmental and non-governmental bodies to launch scientific research on various fields and issues shall be considered in the Scientific Council and relevant decision shall be adopted.

37. Scientific papers shall be published following to the annual publication plan to be approved by the rector.

38. The Academy, in accordance with the legislation of the Republic of Azerbaijan, shall carry out certification activity. There shall be defending councils operated in the Academy, if scientific degrees of Doctor of Philosophy and PhD granted. Essential principles of the

Doctor Studies activity in the Academy shall be determined by the legislation of the Republic of Azerbaijan and acts of the Academy.

39. The Academy shall prepare, train and re-train its own scientific-pedagogical staff through the following methods:

39.1. transfer to its own Doctor degree courses, to the Doctor degree courses of other educational institutions or scientific-research facilities;

39.2. transfer to leading educational and scientific-research departments and institutions, public authorities and abroad for probation;

39.3. arrangement of conferences and seminars with participation of leading local and foreign experts;

39.4. granting creative leave;

### **VIII. Standing staff of the Academy**

40. Standing staff of the Academy shall be composed of scientific-pedagogical (professorial-teacher staff, research fellows), engineering-technical, administrative-logistical, training auxiliary and other staff members.

41. Labor relations, rights and duties of standing staff of the Academy shall be determined by educational legislation, legislation on service in justice bodies and on state service, labor legislation as well as be the present Statute. Admission of applicants to the scientific-pedagogical positions shall be carried out on competitive basis in line with labor legislation.

42. The list of positions occupied by justice and public servants and of special ranks and specialization degrees of public servants complying with those positions as well as competences of the rector in the field of human resources management shall be determined by the Minister.

43. The status of those penitentiary service officers transferred to the relevant position in the Academy and having special ranks shall be retained concessions, authorities, additional rights and payments.

44. Positions of faculty dean, chairman of department and director of scientific-research division shall be elective. Those having academic titles and academic degrees, higher education, pedagogical expertise and practical working experience shall have an advantage in the course of appointment to professorial-teacher positions.

45. Professorial-teacher staff and research fellows of the Academy shall have the following duties:

45.1. secure high efficiency of training and scientific research processes;

45.2. observe the Statute and acts of the leadership of the Academy;

45.3. carry out all types of training, training-methodical and scientific activity;

45.4. constantly improve scientific-theoretical and pedagogical skills;

45.5. participate in comprehensive scientific and methodical provision of subjects taught, elaboration of manuals, preparation of scientific-methodical materials stipulating modern training forms and methods;

45.6. form professional qualities and citizen position of those studying at the Academy according to their specialization selected, develop their initiative, self-dependence and creative skills.

46. Professorial-teacher staff and research fellows of the Academy shall be entitled to:

46.1. select training means, methods and forms directed to provision of high quality of training in line with state education standards;

46.2. select methods and means complying with individual capacities of scientific research and providing high efficiency of such research;

46.3. elect and be elected to the Scientific Council;

- 46.4. occupy training-administrative positions (faculty dean, chairman of department etc.);
- 46.5. participate in discussion and resolution of matters related to the activity of the Academy;
- 46.6. participate in scientific discussions, seminars, conferences, symposiums and other such events;
- 46.7. make use of library, training and scientific-research resources of the Academy;
- 46.8. lodge complaints in relation to orders and decrees of the leadership of the Academy in the order provided by the legislation;
- 47. Functions of engineering-technical, administrative-logistical, training auxiliary and other staff members shall be determined by service instructions.

#### **IX. Variable staff of the Academy**

- 48. Variable staff of the Academy shall be composed of people training and studying therein.
- 49. Variable staff of the Academy shall have the following duties:
  - 49.1. carry out all training instructions in terms provided, conduct examinations and testing specified in training plans and programs;
  - 49.2. abide laws, be aware of and precisely implement present Statute as well as internal house rules of the Academy;
  - 49.3. develop own scientific-theoretical, general education and professional level;
  - 49.4. be an active defender of state interests and human rights and freedoms, train high moral qualities in themselves;
  - 49.5. protect and promote traditions of the Academy;
  - 49.6. carefully treat the property of the Academy;
- 50. Variable staff of the Academy shall be entitled to:
  - 50.1. obtain knowledge complying with up-to-date advanced level of education, science, techniques and culture;
  - 50.2. participate in discussion and resolution of matters related to the activity of the Academy in the order provided, comment on organization and contents of training processes, quality of lectures, arrangement of seminars and other events;
  - 50.3. enjoy training and scientific-consultative assistance in the departments;
  - 50.4. make free use of training equipment and accessories, means and devices, laboratories, rooms, lecture halls, special premises, information and communication technologies, reading halls, library, means of training and scientific-research divisions and sport facilities;
  - 50.5. publish scientific papers and reports; participate in scientific-research activity following to the recommendations of departments;
  - 50.6. have scholarship in the extent and order provided by the legislation;
  - 50.7. lodge complaints in relation to orders and decrees of the leadership of the Academy in the order provided by the legislation;
- 51. Those persons affiliated within the variable staff may be expelled from the Academy on the following grounds, if any:
  - 51.1. if his/her own initiative;
  - 51.2. if transferred to another educational institution;
  - 51.3. on the state of health (in accordance with the legislation of Azerbaijan Republic the opinion of military-doctor commission or Medical service of Ministry);
  - 51.4. following to the decision of institution which transferred the person to the Academy;
  - 51.5. for poor progress in education;
  - 51.6. for gross and numerous breach of the present Statute and internal discipline of the Academy;

51.7. for non-compliance with requirements provided for justice and prosecution officers;  
51.8. for failing to implement obligations enshrined from the Agreement on paid education;  
52. Those trained and studied therein not residing in Baku city shall be provided with space in hostel of the Academy.

#### **X. International cooperation of the Academy**

53. The Academy shall have foreign relations and international cooperation, training and improvement of specialization of foreign citizens on the basis of interstate treaties and agreements signed between Ministry and relevant public authorities of foreign states.

#### **XI. Financial-logistical activity of the Academy**

54. The Academy shall be entitled to establish and use special funds at the expenses of off-budget assets, grants, earmarked donations of natural and legal persons, including foreign natural and legal persons and international organizations with a view to implement its own duties and objectives.

55. The Academy shall have ownership rights over assets, property and other property objects granted in the form of donations of natural and legal persons as well as incomes of the Academy acquired from its activity and property and other non-property objects acquired at the expenses of such incomes.

56. The Academy shall make use of abovementioned incomes and property objects for the needs related to development of training, scientific and logistical background, improvement of social and life conditions of standing and variable staff of the Academy as well as its own activity.

57. Extent and forms of the salaries of standing staff of the Academy shall be determined within salary funds of the Academy in accordance with the legislation of the Republic of Azerbaijan. Additional payments and extension in salaries, awards and other stimulating payments may be determined at the expenses of financial means of the Academy. There shall be no limits for extensions, additional payments, awards and other payments and their extent shall be determined by the Academy.

58. Logistical-technical background of the Academy shall be composed of lands, buildings, laboratorial equipment, technical means of training, manuals, other training-methodical materials, scientific literature and belles-lettres, special technics, transportation vehicles, cars and equipments, training-sport facilities as well as other valuable means of logistical-technical provision.

59. The Academy shall make permanent and free use of lands attached thereto.

#### **XII. Stocktaking and reporting of the Academy**

60. The Academy shall carry out stocktaking of results of its economic and other activity, run statistical and financial reporting in the order provided, report on results of its activity to Ministry in the order and terms specified.

#### **XIII. Re-organization and termination of the Academy**

61. The Academy shall be re-organized and terminated by the decision of the President of the Republic of Azerbaijan.





**R U L E S**  
**OF SELECTION OF NON-JUDICIAL CANDIDATES TO VACANT JUDICIAL  
POSTS**

**1. General provisions**

1.1. Present Rules were elaborated according to Article 126 of the Constitution of the Republic of Azerbaijan and COURTS AND JUDGES ACT and JUDICIAL-LEGAL COUNCIL ACT of the Republic of Azerbaijan.

1.2. Present Rules establish procedure of selection of the non-judicial candidates (hereinafter - candidates) to the vacant judicial posts according to the requirements of paragraph 1 Article 126 of the Constitution of the Republic of Azerbaijan and paragraph 2 Article 93 of the Courts and Judges Act.

**2. Selection of candidates to vacant judicial posts**

2.1. Judge Selection Committee shall select candidates to vacant judicial posts.

2.2. Candidates to vacant judicial posts shall be selected in a transparent manner by means of written and oral test examinations, initial long-term training course (basic training for judges) and final interview in order to determine the level of knowledge, professional skills, general world outlook and suitability to judicial posts.

2.3. Judge Selection Committee shall assess results of the examinations. Judge Selection Committee shall be entitled to assign ad hoc commission staffed from its members. Ad hoc commission members shall enjoy all the rights and duties of the Judge Selection Committee Member during examination.

2.4. Shall the Judge Selection Committee Member have close kinship ties or personal relationship with the candidate or shall there arise circumstances giving grounds to his/her partial attitude, s/he will not participate at examinations and interview with the candidate concerned. In these circumstances, the candidate shall object to any Committee member one day before examination at the latest. Judge Selection Committee shall consider objections at its sessions.

2.5. Those candidates who successfully passed written and oral examinations shall move on directly to the long-term training stage. Training stage shall be arranged at the Legal Training Center of the Ministry of Justice.

2.6. Every candidate shall be assessed at the end of the training stage. Candidates shall be assessed according to the results of training and final interview by the members of the Judge Selection Committee.

2.7. Candidates shall be assessed by means of mark (points) system. Judge Election Committee shall draw up the candidates according to the marks they have gained.

2.8. Results of the evaluation and opinions on specialization of the candidates shall be submitted to the Judicial-Legal Council. Judicial-Legal Council shall consider the proposals of the Judge Selection Committee on the candidates selected to the judicial posts, monitors the implementation of the legislation and the Rules in the course of the selection and interview candidates.

2.9. Judicial-Legal Council shall classify the candidates into fields of specialization according to the interview results and appropriate opinions of the Judge Selection Committee and proposes to the President of the Republic of Azerbaijan the appointment of the candidates who have gained minimum or higher marks to vacant judicial posts.

### **3. Written and oral examination**

- 3.1. Judge Selection Committee shall constantly publish in the media and the internet information on commencement dates and deadlines of submission of applications by candidates to the vacant judicial posts, list of documents to be submitted by the candidates, annotation of examination questions (information on the fields covered by the examination questions), list of legislation used in the elaborations of questions, as well as, other relevant information related to the selection of candidates to vacant judicial posts.
- 3.2. Lawyers willing to participate in the written and oral examination and meeting the requirements provided by part I Article 126 of the Constitution of the Republic of Azerbaijan and paragraph 2 Article 93 of the Courts and Judges Act of the Republic of Azerbaijan shall submit the following documents to the judge Selection Committee:
- 3.2.1. application to the Judges Selection Committee;
  - 3.2.2. identification card and its copy;
  - 3.2.3. personal history form of the candidates;
  - 3.2.4. curriculum vitae;
  - 3.2.5. certificate of high education (diploma) and its copy;
  - 3.2.6. ratified copy of the record of service (by notary or department of personnel);
  - 3.2.7. medical certificate confirming due physical and mental capacity;
  - 3.2.8. four photographs in 4x6 sizes.
- 3.3. Upon attestation of the copy with the original, identification card and certificate of high education (diploma) shall be returned.
- 3.4. Documents received after deadline, with exception of the posted documents, shall not be accepted.
- 3.5. Staff of the Judicial-Legal Council shall receive application documents.
- 3.6. Staff of the Judicial-Legal Council reviews completeness and correctness of the documents, as well, as, their conformity to the legislative requirements and keeps the record in the applications receipt journal.
- 3.7. Documents that are not complete and fail to meet the requirements of the present Rules shall not be accepted and the applicant shall be informed of the revealed shortcomings. Shall discrepancies be revealed subsequently, the documents will be returned with substantiated response. The rectified documents may be re-submitted within the term provided for submission of applications.
- 3.8. Shall the application documents conform to the Rules, the candidate will be included in the general list and provided with the slip receipt and Memo of the Judicial Candidate. Memo shall cover information on written and oral examinations, training stage and final interview procedural issues, as well as, other necessary information related to the selection of candidates to the vacant judicial posts.
- 3.9. Personal identification code shall be issued to every registered candidate. This identification code shall be in the numerical form and secures confidentiality of the application documents.
- 3.10. Examination Pass shall be provided to each candidate two days prior to written examination. Pass shall bear the photograph of the candidate, as well as, indication of the personal identification code, address of the examination venue, time and date of the examination, chamber, row and seat number.
- 3.11. Only Personal Identification Code shall be used in the examination. Examination Pass shall not have indication of family name, given name other information identifying the applicant. Candidate has breached this rule shall be debarred from the examination.
- 3.12. Candidates shall be obliged to produce the Examination Pass and identification card at the examination. Shall the candidate fail to produce even one of the specified documents, s/he will be debarred from examination. Shall the person loose or made corrections to

his/her Examination Pass, s/he will be debarred from the examination and will not be issued a new one.

3.13. Written examination shall be conducted by the Judge Selection Committee on the date established in beforehand.

3.14. Judge Selection Committee shall appoint Examination Chief and supervisors in order to conduct written examination. There shall be at least two supervisors per chamber.

3.15. Shall the candidate breach the written examination rules, i.e. submit forged documents, cheat at the examination, bring means of communication to the examination, send someone else instead of himself, or do actions in breach of the rules of examination, Examination Chief and supervisor will draw up a report and the candidate will be debarred from the examination. If such violation will be after the examinations results of his/her examination shall be annulled by the Judge Election Committee.

3.16. Judge Selection Committee shall endorse the list of inadmissible actions and objects, which may not be brought to the written examination and include this information into the Memo of the Judicial Candidate.

3.17. With a view to ensure transparency of the examination, the Judge Selection Committee invites international, governmental and non-governmental organizations, as well as, media representatives to observe examinations. Organizations and media invited or applied for observing the examinations shall produce to the Judge Selection Committee the list of its representatives at least 7 days prior to the examination. The proposed representatives shall be accredited to the Committee.

3.18. Interference with the course of examination, distraction of candidates and abandonment of the examination venue by the observers shall not be admitted. Shall the observers commit such actions, the candidates may report thereof to the Examination Chief.

3.19. Written examination shall be arranged in stages by means of electronic calculating machine (computer) processing on multiple question paper and selecting the composition's themes under procedures provided by paragraphs 3.37 and 3.38 of the Rules.

3.20. Questions of the first stage of the written examination shall be prepared by the Judge Selection Committee with due respect to the principle of confidentiality. The Committee shall be entitled to involve specialists from legal and other fields in the process of formulation of questions. The number of questions in the compilation shall exceed the number of questions produced at the examination at least ten folds.

3.21. Examination paper of the written examination conducted by the means of electronic calculating machine (computer) shall be composed of one hundred questions. Examination shall last four hours.

3.22. Formulation of questions for the first stage of the written examination shall be completed at least three days prior to the examination. Judge Selection Committee shall review and approve the compilation of questions in private session and store it in the sealed envelop in the appropriate storage.

3.23. Judge Selection Committee shall prepare the confidential list of correct answers to the questions for the first stage of the written examination. Members of the Judge Selection Committee shall sign the list and store it in the separate sealed envelop in the special storage of the Committee.

3.24. Candidate shall be present in front of the examination building (the address shall be indicated on the Examination Pass), produce the Examination Pass and Identification Card to the Security Operative at the entrance and enter the building and take his/her place indicated in the Examination Pass. Only one candidate shall be seated at each desk.

3.25. Written examination shall be conducted in one chamber. If not possible, the examination process shall be broadcast (live) to other chambers in the random view profile in order to ensure transparency.

3.26. Questions for the first stage of the written examination shall be selected from the compilation of questions overtly just before the commencement of examination. To this end, envelop containing the compilation of questions shall be unsealed in the presence of observers and loaded into the electronic calculating machine (computer). Electronic calculating machine shall select one hundred questions from the general data base according to the programmed software. The selected questions shall be multiplied on the spot. If not possible, the original sample shall be multiplied by the appropriate printing facility in the short period of time in front of the candidates according to their number. Multiplied copies shall be supplied to the Examination Chief for further circulation among the examinees. Shall the selection and multiplication of questions be performed in one of the chambers, these procedures will be broadcast (live) to the other examination chambers.

3.27. When are selected distribution of to the candidates, Examination Chief, along with a supervisor and observer, shall unseal envelop with answer sheets, distribute the answer sheets and explain the rules of filling in. Then the questions are distributed.

3.28. The beginning time of examination shall be counted as of the moment distribution of questions.

3.29. Circled letter marking the correct answer on the answer sheet shall be filled in by with ball-point black or dark blue pen. The spoilt answer sheet shall not be replaced. In case if several answer circles under one question are filled in, that answer shall not be valid and contribute to the final result. The wrong answers to the questions shall not affect the correct answers. The person filling in the answer sheet shall sign it.

3.30. Candidate shall submit his/her answer sheet to the examination supervisor at the end of the examination and leave the chamber.

3.31. Fulfilment of examination shall be attested by the protocol at the end of the examination. Supervisors and two candidates shall sign the protocol. The protocol and answer sheets shall be placed in envelop and sealed and submitted to the Examination Head. Examination Chief shall submit the sealed envelop to the President of the Judge Selection Committee.

3.32. Judge Selection Committee shall check the answer sheets.

3.33. Checking of the multiple answer choice based answer sheets of written examination and calculation of points shall be conducted by means of electronic calculating machines (computers) operating in an autonomous mode though involvement of relevant specialists. To this end, sealed answer sheets and the list of correct answers to the examination questions shall be provided to the specialists.

3.34. Each correct answer shall be appraised by 1 point (100 possible points in total). Wrong and blank answers shall be appraised by 0 point.

3.35. Upon completion of the answer sheets checking, the results of the examination along with the answer sheets shall be submitted to the Judge Selection Committee.

3.36. Candidates to have collected sixty or more points at the First Stage of the Written Examination shall be admitted to the Second Stage of the Written Examination. The list of the candidates admitted to the Second Stage of the Written Examination shall be published in media and internet.

3.37. Judicial-Legal Council shall summon in Session to fix the number of composition's themes to be submitted by the Judge Selection Committee and thereby launch the Second Stage of the Written Examination. There shall be even number of composition's themes covering criminal, criminal procedural, civil and civil procedural legislation in equal shares. After the Session of the Judicial-Legal Council, one of the Council members shall immediately announce the decision at the Session of the Judge-Selection Committee to take place in the vicinity of the Examination Chamber. (Session of the Committee shall take place in the vicinity of the Chamber where the composition's themes be selected, in case if

there are more than one examination chamber) Afterwards in the same session, the Committee Members shall prepare, within two hours, the composition's themes in number fixed by the Judicial-Legal Council. These composition's themes shall be approved by the Committee Decision passed unanimously.

3.38. Members of the Judge Selection Committee shall take the approved composition's themes to the Examination Chamber and shall not contact with outsiders. At this point, the composition's themes shall be differentiated into criminal law and civil law fields. One of the candidates shall pick one random composition's theme from each field. The selected composition's themes shall be announced and the candidates are given four hours to working. Shall the Examination be conducted in several chambers, the process of selection and announcement of composition's themes shall be broadcast (live) to the other examination chambers. During working on composition's theme, the candidate shall demonstrate the ability to relate the content of the appropriate legislation as complete as possible and to explain it, as well as, to express the concept of the legislation in question. Explanations about way of working on composition's themes and issues which will be taken into account during evaluation of compositions are reflected in the Memo of the Judicial Candidate. Written examination works shall undergo "double check" by the members of the Judge Selection Committee and invited specialists. Final result shall be arrived at by having the aggregate results of both stages of the examinations.

3.39. Each composition's theme at the Second Stage of the Written Examination shall be appraised by one hundred points. Each candidate gaining sixty or more points for each composition's theme shall be considered to have passed this stage of the Written Examination.

3.40. Written Examination results shall be published in media and posted in the Internet.

3.41. Each candidate shall be entitled to be issued feed-back report on his/her demand.

3.42. Judicial-Legal Council shall arrange storing of the answer sheets, compositions and other related documentation for the term of five years from the date of examination.

3.43. Discontent candidate shall be entitled to appeal to the Judge Selection Committee for elucidation of the conflict issue within five days after announcement of the result. The issue shall be review in the presence of appellant. This provision shall operate without prejudice to the candidate's general right to appeal.

3.44. If the answer sheet was evaluated correctly, the substantiated response should be made to the appellant. If the points were miscalculated, re-calculation shall be conducted.

3.45. Judicial-Legal Council shall review the appeals against the decisions of the Judge Selection Committee. Judicial-Legal Council shall review the appeals in order provided by the Judicial-Legal Council Act.

3.46. Staff of the Judicial-Legal Council Establishment shall inform the candidates about the Oral Examination five days in advance. Candidates shall be informed about the venue, date and time of the examination.

3.47. Questions in the legal area, as well as, those revealing candidates' abilities of logical reasoning, their general outlook and level of knowledge shall be posed to the candidates in the course of the Oral Examination.

3.48. Oral Examination shall be conducted through overt individual conversation with the candidate, which shall last up to thirty minutes, as a rule. Each candidate shall be asked five questions during the Oral Examination.

3.49. Members of the Judge Selection Committee shall be entitled to discuss answers of the candidate.

3.50. Committee Members shall record the questions posed to candidate and his/her answers in the points chart, appraise and report to the President of the Judge Selection Committee.

3.51. Answers of the candidates shall be appraised by maximum twenty points for each question, allowing each candidate to gain maximum one hundred points. Each candidate gaining sixty or more points shall be considered to have passed the Oral Examination.

3.52. The person coming to observe oral examination shall take with him/her identification card. Candidate that has already taken examination shall be entitled to participate as an observer of the Oral Examination. Any interference with the examination shall be inadmissible.

#### **4. Training stage and final interview**

4.1. Those candidates who successfully passed written and oral examinations shall move on to the initial long-term training course at the Legal Training Centre under the Ministry of Justice. Judge Selection Committee shall fix the term of the training course.

4.2. List of those candidates who successfully passed examinations and moved on to the initial long-term training course shall be published in media and posted in the Internet.

4.3. Judge Selection Committee and the Legal Training Centre under the Ministry of Justice shall draw the curriculum of the training course. Judicial-Legal Council shall endorse the curriculum and the Judge Selection Committee shall approve it.

4.4. Legal Training Centre shall report to the Judge Selection Committee the results of the training stage (degree of success, participation, conduct).

4.5. At the end of the training, each candidate shall take written and oral examinations. These examinations shall reveal the abilities of candidates to analyze legislation, issue written comments on the certain legislative provisions or draft court decision on legal case.

4.6. Judge Selection Committee, in conjunction with the Training institution, shall conduct examinations at the end of the training. Committee shall be entitled to involve legal specialists to this activity. Final interview with the candidates who passed examinations on final education shall be held by the Judge Election Committee. It shall be held in order to determine the candidates to be master the features which are necessary in judge activity.

4.7. Each examination at the end of the training shall be appraised by maximum one hundred points. Each candidate gaining sixty or more points at each examination shall be considered to have passed successfully the Training Stage.

4.8. Judge Selection Committee shall conduct the Final Interview with those candidates who successfully passed examinations at the end of the training. Final Interview shall be conducted in order to reveal acquirement of judge qualities.

4.9. Final interview shall be conducted individually and last up to one hour. Ten questions shall be asked to each candidate. Each member of the Judge Selection Committee shall be entitled to ask only one question.

4.10. Members of the Judge Selection Committee shall be entitled to discuss answers of the candidate.

4.11. Committee Members shall record and appraise the questions posed to candidate and his/her answers in the points chart. Final results of the Final Interview shall be reported to the President of the Judge Selection Committee.

4.12. Answers of the candidates shall be appraised by maximum ten points for each question, allowing each candidate to gain maximum one hundred points. Each candidate gaining sixty or more points for each question shall be considered to have passed the Final Interview.

4.13. Judge Selection Committee shall evaluate candidates who successfully passed the Final Interview.

4.14. Aggregate points of the examinations at the end of the training and the Final Interview shall constitute the evaluation mark of candidate.

4.15. Judge Selection Committee shall placed in the list according to the evaluation mark.

## **5. Classification of candidates and submission of proposals on their appointment to judicial posts**

5.1. Judge Selection Committee shall draw up opinion (comments) on the aptitude of candidates to judicial posts at the relevant courts (of general and specialized jurisdiction) based on the results of the Training Stage and Final Interview.

5.2. Judge Selection Committee shall submit proposals to the Judicial-Legal Council about the candidates selected to the judicial posts.

5.3. Proposal about a candidate shall include the following information:

5.3.1. name, patronymic and surname;

5.3.2. curriculum vitae and reference;

5.3.3. results of the initial training and the Final Interview;

5.3.4. information on the aptitude to the judicial post, including opinion (comments) on specialization.

5.4. Judicial-Legal Council shall consider the proposals of the Judge Selection Committee about the candidates selected to the judicial posts. Judicial-Legal Council shall review the selection of the candidates as to its compliance with the requirements of the legislation and the present Rules as well as have conversation with candidates.

5.5. Judicial-Legal Council shall refer the candidates to specialization fields according to the results of the Conversation and opinion (comments) of the Judge Selection Committee. Judicial-Legal Council shall propose President of the Republic of Azerbaijan their appointment to vacant judicial posts.

5.6. Motion for appointment to vacant judicial posts shall include the following information about the candidate:

5.6.1. name, surname, patronymic name;

5.6.2. curriculum vitae and reference;

5.6.3. results of the initial training and the Final Interview;

5.6.4. information on the aptitude to the judicial post, including opinion (comments) on specialization.

5.6.5. position proposed for appointment.

5.7. Judicial-Legal Council may propose the recruitment of the candidates who graduated from the training course and successfully passed the Final Interview but were not proposed due to the lack of vacancy, to the administrative posts in the justice bodies and prosecutor's office employee in the respective institutions. Appointment of these candidates to the emerging judicial vacancies shall be performed according to paragraphs 5.4-5.6 of the present Rules



**LAW OF THE AZERBAIJAN REPUBLIC  
ON PROCEDURES FOR REVIEW OF CITIZEN APPLICATIONS**

Applications of citizens to state authorities with proposals, statements and complaints shall be the main aspect of human rights practices and protection.

**Article 1. Right to apply**

On the basis of part one Article 57 of the Constitution of the Azerbaijan Republic, citizens of the Azerbaijan Republic shall be entitled to apply, as well as to submit individual and collective written applications to state authorities. Each application shall be responded in writing in accordance with procedures and within terms stipulated under law.

**Article 2. Legislation on procedures for review of citizen applications**

Legislation on procedures for review of citizen applications shall be comprised of the Constitution of the Azerbaijan Republic, this Law and other legislative acts of the Azerbaijan Republic.

**Article 3. Key definitions**

Proposal- application aimed at improvement of the activity of state power authority, entity, organization and enterprise, resolution of issues, related with education, science, technology, legislation, arts and other areas.

Statement — application stipulating requirements, related with implementation of rights to which citizens are entitled.

Complaint — application with requirement on reinstatement of violated rights to state authority, entity, organization and enterprise.

**Article 4. Areas outside of scope of this Law**

This Law shall not be applicable for review of citizen applications under court proceedings.

Applications of military servicemen, related with their service, shall be reviewed in accordance with Internal Service Charter and disciplinary Charter of Military Forces of the Azerbaijan Republic.

Applications related with holding of referendum shall be reviewed in accordance with Elections Code of the Azerbaijan Republic.

Procedures for review by representative on human rights (ombudsman) of citizens applications in the Azerbaijan Republic shall be regulated under this Law.

**Article 5. Responsibilities of state power authorities, entities, organizations and enterprises**

State power authorities, entities, organizations and enterprises shall provide equal conditions for implementation in accordance with procedures established and secured under Constitution and legislation of the Azerbaijan Republic of rights of citizens in the Azerbaijan Republic, to submit in writing or verbally proposals, statements, complaints against illegal actions (failures to act) of public officials.



State power authorities, entities, organizations and enterprises, their heads, other public officials shall accept and review in accordance with their competence and under procedures and within terms established under this Law proposals, statements and complaints of citizens, adopt necessary measures and bear responsibility for these.

In review of proposals, statements and complaints heads and other public officials of state power authorities, entities, organizations and enterprises shall:

- Review them carefully, if necessary enquire documents needed and adopt other measures to resolve the matter;
- Inform citizens in writing on results of review of proposals, statements and complaints, if those are not satisfied, to indicate the reasons and explain the appeal procedures;
- Provide adoption of grounded decisions on proposals, statements and complaints, as well as timely and appropriate execution of these decisions.

State power authorities, entities, organizations and enterprises shall on systematic basis review the status of review of citizen applications and adopt measures for termination of causes for submission of duplicating statements and complaints by citizens, related with violation of their interests, protected under the law.

#### **Article 6. Procedures for receiving of citizens**

Heads and other public officials of state power authorities, entities, organizations and enterprises shall organize the receiving of citizens.

Citizens shall be received at dates and time agreed in advance.

When necessary, heads and other public officials of state power authorities, entities, organizations and enterprises shall receive citizens immediately.

#### **Article 7. Procedures for review of applications**

Citizens submit proposals and statements to state power authorities, entities, organizations and enterprises, who bear direct responsibility for relevant issues. State power authorities, entities, organizations and enterprises, their heads and public officials, when the resolution of issues submitted in the proposal is not within their competence, shall send them no later than within five days to relevant organizations and inform about this the applicant, and during personal meeting explain where he shall apply.

Application shall be deemed reviewed, when the matter indicated in the application is reviewed and citizen is provided with grounded response.

In direction of citizen applications by the state authority to other state power authorities, entities, organizations, enterprises for their review at belonging and in accepting of the application for control, such authorities, entities, organizations and enterprises shall provide the state power authority with grounded response on the application within the term established under this Law. Response letter to the state power authority on application shall be signed by the supervisor of relevant body, entity, organization, enterprise.

Refusal to accept the application is prohibited.

*During acceptance for review of enquiry to submit the information, it is prohibited to demand from the applicant to provide reasons for requesting such information.*

Written application shall be signed by citizen, contain his complete name, address and employment. If application does not contain this information is shall be deemed anonymous. Anonymous applications shall not be reviewed.

It is prohibited to send citizen complaints for review to authorities or public officials, whose actions (failures to act) are subject of complaint.

“State power authorities can conduct acceptance and answering of applications in an electronic form.”

#### **Article 8. Application administration procedure**

Proposals, statements and complaints of citizen shall be registered in administration. Documents contain stamp, indicating date and number of receiving. If requested by citizens, he is informed about number and date of registration of his proposal, statement and complaint. Administration of citizen applications shall be organized by the head of authority.

Administration is performed in accordance with procedures approved by relevant executive authority.

#### **Article 9. Right of appeal**

Citizen, who does not agree with decision, made on his proposal, application, complaint shall be entitled to appeal against the decision in the authority or before public officials, to which the decision making authority, entity, organization, enterprise or public official is subordinated.

Complaints may be submitted to court in accordance with procedures of legislation.

#### **Article 10. Term of review of application**

Application shall be reviewed within one month, *with exception of cases stipulated under legislation*, and applications, not requiring additional review and inspection, no later than within 15 days, *unless other term is stipulated under legislation*.

In the event of necessity to conduct special investigation, requirements for additional materials or adoption of other measures for review of application, head or deputy of relevant authority, entity, organization or enterprise shall in exceptional cases extend the period of review of application for more than one month. Applicant shall be informed on this, if the application is controlled by state power authority, notification shall be made to such state power authority.

Applications of military servicemen and their family members shall be reviewed no later than within 15 days from the date of receiving.

*If, as a result of review of enquiry for submission of information within above term, the importance of information will be lost, such applications are reviewed immediately, and if not possible- within 24 hours.*

*Applications on illegal decisions and actions of competent state authorities and public officials, providing security of state court and law-enforcement agencies protected by state, shall be reviewed immediately.*

**Article 10-1. The features of reviewing of applications related to corruption offences**

10-1.1. In state power authorities applications related to corruption offences are reviewed according to this law taking into account features of this article.

10-1.2 Service investigation is assigned by head of state power authority when application related to corruption offences is submitted. Service investigation is conducted by internal control service of the relevant state power authority. Service investigation should be completed in 20 days period and the result should be presented to head of state power authority. Head of state power authority can prolong the period for 10 days if there is a need to require additional materials or conduct other measures.

10-1.3 Head of state power authority takes one of the following decisions about application as soon as receives the result of service investigation.

10-1.3.1 Take measures according to legislation of the Republic of Azerbaijan if application is proved to be grounded, as well as if there are signs of civil, administrative and criminal liability in the complained act.

10-1.3.2 Involve related persons to disciplinary measures according to the legislation of the Republic of Azerbaijan if application is proved to be grounded but there is no signs which can create civil-legal, administrative or criminal liability.

10-1.3.3 Cancel the proceeding on complaint if application is proved not to be grounded.

10-1.4 Applicant shall be given motivated response about taken decision and shall be explained his right to appeal the decision.

10-1.5 complaint can be lodged to higher state power authority about the decision of state power authority. This provision doesn't limit the person's right to lodge a complaint to court about the decision of state power authority.

10-1.6 Applications related to corruption offences in bodies, organizations, institutions which are not considered state authority body are reviewed in 20 days period according to general rules defined in this law.

**Article 11. Liability for violation of this Law**

Heads of state power authorities, entities, organizations and enterprises shall be responsible for organization of receiving and review of proposals, statements and complaints of citizens.

Public officials in fault for violation of procedures established for review of proposals, applications and complaints of citizens, as well as persons persecuting citizens due to submission of proposals, complaints or containing criticism, shall bear disciplinary, civil and criminal liability in accordance with legislation.

In submission of application or complaint to slander, citizen shall bear liability in accordance with legislation.

**Article 12. Procedures for review of applications of foreign citizens and persons without citizenship**

Review of applications of foreign citizens and persons without citizenship shall be regulated under this Law, unless other procedures are stipulated under international treaties, to which the Azerbaijan Republic is a signatory.

*President of the Azerbaijan Republic*

*Heydar Aliyev*

*City of Baku, June 10, 1997*

*No 314-II'*

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*(With amendments from June 23, 1998, No 509-IGD; October 5, 1999, No 706-IGD; October 12, 2001, No 205-IIGD; March 13, 2001, No 100-IIGD; November 23, 2001, No 219-IIGD; July 2, 2002, No 356-IIGD; December 30, 2003 No 569-IIGD, April 6, 2007 No 92 IIIIGD).*

## APPENDIX 3

### The Laws of Georgia

#### LAW OF GEORGIA ON THE HIGH SCHOOL OF JUSTICE (Unofficial translation)

##### CHAPTER I GENERAL PROVISIONS

###### **Article 1. Status of the High School of Justice, its Purposes and Functions**

1. The High School of Justice (hereinafter referred to as the “School”), as a public legal person, shall be set up under this law.
2. The purpose of the School is to provide training to the Students of Justice – persons to be appointed as judges in common courts of Georgia. The School is charged with ensuring that the students of justice improve their theoretical knowledge of the law and learn the practical skills necessary in their line of work, realize the extent of their future responsibility and independence within the framework of the law, and promote their integration in the social milieu in which they will be performing their judicial duties.
3. The School is also charged with continuous judicial training of sitting judges, as well as with training of candidates for the position of judge’s assistant and providing training and re-training opportunities for other specialists, in order to make sure that the Georgian judicial system is staffed by highly qualified individuals.

##### CHAPTER II STRUCTURE AND MANAGEMENT OF THE SCHOOL

###### **Article 2. Management of the School**

Management of the School is administered by the Independent Council and Board of Directors.

###### **Article 3. Rules for Electing Independent Council and its Competence**

1. The Independent Council of the High School of Justice (henceforth, Independent Council), which consists of 6 individuals, determines, coordinates, and supervises the general direction of the School’s activities.
2. A member of the Independent Council shall be a person with high education, who has adequate qualification and professional experience prescribed by this Law for exercising competence of a member of the Independent Council.
3. Independent Council is chaired by the Chairman of the Supreme Court of Georgia, who is at the same time a member of the Independent Council.
4. Five other members of the Independent Council, of which one is a non-judicial member of the High Council of Justice, are appointed for 3-year term by the Chairman of the Supreme Court with the consent of the High Council of Justice.
5. *Deleted*
6. The Independent Council elects the Deputy Chair from its members
7. The Independent Council shall:
  - a. develop and approve the School Charter;”;
  - b. prepare and approve rules for drafting a school budget;
  - c. hear the annual report of the School Director regarding the School activities;
  - d. upon the submission of the School Director shall:

- d. a) approve internal regulations;
- d. b) approve the School budget and submit it in accordance with legislation;
- d. c) *deleted*;
- d. e) *deleted*;
- d. f) approve the salary budget and work compensation amounts, as well as the amount of state stipends given to the Students of Justice;
- d. g). approve salary funds, salary rates and terms
- d. h) elect a deputy director and a head of internship;
- d. i) approve the curricula of training (theoretical course and seminars), internship and re-training programs;
- d.j) approve curricula of the theoretical course and final exams;
- d. k) approve qualification list of students of justice;
- e. exercise other activities as prescribed by this Law and the Statute of the School.

8. Compensation amounts for their work in the Independent Council for those individuals identified in paragraphs 3 and 4 shall be determined according to the restrictions provided for in Georgian legislation.

### **Article 3<sup>1</sup>. Removal of the Independent Council Member**

1. The grounds for removing a member of the Independent Council from his/her office are:
  - (a) Personal request/resignation letter;
  - (b) Removal from the position that he/she occupied during the appointment to the Independent Council;
  - (c) Failure to fulfil his/her duties for longer than 6 consecutive months;
  - (d) Decision of the court declaring him/her as legally incapable or partially capable, as well as lost without trace or dead;
  - (e) Entering into force of a conviction judgment by the court against him/her;
  - (f) Loss of Georgian citizenship;
  - (g) Expiration of his/her term;
  - (h) Decease.
2. The member of the Independent Council is relieved from his/her duty by the Chairman of the Supreme Court in consultation with the High Council of Justice.
3. The issue of the membership in and chairmanship of the Independent Council of the Chairman of the Supreme Court of Georgia is decided according to paragraph 1, subsection (b) of this article.

### **Article 4. Sessions of the Independent Council**

1. Sessions of the Independent Council shall be convened not less than twice a year. Sessions shall be presided over by the Chairman of the Independent Council, and in case of his absence – by Deputy Chairman.
2. School Director shall attend sessions of the Independent Council with of a voting right.
3. Independent Council is authorized if it is attended by majority of members of Independent Council. Decisions shall be adopted by majority vote. In case of a tie vote, the Chairman shall have the decisive vote.
4. Conclusions and decisions of the Independent Council are registered in the form of protocols that shall be signed by the Chairman and Secretary of the session.
5. Rules for preparing, convening and moderating the sessions of the Independent Council shall be envisaged by the Statute of the Independent Council which is drafted and approved by the Independent Council.

### **Article 5. Board of Directors of the School**

1. Board of Directors shall be set up in composition of a director, a deputy director and a head of internship.
2. Director shall be elected by the Independent Council for a term of five years in accordance with a procedure prescribed by Statute of the School
3. Any citizen of Georgia who has attained the age of 25 years and has high legal education, working experience of not less than 3 years may be appointed as a School Director. The Statute of the School may fix additional requirements to hold the position of a School Director.
4. One and the same person may be appointed as a School Director only twice in a row.
5. Deputy School Director and Head of Internship shall be elected with a term of 5 years. One and the same person may be appointed as a Deputy Director and Head of Internship only twice in a row. Election of a new School Director shall incur termination of competences of a Deputy Director and Head of Internship.
6. Competence and activities of the Board of Directors shall be defined by this Law and Statute of the School.

### **Article 6. Competence of the School Director**

School Director shall:

- a. represent the School; ensure functioning of the School, conducting of training and re-training courses for students;
- b. ensure execution of decisions of the Independent Council;
- c. submit curricula of training, internship and re-training programs to the Independent Council for approval after having agreed with the Board of Directors and Council of Lecturers;
- d. exercise administrative functions within the School building;
- e. exercise other activities provided for by this law and the Statute of the School.

### **Article 7. Competence of a Deputy Director and Head of Internship**

1. A Deputy Director of the School shall ensure implementation of training and re-training programs. His/her competence in the field of training (other than internship) and re-training course shall be prescribed by this Law and Statute of the School.
2. Head of Internship shall ensure implementation of internship programs. His/her competence in the field of internship shall be prescribed by this law and Statute of the School.

### **Article 8. Removal from the office of the School's Director, Deputy Director and Supervisor of Internship**

1. The grounds for removing the Director, Deputy Director, and Supervisor of Internship from their offices are:
  - (a) Personal request/resignation letter;
  - (b) Egregious or systemic violation of the School's Office Policy Manual;
  - (c) Violation of the provisions envisioned in the School's Charter
  - (d) Decision of the court declaring then as legally incapable or partially capable, as well as lost without trace or dead;
  - (e) Entering into force of a conviction judgment by the court against him/her;
  - (f) Loss of Georgian citizenship
  - (g) Expiration of his/her term;
  - (h) Decease;
  - (i) Other circumstances envisioned by this law or the School's Charter.
2. The Director, Deputy Director, and Supervisor of Internship are removed from the office by the Independent Council.

### **Article 9. The Structure of the School**

The Structure of the school and the rules of operation of its structural units are determined by the School's Charter.

## **CHAPTER III FINANCING OF THE SCHOOL**

### **Article 10. Budget of the School**

1. Expenses concerning activities of the School shall be reflected in a separate line of the budget of courts of general jurisdiction.
2. In order to fulfil the functions envisions by this law, the School is permitted, based on the decision of the Independent Council, receive financial income and material support allowed under Georgian legislation.

## **CHAPTER IV ADMISSION TO THE SCHOOL**

### **Article 11. Acceptance of the Students of Justice through a Formal Competition**

1. Selection of the Students of Justice is done through a competition.
2. The competition to select the Students of Justice, as a rule, takes place twice a year – in May and October.
3. The decision to conduct a competition for the selection of the Students of Justice is made by the High Council of Justice, based on the number of judges employed in Georgian common courts.
4. The decision of the High Council of Justice to hold the competition during any other time of the year has to be announced at least one month prior to the deadline.

### **Article 12. Persons Eligible to Participate in the Competition**

Any citizen of Georgia having legal capability and without previous conviction, who has passed state certification exam (hereinafter referred to as "Certification exam") as provided for by law "on Legal Education" and 7 years have not been expired after passing this exam, is eligible to participate in the competition.

### **Article 13. Competition**

1. The competition to select the students of justice is conducted by the High Council of Justice of Georgia.
2. The form of the competition, registration of the candidates, criteria for selecting the future Students of Justice, and other issues related to the competition are determined by the School's Charter.

### **Article 14. General Number of Students Justice to be accepted at the School**

The general number of students to be accepted at the school is approved prior to announcing the competition by the Independent Council at the advice of the High Council of Justice.

## **CHAPTER V STATUS OF A STUDENT OF JUSTICE**

### **Article 15. Status of a Student of Justice**



A student of Justice is a person who upon the decision of the High Council of Justice is admitted to the School through the competition and obtained a certificate of a Student of Justice.

#### **Article 16. State Stipend of a Student of Justice**

Throughout the duration of the training course, the student of justice receives state stipend, which cannot be less than  $\frac{1}{4}$  of the lowest salary drawn by a first instance judge.

#### **Article 17. Disciplinary Responsibility of the Student of Justice**

1. The Student of Justice is obligated to follow disciplinary norms.
2. The violation of disciplinary norms by the Student of Justice will incur the one of the following forms of disciplinary responsibility.
  - (a) Warning
  - (b) Reprimand
  - (c) Withholding of the State Stipend for 10 days
  - (d) Dismissal from the School
3. The form of disciplinary responsibility applied to the Student of Justice should be proportionate to the committed disciplinary violation. The types of disciplinary violations and the rules for applying the disciplinary sanctions are determined by this law or the Charter of the School.
4. The issue of disciplinary responsibility is considered and determined by the School management.
5. The School management has the right to remove disciplinary responsibility before its term expires, if the Student of Justice does not commit other disciplinary violation and will excel as the Student of Justice.
6. If another disciplinary sanction will not be applied to the Student of Justice within 7 months from the previous one, his/her disciplinary record is swiped clean.

### **CHAPTER VI TRAINING PROCESS AT SCHOOL**

#### **Article 19. Duration of Training**

1. Duration of training at School shall be 14 months. Whole training period shall cover theoretical course, internship and seminars.
2. The length of the theoretical course, internship, and seminars will be determined by the School's Charter.

#### **Article 20. Curriculum**

Students of Justice shall be trained in the following subjects:

- a) hearing of a case in a first instance court;
- b) hearing of a case in an appellate court;
- c) hearing of a case in a cassation court,
- d) qualification-related issues in civil, administrative and criminal law;
- e) drafting of procedural documents (decisions) during the court proceedings;
- f) professional ethics;
- g) disciplines on human rights and freedoms;
- h) foreign language;
- i) also other subjects the list of which is approved by the Independent Council upon submission of the School Director.

### **Article 21. Forms of Training**

Forms of training at School are: seminars, moot courts and discussions, trainings on rendering a court decision and its reasoning, as well as other forms approved by the Independent Council upon submission of the School Director. Curriculum may also include short-term assignments of the students of justice in courts or prosecutor's offices.

### **Article 22. Lecturers of the School, Council of Lecturers**

1. Training at School shall be conducted by lecturers of the School
2. Labour contracts with the lecturers of the School shall be concluded by fixed term for no more than a two-year term.
3. The lecturers of the School shall set up Council of Lecturers.
4. Sessions of the Council of Lecturers shall be convened regularly and presided over by the deputy director.
5. Competence of the Council of Lectures and rules of activities shall be prescribed by this Law and Statute of the School.
6. It is possible to invite periodically experts in different fields, also specialists in other supplementary disciplines, including foreign experts to train the students of justice. Rules and terms of inviting these persons, of their activities and their remuneration shall be approved by the Independent Council upon submission of the School Director.

### **Article 23. Final Examination of the Theoretical Course and Rules of Conducting it**

1. After completing the theoretical course of training the students of justice shall pass an examination which aims to assess theoretical knowledge acquired during the course.
2. Composition of the Board of Examiners shall be approved by the Independent Council upon the submission of the Director of the School.
3. Rules and terms of conducting examination, also score estimation system shall be prescribed by the Statute of the School.
4. Relevant measures in cases of failing exam within a fixed time limit shall be prescribed by the Statute of the School.

### **Article 24. Internship of the Students of Justice. Forms of Internship**

1. After final examination of the theoretical course, students of justice shall take an internship.
2. Forms of internship are as follows: compulsory internship and alternative internship.
3. Compulsory internship shall take place in courts of general jurisdiction, alternative internship – in notary offices, prosecutors' offices or other administrative institutions. Their list shall be approved by the Independent Council upon the submission of the School Director.
4. A student of justice shall be assigned to an alternative internship by taking into account his/her will.

### **Article 25. Head of Internship, Internship Coordinator**

1. Director of the School upon the submission of the Head of Internship shall appoint internship coordinators at courts, prosecutors' offices and other institutions prescribed by Paragraph 3 of Article 24.
2. An internship coordinator may be a judge, a prosecutor or a high official of an institution.
3. Internship coordinators shall:
  - a) conduct and supervise internship of the students of justice.

- b) at the end of the internship, grant qualification score and written recommendation to the students of justice assigned to them.
  - c) at the end of the internship submit to the Head of Internship a report on the activities carried out concerning performance of the program.
5. Score estimation system, rules of granting qualification score shall be prescribed by the Statute of the School

#### **Article 26. Written Report and a Thesis of a Student of Justice**

At the end of compulsory internship a student of Justice shall prepare a written report concerning the work performed by him, also prepares a thesis concerning the functioning of the internship institution, existing problems and ways of solution. Written report and thesis shall be submitted to the Head of Internship. They shall be sealed and attached to the personal history of a student.

#### **Article 27. Seminars**

1. The School holds two-month seminars for the students of Justice at the end of internship. The aim of seminars is to generalize knowledge and experience acquired through theoretical course and internship, also to ensure preparation of a student of justice for the final School Examination.
2. Seminars shall be conducted by lecturers of the School or by invited experts.

#### **Article 28. Final School Examination**

1. Upon completion of training at School, students of justice shall pass an examination which aims to assess theoretical knowledge and practical experience acquired by a student during the training process.
2. The examinations shall be conducted in written form. Students shall be given concrete cases from court practice and be entrusted with a task to draft procedural documents.
3. Results of the examinations shall be assessed by a Commission consisting of
  - a) a judge of the Supreme Court;
  - b) a member of the High Council of Justice of Georgia;
  - c) a law professor of the state university;
  - d) three members appointed by the Independent Council;
  - e) director of the High School of Justice.
4. Members of the commission referred to in Subparagraphs a, b and c of Paragraph 3 shall be approved by the Independent Council.
5. The member referred to in subparagraph a) shall be nominated by the Chairman of the Supreme Court of Georgia; the member referred to in subparagraph b) - by the High Council of Justice of Georgia, and the member referred to in subparagraph c) - by the Minister of Justice of Georgia.
6. Rules and terms of conducting examination, also score estimation system shall be defined by the Statute of the School.
7. Relevant measures in case of failing exam within a fixed time limit shall be prescribed by the Statute of the School.

### **CHAPTER VII QUALIFICATION LIST OF STUDENTS OF JUSTICE**

#### **Article 29. Drawing up a Qualification List**

Within one month after the completion of the final examination of training at School, the School Director shall submit a qualification list of students of justice to the

Independent Council for approval.

**Article 30. Criteria for drawing up a Qualification List**

1. While drawing up a qualification list the coefficient (ratio) shall sum up:
  - a) scores received during certification exam or other exam having the equal force under this Law.  
during entrance examinations;
  - b) scores received during final examinations after completion of a theoretical course at School;
  - c) scores received during the internship;
  - d) scores received during the final School Examinations.
2. Total score of a student shall be summarized in accordance with the procedure prescribed by the Statute of the School.

**Article 31. Consideration of the Examination *Results* when  
Assigning Students of Justice as judges**

1. Selection of a candidate for assigning as a judge shall take place on the basis of the following criteria:
  - a) rank of a student of justice in the qualification list;
  - b) recommendation of the Head of Internship if ranks of the students of justice coincide in the qualification list;
  - c) report produced by or work performed by a student of justice during internship if ranks in the qualification list coincide and Head of Internship provides positive recommendation of the students of justice.

**CHAPTER VIII  
RE-TRAINING COURSES**

**Article 32. Purposes of Re-training**

1. School shall provide planning and implement re-training programs on a yearly basis.
2. The purpose of re-training is to improve the qualification and professional skills of participants that is achieved through introducing them to legislative and other legal and scientific innovations, adaptation with new social and legal realities, generalization and sharing of practice, also through introducing them to judicial practice of foreign countries.

**Article 33. Forms and Program of Re-training**

1. Re-training shall be exercised through providing different types of seminars, training courses and conferences, practical and theoretical exercises, also through organizing discussions.
2. Re-training shall be exercised by Lecturers of the School.
3. For the purpose of re-training it is possible to invite experts in different fields, also specialists in other supplementary disciplines, including foreign experts. Rules of inviting these persons, also rules and terms of their activities and their remuneration shall be

prescribed by the Statute of the School.

4. The deputy director shall draw up a program of activities, after having agreed with the Council of Lecturers, to be carried out within the framework of re-training courses and submit it to the School Director. The latter shall discuss and submit it to the Independent Council for approval at the beginning of October of each year.

5. During drawing re-training programs, the School shall apply for recommendations to chairmen of cassation, appellate and first instances courts.

#### **Article 34. Right to Re-training of Acting Judges**

1. After publication of the annual program of activities for re-training, a person willing to be re-trained shall submit an application before the School administration, stating his/her willingness to participate in the planned activities. The reasons why a person applies to participate in a certain activity shall be indicated in the application.
2. The Board of Directors is obliged to respond to the application concerning participation in the re-training program within time limit, established by Georgian legislation, but no later than two weeks before activities start.
3. Refusal of the Board of Directors to participate in re-training course shall be well-grounded.
4. Rules and terms of conducting of and participation in re-training courses shall be prescribed by the Statute of the School.

#### **Article 35. Participation of Prosecutors, Lawyers and other persons in the re-training activities**

Rules for admitting prosecutors, lawyers and other persons to participate in activities planned within the framework of the re-training program shall be prescribed by the Statute of the School.

### **CHAPTER IX SPECIAL RULES FOR SELECTING JUDGES**

#### **Article 36. Exemption from Certification Exam and Training at School**

1. An ex-judge who has graduated from the School in accordance with this Law and was assigned as a judge in accordance with a procedure prescribed by “Organic Law of Georgia on Courts of General Jurisdiction”, having at least 2 years’ experience of a judge, shall be exempted from training at School in order to be assigned as a judge.
2. A person referred to in Paragraph 1 of this Article is required to pass certification exam in order to participate in the competition for being assigned as a judge if 7 years have passed after passing previous exam.
3. An ex-judge referred to in Paragraph 1 of this Article having at least 7 years’ experience of a judge, shall be exempted from training at School as well as from passing certification exam in order to participate in the competition for being assigned as a judge .
4. Assignment as judges of a category of persons referred to in this Article shall take place in accordance with a procedure prescribed by “Organic Law of Georgia on Courts of General Jurisdiction”.

## **CHAPTER X TRANSITIONAL PROVISIONS**

### **Article 37. Rule of Assignment of Judges before Approving the First Qualification List**

1. Before the Independent Council approves the first qualification list of students of justice, a person shall be assigned as a judge through current procedure in accordance with Georgian legislation.
2. As soon as the Independent Council approves the qualification list of the students of justice, legislative norms of Georgia regulating rules of assignment of judges shall be brought in compliance with this law.
3. After the Independent Council approves the first qualification list of students of justice a person may be assigned as a judge only if s/he meets requirements prescribed by this Law.

### **Article 38. To Make Qualification Exam Equal to Certification Exam**

1. Any citizen of Georgia having legal capability and without previous conviction, who have passed the qualification exam for judges and 7 years have not been expired after passing this exam, is eligible to participate in the competition.
2. An ex-judge who has passed qualification exam and was assigned as a judge on the basis of competition, having at least 2 years' experience of a judge, shall be exempted from training at School in order to assigned as a judge.
3. A person referred to in Paragraph 2 of this Article is required to pass certification exam in order to participate in the competition for being assigned as a judge if 7 years have passed after passing qualification exam.
4. An ex-judge referred to in Paragraph 2 of this Article having at least 7 years' experience of a judge, shall be exempted from training at School as well as from passing certification exam in order to participate in the competition for being assigned as a judge.

### **Article 39. Liquidation of the Judicial Training Centre and Creation of the School**

1. Liquidation of the Judicial Training Centre, establishment of the High School of Justice on its logistical basis and approval of the School Statute shall carry out no later than by 1 April 2006, in accordance with the rules prescribed by Georgian legislation.
2. Before approval of the first qualification list of the students of justice, the School shall also ensure to perform functions of the Judicial Training Centre in accordance with a procedure prescribed by current legislation.

## **CHAPTER XI FINAL PROVISIONS**

### **Article 40. List of Invalid Acts**

The following acts shall be considered as null and void from 1 January 2007:

- a) The Decree of the President N697 of November 27, 1997, On "The Rule of Conducting Qualification Examinations of Judges and Approval of the Program of

Qualification Examinations";

b) The Decree of the President N696 of November 27, 1997, on "Approval of the Statute of the Commission of Qualification Examinations for Judges".

**Article 41. Entry into force**

1. This law, except in cases prescribed by Paragraphs 2 and 3 of this Article, shall enter into force upon publication.
2. Chapters IV-VII and Paragraph 1 of Article 38 shall enter into force from 1 January 2007.
3. Chapter IX and Paragraph 2, 3 and 4 of Article 38 shall enter into force after entry into force of relevant amendments and/or addenda to the organic law "on Courts of General Jurisdiction of Georgia", introduced on the ground of this Law.

President of Georgia

Mikheil Saakashvili

Tbilisi,  
28 December 2005  
N 2602 – RS

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**Law of Georgia**  
**On Introducing Changes to the Law of Georgia on “High School of Justice”**

Article 1. Following changes shall be introduced to the law of Georgia on “High School of Justice” (Legislative Herald, N 5, 20.01.2006, Article 42):

1. Article 31 shall be worded as the following:  
“ Article 31. Taking into consideration evaluation of the Independent Board”  
When selecting candidate in order to hold position of a judge, number in the qualification list will be taken into consideration, as well evaluation of the Independent Board, that includes:
  - a) Evaluation of the theoretical course graduation exam outcomes;
  - b) Evaluation of the internship outcomes;
  - c) Evaluation of the seminars outcomes;
  - d) Evaluation of the graduation exam outcomes;
  - e) Evaluation of the internship supervisor;
  - f) Evaluation of the school teachers;
  - g) Evaluation of the written report prepared for the internship and evaluation of the performed work;
  - h) Discipline of justice trainee.”
2. Article 36 shall be worded as the following:  
“Article 36. Exemption from studying in School:  
For the purpose of holding position of a judge, following persons shall be exempted from studying in school: former judge, who has passed judicial qualification exam, was assigned to the position of a judge in the Supreme Court of Georgia or Regional (City) Court and / or Appellate Court through the competition and has at least 18 months of experience working as a judge. Person, who has undertaken full course at school and was included in the trainee’s qualification list, regardless how long he / she held position of a judge or whether or not was appointed on the position of a judge.”
3. Paragraph 3 of Article 37 shall be worded as following:  
“3. After approving first qualification list of justice trainees by the Independent Board, a person may be assigned to the position of a judge if he / she satisfies requirements set in the Organic Law of Georgia on “Common Courts” and organic law of Georgia “on the Supreme Court”
4. Article 38:
  - a) Paragraph 2 shall be worded as following:  
“2. Grounds for exempting former judges from studying in school shall be determined in the Organic Laws of Georgia on “Common Courts of Georgia” and “on the Supreme Court of Georgia” .
  - b) Paragraphs 3 and 4 shall be removed.

Article 2. This Law shall be enforced upon publication.

President of Georgia

Mikheil Saakashvili

Tbilisi  
June 26, 2009  
N 1328 - RS





**Law of Georgia**  
**On Introducing Changes to the Law of Georgia on “High School of Justice”**

Article 1. Following changes shall be made to the Law of Georgia on “High School of Justice” (Legislative Herald, N 5, 20.01.2006, Article 42):

5. Article 36 shall be worded as following:

“Article 36. Exemption from studying in School:

For the purpose of holding position of a judge, following persons shall be exempted from studying in school: person to be nominated to be elected as a judge of the Supreme Court, as well as former judge, who has passed judicial qualification exam, was assigned to the position of a judge in the Supreme Court of Georgia or Regional (City) Court and/or Appellate Court through the competition and has at least 18 months of experience working as a judge. Person, who has undertaken full course at school and was included in the trainee’s qualification list, regardless how long he/she held position of a judge or whether or not was appointed on the position of a judge.”

6. Paragraph 3 of Article 37 shall be worded as following:

“3. After approving first qualification list of justice trainees by the Independent Board, a person may be assigned to the position of a judge if he/she satisfies requirements set in the Organic Law of Georgia on “Common Courts.”

7. Paragraph 2 of Article 38 shall be removed.

Article 2. This Law shall be enforced upon the enforcement of the Organic Law of Georgia on Common Courts.

President of Georgia

Mikheil Saakashvili

Tbilisi

December 4, 2009

N 2258 - IIs



**Law of Georgia**  
**On Introducing Changes and Amendments to the Law of Georgia on “High School of Justice”**

Article 1. Following changes and amendments shall be made to the Law of Georgia on “High School of Justice” (Legislative Herald, N 5, 20.01.2006, Article 42):

1. Article 19 shall be worded as following:

Article 19. Duration of Studies:

1. Duration of study in School is 12 months. Full course includes theoretical course, internship and seminars.
  2. Justice trainee that has at least 10 years’ experience of working as a head of court staff or its structural unit, judges’ assistant, trial secretary, investigator, prosecutor or attorney duration of full studies will be 8 months.
  3. Duration of the theoretical course, internship and seminars shall be determined in the Statute of the School.”
2. Paragraph 1 of Article 27 shall be worded as the following:

“1. At the end of the internship, School shall organize seminars for the trainees, aiming to generalize knowledge and experience received during the theoretical course and the internship, as well as preparation of trainees for the graduation exam of the School.”

3. Article 39<sup>1</sup> shall be added to the Law:

“39 Duration of the full studying course for the trainees admitted to the school before August 1 2010 is 14 months.

Article 2. This Law shall be enforced upon publication.

President of Georgia

Mikheil Saakashvili

Tbilisi

December 10, 2010

N 3960 – II s.



### Law of Georgia

#### On Introducing Changes to the Law of Georgia on “High School of Justice”

Article 1. Following changes shall be introduced to the law of Georgia on “High School of Justice” (Legislative Herald, N 5, 20.01.2006, Article 42):

1. Paragraphs 1 and 2 of Article 19 shall be worded as following:

“1. Duration of studies in School is 10 months. Full studying course includes theoretical course, internship and seminars.

2. Justice trainee, who has working experience as a head of structural unit of staff of High Council of Justice, structural division of staff of Common Courts, judges’ assistant, secretary of the trial, investigator, prosecutor and / or advocate’s working experience for 10 years, term full full course is 6 months”.

2. Article 39<sup>1</sup>. Term of the Full course at school for trainees who were admitted there before January 1, 2011

Justice trainee that has been admitted in the School before January 12, 2011. AS for the occasions, envisaged in paragraph 2 of Article 19, - 8 months”.

Article 2. This Law shall be enforced upon publication.

President of Georgia

Mikheil Saakashvili

Tbilisi

June 17, 2011

N 4788–II s.



### The Decision of the Independent Board of the High School of Justice N1/1 April 18, 2008 Tbilisi on the Approval of the Statute of the LEPL High School of Justice

1. In accordance with Article 3.7.a of the Law of Georgia on the High School of Justice and with the Law of Georgia on the Legal Entity of Public Law, the Statute of the LEPL the High School of Justice shall be approved.

2. This Decision shall become effective upon repealing the Ordinance N277 of the President of Georgia, dated April 21, 2006 on the Approval of the Statute of the LEPL High School of Justice.

***Konstantine Kublashvili***

Chairman of the Supreme Court of Georgia,  
Chairman of the Independent Board

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**Approved under the Decision N1/1, dated April 18, 2008  
of the Independent Board of the High School of Justice**

**The Statute of the LEPL High School of Justice**

**CHAPTER I. GENERAL PROVISIONS**

**Article 1. Status of the school**

1. The High School of Justice (hereinafter the School) is the legal entity of public law undertaking its activity on the basis of the Law of Georgia on the High School of Justice and this Statute.
2. Full name of the School shall be the LEPL High School of Justice.
3. The objective of the School shall be the training a trainee of justice – the judicial candidate to be appointed within the general courts system, retraining of acting judges for proficiency improvement, as well as training and retraining of assistant judge candidates and other specialists in order to staff the system of general courts with qualified specialists.
4. The School, being the legal entity of public law, in order to fulfil the objectives and the tasks laid down under the law and this Statute, shall acquire the rights and duties, close transactions and be entitled to appear in the court as a plaintiff and respondent.
5. The School shall have its independence balance sheet, expenses, settlement account in the bank, the stamp and other attributes of a legal entity.
6. The legal address of the School is: 7a Bulachauri Str. Tbilisi.

**CHAPTER II. THE OBJECTIVES, THE TASKS AND THE SCOPE OF ACTIVITY  
OF THE SCHOOL**

**Article 2. The Objectives of the School**

The following shall be the School objectives:

- a) to support, through court, the protection of the right recognized under the Constitution of Georgia, international agreements and treaties of Georgia;
- b) to ensure fair and public trial at general courts of Georgia, independence and impartiality of the judiciary;
- c) to provide for the development of skills necessary for enhancing the knowledge and practical experience of a trainee of justice
- d) to ensure comprehension, by a trainee of justice, of the future responsibility and discretion laid down under the law;
- e) to gradually integrate a trainee of justice into the social environment where s/he as a judge will have to work in the future;
- f) to improve professional level of acting judges.

**Article 3. The tasks and the activity of the School**

To meet the objectives specified under Article 2 of this Statute, the School shall:

- a) upon granting the status of a trainee of justice, ensure that the trainees are delivered the theoretical training course;
- b) issue state scholarship to a trainee of justice;
- c) send trainee to compulsory or alternative internship;
- d) in the event of disciplinary violation by a trainee of justice, take disciplinary liability measures against this trainee;
- e) conduct examinations and develop qualification lists of trainees of justice;
- f) create library for trainees of the school and for acting judges;

g) undertake other activity laid down under the Law of Georgia on the High School of Justice, this Statute and the Georgian legislation.

### **Chapter III. Admission to the School**

#### **Article 4. The Conditions for Admission to the School**

1. A trainee of justice shall be admitted to school through competition, in the form laid down by the High Council of Justice.
2. The school admission competition, as a rule shall be conducted twice a year – in May and October.
3. The decision on the conduction of school admission competition shall be taken by the High Council of Justice in consideration of the number of judges in the system of general courts of Georgia.
4. The competition shall be announced no earlier than one month and no later than two weeks before the start of due date by publishing it in the official gazette.
5. The decision of the HCOJ on the conduction of the school admission competition at other additional time during the year shall be announced at least one month earlier before conduction of the competition.
6. The HCOJ shall specify the deadline for registration of candidates for trainees of justice upon announcing the competition. Applications submitted after the expiry of the registration deadline shall not be accepted.
7. Three days before the commencement of the registration deadline, the HCOJ shall set up a competition preparation secretariat.
8. The Secretariat shall be set up out of the staff of the Office of the HCOJ and its work shall be led by one of the members of the HCOJ.
9. The Secretariat shall be entrusted to receive the applications of the persons willing to participate in the competition and to check compliance of their documents with the specified rules.

#### **Article 5. Requirements for the candidates for trainee of justice upon the registration**

A capable person, not having criminal convictions, having passed the judicial qualifying examination and 7 years has not gone after passing the examination may participate in the school admission competition.

#### **Article 6. The documents to be submitted upon the registration**

A candidate willing to be admitted to the school shall submit upon the registration the following documents to the competition preparation secretariat:

- a) application for participation in the school admission competition;
- b) certificate of passing the judicial qualifying examination;
- c) certificate of medical and narcological examination;
- d) copy of the Georgian citizen's identity card;
- e) certificate of criminal records;
- f) two 3x4 size photos (color).

#### **Article 7. The deadline for candidates' registration and conduction of competition**

1. Within three days after finalization of the registration the HCOJ shall publish the list of candidates to be admitted including the number of trainee vacancies competition.
2. After expiry of the registration deadline the HCOJ shall conduct the competition.

#### **Article 8. Selection criteria for candidates**

1. The following shall be the criteria for the selection of candidates for the competition:
  - a) the results of the qualifying examination;
  - b) moral character;
  - c) personal qualities;
  - d) professional skills;
  - e) qualification;
  - f) ability to prove and express;
  - g) analytical-logical thinking and decision-making skill;
2. Evaluation Criteria shall mean the following:
  - a) Moral Character – perception of public values, of moral and ethical norms; impartiality; public perception regarding his/her character;
  - b) Personal Qualities – well-balanced, reliable, honest, communicative, determined, objective;
  - c) Qualification – knowledge of substantive and procedure law, judicial practice and methodology, law interpretation techniques, as well as aspiration to deepen legal knowledge; professional work experience; academic degree;
  - d) Professional skills - professional, hard-worker, dedicated, diligent, productive, forward-looking; person's ability to perform the assigned tasks with high sense of responsibility, carefulness, fundamentally, honestly and reliably; treat his/her work in a scheduled and cost-effective, as well as concentrated manner, and if necessary smoothly combine other area of duties with his/her official duties;
  - e) ability to prove and express – person's ability to argue and accurately demonstrate his point of view in cases where s/he should act with constructiveness, tactfulness and self-criticism; express his view explicitly with competence, clearly, flexibly, concentratedly and convincingly both verbally and in writing; limit himself/herself to interpretations on merits and exhaustively substantiate the problem;
  - f) analytical-logical thinking and decision-making skill – person's ability to properly comprehend complicated and unfamiliar circumstances and correlations of the case; in consideration of social, economic and other extra-legal background of the relations in life, by applying professional knowledge, to analyze and logically systemize them; focus on merits of the case; demonstrate the ability of weighing the pros and cons and the sense of justice in applications and decisions; where appropriate take correct and founded decision at his own responsibility;
3. The following types of evaluations shall be applied in the selection of candidates:
  - a) significantly overqualified;
  - b) partly overqualified;
  - c) qualified;
  - d) less qualified;
  - e) unqualified.
4. If candidate's personal qualities are negatively evaluated, a member of the HCJG may adopt negative decision without evaluating other criteria
5. Each member of the HCOJ shall complete the candidate's evaluation form in accordance with the attached form (Annex 1).

#### **Article 9. The Certificate of the trainee of justice**

After undergoing the competition, upon the HCOJ's decision a candidate shall, upon being admitted to the school, be given the status of the trainee of justice and the certificate of the trainee of justice the sample of which shall be approved by the Independent Board.

## **CHAPTER IV ORGANIZATION DEPARTMENTS OF THE SCHOOL, BOARD OF TEACHERS AND THEIR OPERATION**

### **Article 10. Organization departments of the school**

1. The following shall be the organization departments of the School:
  - a) the directorate of the School;
  - b) the accounting department;
  - c) the chancellery office (archive);
  - d) the library.
2. The School has Batumi and Tskaltubo regional training centers.

### **Article 11. The operation of the School's organization departments**

1. The directorate of the School shall:
  - a) ensure operation of the school, delivery of training and retraining courses of trainees of justice;
  - b) ensure enforcement of the independent board's decisions;
  - c) develop and deliver training, internship and retraining programs for which actively cooperates with general courts of Georgia;
  - d) undertake other activity as laid down under the Law of Georgia on High School of Justice, this Statute and the Georgian legislation.
2. The Accounting department shall:
  - a) carry out accounting activity in accordance with the legislation applicable in the field of bookkeeping and reporting;
  - b) ensure settlement and timely pay out of the salaries of school employees and state scholarships of trainees;
  - c) reasonably and lawfully use the expenses needed for functioning of the school;
  - d) takes part in the inventory of cash assets, of settlements and tangible assets, shall reflect the results of inventory, shall produce accounting reports, shall maintain the accounting documents registries, the lists of expenses, their calculations and other documents.
3. The chancellery office (archive) shall:
  - a) register and process the school's incoming correspondence, distribute them to appropriate addressees, as well as undertake other chancellery tasks;
  - b) store, inventory in a centralized manner, protect and appropriately use the backlog of the School for the period specified under the legislation,
  - c) while undertaking its activity, guide with the legislation applicable to archival clerical rules.
4. The Library shall ensure the trainees of the school and other persons involved in educational programs with the Georgian and foreign literature.
5. Various seminars, conferences, theoretical and practical classes shall be conducted at the regional training centers of the School on trials held at general courts of Georgia, on significant legislative changes in the civil, administrative and criminal legislations and on judicial practice, as well as other measures related to the objectives and tasks of the School shall be taken.

### **Article 12. Board of Teachers**

The school teachers shall establish the board of teachers who shall:

- a) submit to the director of the school the progress report;
- b) develop the internal rules of the school;
- c) enforce individual decisions of the school's independent board and directorate.

## **CHAPTER V. EDUCATIONAL PROCESS**

### **Article 13. The duration of the study**

1. The duration of the study at the school shall be fourteen months. Full training course shall comprise the theoretical course, internship and seminars.
2. The duration of theoretical course shall be nine months, of the internship – three months, of seminars– two months.
3. After completing the theoretical course and study at the school a trainee shall pass the exams.

### **Article 14. The discipline of a trainee of justice**

1. A trainee of justice shall adhere to the disciplinary standards during his/her study at the school, violation of which shall cause disciplinary liability in accordance with the rule specified under the Georgian legislation.
2. The school directorate shall review and decide on the imposition of disciplinary liability on the trainee of justice.
3. The procedure on pursuing disciplinary prosecution shall be laid down under the Law of Georgia on the High School of Justice and the school internal procedures.

### **Article 15. The examination commission of theoretical exam**

1. The examination commission of theoretical exam the composition of which shall be approved by the independent board upon the school director's recommendation.
2. The examination commission shall be composed of at least three members and chairman of the commission.
3. The chairman of the commission, where necessary, may invite experts.

### **Article 16. The rule of conduction and evaluation of the final exam of theoretical course**

1. The objective of the final exam shall be to evaluate the theoretical knowledge acquired during the study.
2. The final exam of theoretical course shall be conducted in a test format.
3. Examination test shall be made of the topics selected from the fields of law on which the trainee has attended the theoretical training.
4. Each question of the examination test shall be comprised of two parts: first the descriptive part describing a legal case and second part – four multiple choices for legal solution of this case.

Examinee's task is to select the right answer and circle the alphabetical letter for the right answer on a separate special sheet for test answers.

5. Only one out of four multiple choices of the test is the right one. An examinee shall circle only one answer. If more than one answer or none of them is circled, the test will be evaluated with 0 (zero) score.
6. A member of the examination commission detecting during the evaluation of the test an un-circled answer shall, along the question, make in red pencil or ball-point pen relevant note that the answer is null and deserves 0 (zero) score.
7. Right answer to each question of the test shall be evaluated by 1 (one) score, and wrong answer – by 0 (zero) score.
8. Minimum evaluation of test exam is zero score, and maximum score is 100 (one hundred).
9. Test exam shall be deemed passed if a trainee accumulates at least 80 (eighty) scores, otherwise theoretical examination shall be deemed as non-passed.



10. If a trainee accumulates less than 75 scores the examination commission shall address the independent board to decide on the trainee's admission to the next theoretical examination. The independent board shall make one of the following decisions:

- a) on trainee's expulsion from school;
- b) on trainee's single admission to the next theoretical examination.

11. In the event of expulsion from school, a trainee shall not be entitled to take part for the next two years in the school admission competition.

12. To pass the test exam, a trainee shall be given four astronomic hours. If the time is exceeded, the work handed to the examination commission shall not be evaluated and the examinee will be given 0 (zero) score.

13. Examinees shall be given the notice of the exhaustion of examination time twice – 30 minutes and 15 minutes earlier.

After the 30minute notice no one may leave examination room without handing over his/her examination test.

### **Article 17. Internship**

1. After passing the final exam of theoretical course, a trainee of justice shall, in accordance with the rule laid down under the Law of Georgian on the High School of Georgia, attend compulsory alternative internship.

2. The school director, based on the recommendation of internship supervisor, shall appoint internship coordinators at relevant bodies.

3. An internship coordinator shall:

- a) undertake and supervise the internship of a trainee of justice.
- b) at the end of the internship, grant to the trainee of justice assigned to him/her qualifying score and give letter of reference;
- c) at the end of the internship, submit to the internship supervisor the report on the completion of internship program.

4. Internship coordinator shall evaluate the performance of a trainee of justice on a daily basis and shall maintain the evaluation journal. At the end of work day, internship coordinator shall make in the journal an entry on the evaluation deserved by the trainee. Positive evaluation shall be indicated by 1 (one) score and negative one by 0 (zero) score. Internship shall be deemed successfully completed by a trainee of justice if s/he accumulates 2/3 of maximum internship score.

### **Article 18. Seminars**

1. At the end of the internship the school shall conduct two-months seminars for the trainees of justice, aiming at generalizing the knowledge and experience acquired during theoretical course and internship, as well as at preparing the trainee of justice for the school final examination.

2. The seminars shall be conducted by school teachers or invited experts.

### **Article 19. School Final Examination**

1. At the end of the study at the school, a trainee of justice shall pass the examination purpose of which is to evaluate theoretical knowledge and practical experience acquired by the trainee of justice. Final examination shall be conducted within no earlier than 15 days and no later than 30 days after completion of the study. The decision on the date of the examination shall be taken by the independent board.

2. Final examination shall be conducted in writing. A trainee shall be given criminal, civil or administrative case selected from the judicial practice. A trainee shall choose one of the category case and draft procedural documents on the case chosen.

3. Final examination shall be evaluated:  
in terms of compliance of drafting of the procedural documents with procedural norms, evaluation of facts, validation, formulation of legitimate decision and interpretation of a legal norm.
4. Evaluation of written examination:
  - a) for compliance of procedural documents with procedural norms: minimum score – 0 (zero), maximum score – 20 (twenty);
  - b) for proper evaluation of facts: minimum score - 0 (zero), maximum score – 30 (thirty);
  - c) for validation of procedure documents: minimum score – 0 (zero), maximum score – 20 (twenty);
  - d) for formulation of legitimate decision and interpretation of legal norm: minimum score – 0 (zero), maximum score – 30 (thirty).
5. For written examination an examinee shall be given six astronomic hours.
6. Examinees shall be given a notice on exhaustion of examination time twice - 30 and 15 minutes early. After the 30minute notice no one may leave examination room without handing over his/her written work.
7. Comments on laws and scientific literature shall not be used at written examination.
8. Final examination shall be deemed passed if a trainee accumulates at least 85 scores.
9. If a trainee accumulates less than 80 scores, the examination commission shall address the independent board to decide on trainee’s admission to the next final examination. The decision on trainee’s admission to the next final examination shall be taken by independent board.
10. If independent board takes negative decision, a trainee shall not be entitled to take part in the school admission competition for the next 1 year.

#### **Article 20. Complaints Commission**

1. Complaints commission shall be set up for the purposes of revision of the results of the examinations of theoretical course and HSOJ final examination.
2. The composition of complaints commission shall be specified by the independent board.
3. Complaints may be received at a specially allocated place, within two days after publication of the examination results. Late complaints shall not be reviewed.
4. The results of final examination of theoretical course, usually may be revised if an examinee accumulates at least 75 (seventy five) scores.
5. The results of final examination of HSOJ, usually may be revised if an examinee accumulates at least 90 (eighty) scores.
6. The composition of complaints commission shall be anonymous and made up of at least 3 members.
7. When reviewing a complaint by complaints commission, the principle of mutual anonymity shall be observed.
8. When reviewing the complaints on the results of the examinations of theoretical course and HSOJ final examination, the complaints commission shall makes its evaluation on the application for complaint. After adjusting the applications for complaint, the results of the review of complaints shall be entered on the complaints sheet and proved by signatures of all commission members.

#### **Article 21. Qualifying Commission of the Trainees of Justice**

1. Within one month after completion of the school final examination, the school director shall submit the qualifying list of the trainees of justice for approval to the independent board.

2. When drafting the qualifying list, for each trainee of justice the following shall be summed up by coefficient:

- a) the scores received in the judicial qualifying examination, for which coefficient is 2;
- b) scores received in the final examination of theoretical course at school, for which the coefficient is 3;
- c) scores received during internship, for which the coefficient is 1;
- d) scores received in the school final examination, for which the coefficient is 4.

### **Article 22. Computation of Total Score**

1. The judicial qualifying examination:

a) Y is the score of judicial qualifying exam.

Comment:

Judicial qualifying examination is a two-level one:

1. Tests with minimum score zero and maximum score 100, qualifying score 75.
2. Written examination with minimum score zero and maximum score 25, and qualifying score 15;
- b) maximum score of judicial qualifying examination, in consideration of the tests and written exam, is 100 to be computed in the following manner:  $Y_{MAX} = (1/4 \text{ of } 100 + 1/4 \text{ of } 25) \times 2 = 100$ ;
- c) minimum score of judicial qualifying examination, in consideration of tests and written exam is 67,5 to be computed in the following manner:  $Y_{MIN} = (1/4 \text{ of } 75 + 1/4 \text{ of } 15) \times 2 = 67,5$ ;
- d) the rule to compute the qualifying score of judicial qualifying examination:  $Y = (1/4 \text{ of the score received in the tests} + \text{the score received in written exam}) \times 2$ .

Example: If a trainee has received 87 scores in the tests and in written examination – 20 score:  $Y = (1/4 \text{ of } 87 + 20) \times 2 = 83,5$ ;

d) the coefficient for judicial qualifying examination is 2.

2. Theoretical examination:

a) Z is the score received in theoretical examination.

minimum score for theoretical examination is zero and maximum 100, qualifying score 80;

b) coefficient for theoretical examination is 3.

3. Internship:

a) X is the score received in the internship. Minimum score of internship is zero and maximum is 66-68 (for three months, per five-day working week). Internship is satisfactory if a trainee if the sum of scores accumulated by the trainee in the internship equals 2/3 of maximum scores i.e. 44-46 scores;

b) the rule of computation of total score of internship:  $X = \text{received score} \times 100 / \text{maximum score}$ .

Example: If a trainee receives in the internship 55 scores, the internship score shall be computed:  $X = 55 \times 100 / 66 = 83,3333$  or  $X = 55 \times 100 / 68 = 80,8823$ ;

c) computation of internship minimum score:  $X_{Min} = \text{satisfactory score} \times 100 / \text{maximum score}$ .

Example:

$X_{min} = [44 \times 100 / 66] = 66,66$  (66-day internship)

$X_{min} = [46 \times 100 / 68] = 67,64$  ; (68-day internship);

d) internship coefficient 1.

4. Final examination:

a) K is the score received in the final examination. Minimum score of final examination is zero and maximum is 100, qualifying score 85;

b) Coefficient for final examination is 4.

5. Computation of total score:

a) N is the total score.  $N = (1X + 2Y + 3d + 4K)/100$ ; N

b) minimum margin of total score:

$N_{min} = (1 \cdot 66,66/67,64 + 2 \cdot 67,5 + 3 \cdot 80 + 4 \cdot 85)/100 = 7,8166$  or 7,8264;

c) maximum margin of total score:

$N_{MAX} = (1 \times 100 + 2 \times 100 + 3 \times 100 + 4 \times 100)/100 = 10$ .

6. Trainees' place in the qualifying list shall be determined by the magnitude of total score received by them.

If trainees receive equal scores, the priority order of trainees in the list shall be determined by using the following principle:

a) priority is given to the trainee receiving the highest evaluation in the final examination;

b) if the scores received in the final examination are equal, priority shall be given to the trainee receiving the highest evaluation in the theoretical examination;

c) if the scores received in the theoretical examination are equal, priority shall be given to the trainee receiving the highest evaluation in the judicial qualifying examination;

d) if the scores received in the judicial qualifying examination are equal, priority shall be given to the trainee receiving the highest score in the internship.

7. If the scores received in all components under paragraph 6 of this Article, the decision shall be made by the independent board.

### **Article 23. Retraining of Acting Judges**

1. Retraining of acting judges shall be pursued by conducting various seminars, training course and conference, theoretical and practical studies, as well as by organizing the discussion.

2. For the retraining purposes, the school director may invite various subject-matter experts and specialists.

3. The invited experts and specialists shall pursue retraining within the framework of the program approved by the independent board.

4. The invited experts and specialists shall be remunerated for their work within the limits of the employment contract.

## **CHAPTER VI. INVOLVEMENT OF PROSECUTORS AND LAWYERS IN THE RETRAINING ACTIVITY**

### **Article 24. Involvement of Prosecutors and Lawyers in the Retraining Activity**

1. The following may be permitted to take part in the activities planned within the framework of retraining courses:

a) prosecutors – on the basis of the pre-determined list developed by the General Prosecutor's Office of Georgia and on the basis of the solicitation submitted by the Prosecutor General of Georgia;

b) Lawyers – on the basis of the pre-determined list developed by the Association of Lawyers and on the basis of the solicitation submitted by the executive board.

2. The permissible number of prosecutors and lawyers, as well as retraining programs shall be approved by the independent board.

### **Article 25. Involvement of Assistant Judges and Secretaries of the Sittings in the Retraining Activity**

1. Assistant judges and secretaries of the sittings may be permitted to take part in the activities planned within the framework of retraining courses upon the solicitation submitted by the chairman of the competent court.

2. Number of permissible candidates, as well as the retraining programs of assistant judges and secretaries of sittings shall be approved by the independent board.

## **CHAPTER VII. MANAGEMENT AND REPRESENTATION OF THE SCHOOL**

### **Article 26. Management Bodies of the School**

The independent board and school directorate shall be the school's management bodies.

### **Article 27. Independent Board**

1. The independent board shall identify the areas of school's activity, coordinate and monitor their implementation. The independent board shall be set up with the composition of 6 members.
2. A Georgian citizen may be the member of the independent board having university education and qualification and professional experience sufficient to undertake the tasks of the independent board.
3. the independent board shall be chaired by the Chairman of the Supreme Court of Georgia simultaneously being the member of the independent board.
4. Five members of the independent board one of which is a non-judge member of the HCOJ, shall be approved by the Chairman of the Supreme Court of Georgia under the consent of the HCOJ, for 3-years term of office.
5. Deputy chairman of the independent board shall be elected by the independent board from its composition.
6. The sitting of the independent board shall be called at least twice a year. The sitting shall be chaired by the chairman of the independent board and in his absence by the deputy chairman.
7. The opinion and decision of the independent board shall be formulated in the form of the minutes to be signed by the chairman of the sitting and secretary of the sitting. The decisions of the independent board shall be signed by the chairman of the Supreme Court of Georgia and in his absence by the deputy chairman of the independent board.
8. Besides the rights laid down under the Law of Georgian on the High School of Justice, the independent board is entrusted to
  - a) identify the areas of educational process;
  - b) identify the methodology for conduction of exams;
  - c) take decisions on the schools' operational issues, unless they fall under the immediate mandate of the school directorate.

### **Article 28. School Director and Deputy School Director**

1. School director shall be elected by the independent board for a five-year term of office. The decision shall be made by majority of votes of the members of the independent board attending the sitting. If the votes are equal, the chairman of the sitting shall be given the priority right to vote.
2. School director shall:
  - a) represent the school in relations with other natural and legal persons and undertake the tasks laid down under this Statute;
  - b) ensure school's functioning, delivery of training and retraining courses of the trainees of justice;
  - c) ensure enforcement of the independent board's decisions;
  - d) submit, with the consent of school directorate and the board of teachers, to the independent board for approval, the training, internship and retraining programs for
  - e) identify the school staff list and submit it for approval to the independent board;

- f) identify the composition of examination commission unless otherwise provided for under the law;
  - g) identify the school budget and submit for approval to the independent board, open and close the bank accounts;
  - h) for the purposes of the implementation of statutory duties, manage school financial funds and other tangible assets and be responsible for their proper use;
  - i) identify the tasks and rights and duties of school's organization departments;
  - j) employ and dismisses the employees of the school in accordance with the rule laid down under the Georgian legislation;
  - k) sign employment contracts with school teachers and invited specialists;
  - l) take decisions on the improvement of labor conditions;
  - m) issue individual legal acts, distribute the tasks and duties between the teachers and support staff, approve the duties of the teachers and support staff, sign school documentation;
  - n) undertake other tasks as laid down under this Statute and the Georgian legislation.
3. Deputy school director shall act as a school director in the case of director's temporary absence. Other rights of the deputy school director shall be laid down under this Statute and the Georgian legislation.

## **CHAPTER VIII. THE ASSETS AND FINANCING OF THE SCHOOL**

### **Article 29. Assets of the School**

1. The School is established on the basis of material and technical resources of the liquidated judicial centre.
2. The assets may be purchased and alienated under the Georgian legislation and the specified rule.

### **Article 30. Financing of the School**

1. The school shall be financed from the state budget, specified as a separate budget line in the budget of the general courts.
2. To fulfil the duties laid down under the Law of Georgia on the High School of Justice, the School may, upon independent board's decision, earn financial revenues or allowances as permitted under the Georgian legislation
3. Besides specified under paragraphs 1 and 2 of this Article, the source of school financing may be:
  - a) target funds allocated from the state budget;
  - b) proceeds earned from performing the government-made order;
  - c) proceeds earned from performing the works on contractual basis;
  - d) other earnings laid down under the legislation.

### **Article 31. Accounting Report**

Accounting and reporting on the schools financial and economic activities shall be undertaken in accordance with the rule laid down under the Georgian legislation.

## **CHAPTER IX AMENDMENTS TO THE STATUTE, REORGANIZATION AND LIQUIDATION OF THE SCHOOL**

Article 32. Amendments to the Statute, reorganization and liquidation of the School Changes and amendments to the School Statute, reorganization and liquidation of the School shall be undertaken in accordance with the applicable Georgian legislation.

### Annex 1

Evaluation of a Judicial Candidate

ID No of the member of the HCOJ

Candidate's First name, surname

Resume

The results of qualifying examination:

Priority order Number in the competition:

Evaluation Criteria

N	Evaluation criterion	Significantly overqualified	Partly overqualified	Qualified	Less qualified	Unqualified
1	Moral character					
2	Personal qualities					
3	Qualification					
4	Professional skills					
5	Ability to prove and to express					
6	Analytical-logical thinking and decision-making skill					

Final Evaluation: Positive    Negative    \_\_\_\_\_    \_\_\_\_\_



**Decision  
Of the Independent Board of the High School of Justice**

No 1/2

November 20. 2008. Tbilisi

**On Introducing Changes to the Decision of the High School of Justice as of April 18,  
2008 # 1/1 “on the Approval of the Statute of the Legal Entity of the Public Law – High  
School of Justice”**

Article 1. Following changes shall be introduced to the decision of the Independent Board of the High School of Justice On Introducing Changes and Amendments to the Decision of the High School of Justice as of April 18, 2008 # 1/1 “on the approval of the Statute of the Legal Entity of the Public Law – High School of Justice:

- a) Paragraph 2 of Article 13 shall be worded as the following:  
“2. Duration of theoretical course is eight months, internship – four months, seminars – two months.”
- b) Paragraph 3 of Article 2 shall be worded as the following:  
“3. Internship:
- a) X is the score received in the internship. Minimum score of the internship is zero, maximum – 86 – 88 (four months, five working days a week). Internship is satisfactory, if the sum of accumulated score during internship is 2/3 of the maximum, in other words 57 – 59;
- b) Rule for calculating general score of internship:  $X = \text{received score} \times 100 / \text{on maximum score}$ .  
Example : if trainee received 55 scores during the internships, internship score shall be calculated:  
 $X = 55 \times 100 / 86 = 63,95$  or  $X = 55 \times 100 / 88 = 62,5$ ;
- c) **Calculation of the minimum score for internship:**  $X_{\min} = \text{satisfactory score} \times 100 / \text{maximum score}$ .  
**Example:**  
 $X_{\min} = [57 \times 100 / 86] = 66,27$  (86 days’ internship)  
 $X_{\min} = [59 \times 100 / 88] = 67,04$  (88 days’ internship);
- d) Coefficient of internship is 1.”;**
- b.b) Paragraph 5 shall be worded as following:  
“5. Calculation of sum score:
- a) N is the sum score.  $N = (1X + 2Y + 3Z + 4K) / 100$ ;
- b) Minimum line of sum score:**  
 $N_{\min} = (1 \times 66,27 / 67,04 + 2 \times 67,5 + 3 \times 80 + 4 \times 85) / 100 = 7,8127$  ან  $7,8204$ ;
- c) maximum line of sum score:**  
 $N_{\max} = (1 \times 100 + 2 \times 100 + 3 \times 100 + 4 \times 100) / 100 = 10$ .

Article 2. This decision shall be enforced starting December 1, 2008.



Article 3. Duration of the studies defined in the paragraph “a” of Article 1 of this Decision for the trainees, that undertake the theoretical course or graduated the mentioned course by the time of enforcement of this decision – is 14 months; including – 9 months of theoretical course, 3 months of internship, seminars – 2 months. Accordingly, minimum score of the internship is zero, maximum – 66 – 68 (for three months, 5 working days a week). Internship is satisfactory, if the sum of accumulated scores is 2/3 of the maximum score, in other words 44 – 46 score.

Konstantine Kublashvili  
Chairman of the Supreme Court of Georgia  
Chairman of the Independent Board



**Decision  
Of the Independent Board of the High School of Justice**

No 1/3

April 24. 2009. Tbilisi

**On Introducing Changes and Amendments to the Decision of the High School of Justice  
as of April 18, 2008 # 1/1 “on the Approval of the Statute of the Legal Entity of the  
Public Law – High School of Justice”**

Article 1. Following changes and amendments shall be introduced to the decision of the Independent Board of the High School of Justice On Introducing Changes and Amendments to the Decision of the High School of Justice as of April 18, 2008 # 1/1 “on the approval of the Statute of the Legal Entity of the Public Law – High School of Justice:

a) Paragraphs 1 – 6 of Article 22 shall be worded as following:

“1. Judicial Qualification Exam:

Y is the score for judicial qualification exam.

Comment:

Judicial qualification exam is comprised of two stages:

1. Tests with minimum score zero and maximum score 100, qualifying score 75.

2. Written examination with minimum score zero and maximum score 25, and qualifying score 15;

b) maximum score of judicial qualifying examination, in consideration of the tests and written exam, is 100 to be computed in the following manner:  $Y_{MAX} = (\text{of the maximum score of test exam} + \text{maximum score of written exam}) \times 2 = 100$ ;

c) minimum score of judicial qualifying examination, in consideration of tests and written exam is 67,5 to be computed in the following manner:  $Y_{MIN} = (\frac{1}{4} \text{ of qualifying score of the test exam} + \text{qualifying score of the written exam}) \times 2 = 67,5$ ;

d) the **rule to compute the qualifying score of judicial qualifying examination**:  $Y = (\frac{1}{4} \text{ of the score received in the tests} + \text{the score received in written exam}) \times 2$ .

**Example**: If a trainee has received 87 scores in the tests and in written examination – 20 score:  $Y = (\frac{1}{4} \text{ of } 87 + 20) \times 2 = 83,5$ ;

**d) the coefficient for judicial qualifying examination is 1.**

## 2. Theoretical examination:

a) Z is the score received in theoretical examination.

minimum score for theoretical examination is zero and maximum 100, qualifying score 80;

**b) coefficient for theoretical examination is 2.**

3. Internship:

a) X is the score received in the internship. Minimum score of internship is zero and maximum is 86-88 (for three months, per five-day working week). Internship is satisfactory if a trainee if the sum of scores accumulated by the trainee in the internship equals 2/3 of maximum scores i.e. 57 - 59 scores;

b) **the rule of computation of total score of internship:**  $X = \text{received score} \times 100 / \text{maximum score}$ .

**Example:** If a trainee receives in the internship 55 scores, the internship score shall be computed:  $X = 55 \times 100 / 86 = 63,95$  or  $X = 55 \times 100 / 88 = 62,5$ ;

c) **computation of internship minimum score:**  $X_{\text{Min}} = \text{satisfactory score} \times 100 / \text{maximum score}$ .

**Example:**

$X_{\text{min}} = [57 \times 100 / 86] = 66,27$  (86-day internship)

$X_{\text{min}} = [59 \times 100 / 88] = 67,04$  ; (88-day internship);

**d) internship coefficient 3.**

## 4. Final examination:

a) K is the score received in the final examination. Minimum score of final examination is zero and maximum is 100, qualifying score 85;

b) **Coefficient for final examination is 4.**

## 5. Computation of total score:

a) **N is the total score.  $N = (1Y + 2Z + 3X + 4K) / 100$ ;**

6. Trainees' place in the qualifying list shall be determined by the magnitude of total score received by them. If trainees receive equal scores, the priority order of trainees in the list shall be determined by using the following principle:

a) priority is given to the trainee receiving the highest evaluation in the final examination;

b) if the scores received in the final examination are equal, priority shall be given to the trainee receiving the highest evaluation in the internship;

c) if the scores received in the theoretical examination are equal, priority shall be given to the trainee receiving the highest evaluation in the theoretical examination;

d) if the scores received in the judicial qualifying examination are equal, priority shall be given to the trainee receiving the highest score in the judicial qualification examination.”

b) Article 8<sup>1</sup> shall be added to the Statute with the following wording:

**“Article 8<sup>1</sup>. Selection of the candidates for the trainees of justice and stages of the selection**

1. Selection of the justice trainees is administered in accordance with the criteria defined in Article 8 of this Statute.

2. High Council of Justice shall discuss the issue of justice trainee candidates in two stages.

3. At the first stage, selection is done based on the presented documents, without the presence of these candidates. A candidate that received positive evaluation by High Council of Justice shall be admitted at the second stage.

4. Persons that shall not be admitted to the second stage shall no more have the status of justice trainee candidates.

5. If necessary, High Council of Justice is authorized to invite to the interview only those candidates that passed the second stage.”

Article 2. This decision shall be enforced upon its signature.

Konstantine Kublashvili  
Chairman of the Supreme Court of Georgia  
Chairman of the Independent Board



**Decision**  
**Of the Independent Board of the High School of Justice**  
**No 14**  
**December 28. 2010 Tbilisi**

**On Introducing Changes and Amendments to the Decision of the High School of Justice  
as of April 18, 2008 No 1/1 “on the Approval of the Statute of the Legal Entity of the  
Public Law – High School of Justice”**

Article 1. Following changes and amendments shall be introduced to the decision of the Independent Board of the High School of Justice On Introducing Changes and Amendments to the Decision of the High School of Justice as of April 18, 2008 # 1/1 “on the approval of the Statute of the Legal Entity of the Public Law – High School of Justice:

1. Article 13 shall be worded as following:  
“ Article 13. Duration the Study
  1. Duration of the study in School is 12 months. Full course includes theoretical course, internship and seminars.
  2. A trainee, that has working experience on the position of court staff or head of its structural unit, judge’s assistant, trail secretary, investigator, prosecutor or private attorney of minimum 10 years, the full course duration will be 8 months.
  3. In the occasions, envisaged in paragraph 1 of this Article, duration of theoretical course is 6 full months and half month, 4 months for internship, seminars – 1 full month and a half.
  4. Om the occasions envisaged in paragraph 2 of this Article, theoretical course duration is 6 months and a half, internship – 1 month, seminars – half month.
  5. Trainee shall pass exams at the end of theoretical course and at the end of studies in School.
2. Paragraph 10 of Article 16 shall be worded as following:  
“10. If a trainee shall collect minimum 60 and maximum 74 scores, he / she shall not exercise the right of submitting a complaint envisaged in paragraph 4 of Article 20. In this case, if the complaint envisaged in Article 20 of this Statue shall not be satisfied, Exam Commission shall raise the issue before the Independent Board on admitting the trainee on theoretical exam once. Independent board shall make one of the following decisions:
  - a) On excluding trainee from the School;
  - b) On admitting the trainee on theoretical exam once.”
3. Paragraphs 10<sup>1</sup> and 10<sup>2</sup> shall be added to Article 16 with the following wording:

“10<sup>1</sup>. If a trainee shall collect less than 60 scores, s/he will be excluded from the School unconditionally.

10<sup>2</sup>. If a trainee shall be admitted to the theoretical exam in accordance with the subparagraph “b” of Article 10 and cannot pass theoretical exam, Independent Board shall be authorized to consider the issue of including this person with the following group for the full course, based on the application of a trainee.”

4. Paragraph 1 of Article 18 shall be worded as following:

“1. At the end of the internship, School shall organize seminars for the trainees, aiming generalization of the knowledge and experience received during the theoretical course and the internship, as well as aiming to prepare trainee for the graduation exam.”

5. Paragraph 1 of the Article 19 shall be worded as following:

“1. At the end of the studies at School, trainee shall take exam, aiming to evaluate the theoretical and practical knowledge of a trainee. Graduation exam shall be administered at earliest 3 days after finishing the studies. Independent Board shall make decision regarding the date of an exam.”

6. Paragraph 2 of Article 21 shall be worded as following:

“2. When drafting the qualifying list, for each trainee of justice the following shall be summed up by coefficient:

a) the scores received in the judicial qualifying examination, for which coefficient is 2;

b) scores received in the final examination of theoretical course at school, for which the coefficient is 3;

c) scores received during internship, for which the coefficient is 3;

d) scores received in the school final examination, for which the coefficient is 4.

7. Paragraph shall be added to Article 22 with the following wording:

“3<sup>1</sup>. One month internship:

a) X is the score received for internship. Minimum score for the internship is 0, maximum is 22 – 24. (for one month, after 5 days a week course). Internship is satisfactory, if the sum of scores collected during the internship is 2/3 of maximum, in other words 14 – 16;

b) Rule for revealing the general score of internship:  $X = \text{received score} / \text{maximum score}$ ;

Example: if a trainee received 18 scores during the internship, internship score shall be calculated:  $X = 18 \times 100 / 22 = 81,81$  or  $X = 18 \times 100 / 24 = 75$ ;

c) Calculation of minimum scores for internship:  $X_{\min} = \text{satisfying score} \times 100 / \text{on maximum score}$ . Example:

$X_{\min} = [14 \times 100 / 22] = 63,63$  (in case of 22 days internship)

$X_{\min} = [16 \times 100 / 24] = 66,66$  (in case of 24 days internship);

**d) Internship Coefficient 3.**

Article 2.

1. The term or course for trainees of justice admitted to the School before August 1, 2010 is 14 months, among that - theoretical course is 8 months, seminars – 2 months.

2. Duration of studies for the V group of justice trainees is 12 months; theoretical course is 7 and half months, internship – 4 months, seminars – half month.

Article 3.

This decision shall be enforced upon publication January 1, 2011.

Konstantine Kublashvili  
Chairman of the Supreme Court of Georgia



**Decision**  
**Of the Independent Board of the High School of Justice**  
**No 1/5**  
**July 14. 2011. Tbilisi**

**On Introducing Changes to the Decision of the High School of Justice as of April 18, 2008 # 1/1 “on the Approval of the Statute of the Legal Entity of the Public Law – High School of Justice”**

Article 1. Following changes shall be introduced to the decision of the Independent Board of the High School of Justice On Introducing Changes and Amendments to the Decision of the High School of Justice as of April 18, 2008 # 1/1 “on the approval of the Statute of the Legal Entity of the Public Law – High School of Justice:

1. Article 13 shall be worded as following:

“Article 13. Duration of the study

1. The duration of the study at the school shall be 10 months. Full training course shall comprise the theoretical course, internship and seminars.
2. A trainee, that has working experience on the position of court staff or head of its structural unit, judge’s assistant, trial secretary, investigator, prosecutor and /or private attorney of minimum 10 years, the full course duration will be 6 months.
3. In the occasions, envisaged in paragraph 1 of this Article, duration of theoretical course is 5 full months, 4 months for internship, seminars – 1 month.
4. In the occasion envisaged in paragraph 2 of this Article, theoretical course duration is 5 months, internship – half month, seminars – half month.
5. At the end of theoretical course and studies in the School, trainee shall pass exams.”

2. Paragraph 3<sup>1</sup> of Article 22 shall be worded as following:

“3<sup>1</sup> **Half month internship:**

a) X is the score received for internship. Minimum score for the internship is 0, maximum is 11-12. Internship is satisfactory, if the sum of scores collected during the internship is 2/3 of maximum, in other words 7.33-8 scores ;

b) **Rule for calculating general score of internship:**  $X = \text{received score} \times 100 / \text{maximum score}$ ;

Example: if a trainee received 9 scores during the internship, internship score shall be calculated:  $X = 9 \times 100 / 11 = 81,81$  or  $X = 9 \times 100 / 12 = 75$ ;

c) **Calculation of minimum scores for internship:**  $X_{\min} = \text{satisfying score} \times 100 / \text{on maximum score}$ . Example:

$X_{\min} = [7.33 \times 100 / 11] = 66, 63$  (in case of 11 days internship)

$X_{\min} = [8 \times 100 / 12] = 66, 67$  (in case of 12 days internship);

**c) Internship Coefficient 3.**

Article 2.

1. The term or course for trainees of justice admitted to the School before January 1, 2011 is 12 months, in case of conditions defined in Article 13.2 of the Statute – 8 months.

2. In case when studies continue for 12 months, theoretical course is 6 and half months, internship – 4 months, seminars – and full and half month.
3. In case of 8 months course, theoretical course is 6 months and half, internship is one months and seminars is half month.
4. In case of one month internship, internship shall be calculated as following:
  - a) x is the score received for the internship. Minimum score for internship is zero, maximum – 22 – 24 (for one month, after 5 days a week course). Internship is satisfactory, if the sum of scores collected during the internship is 2/3 of maximum, in other words 14 – 16;
  - b) **Rule for revealing the general score of internship:**  $X = \text{received score} \times 100 / \text{maximum score}$ ;

Example: if a trainee received 18 scores during the internship, internship score shall be calculated:  $X = 18 \times 100 / 22 = 81,81$  or  $X = 18 \times 100 / 24 = 75$ ;

c) **Calculation of minimum scores for internship:**  $X_{\min} = \text{satisfying score} \times 100 / \text{on maximum score}$ . Example:

$X_{\min} = [14 \times 100 / 22] = 63, 63$ (in case of 22 days internship)

$X_{\min} = [16 \times 100 / 24] = 66, 66$ (in case of 24 days internship);

d) **Internship Coefficient 3.**

Article 3. This decision shall be enforced upon signing it.

Konstantine Kublashvili  
 Chairman of the Supreme Court of Georgia  
 Chairman of the Independent Board

## **APPENDIX 4**

### **Legal Acts of the Republic of Moldova**

#### **Law on the National Institute of Justice**

Law No.152-XVI of 08.06.2006

Official Gazette of the Republic of Moldova No. 102-105/484 of 07.07.2006

#### Chapter I

##### General Provisions

Article 1. Objective of the Law

Article 2. Status of the National Institute of the Justice

Article 3. Institute's Patrimony

#### Chapter II

##### Organization and Functioning of the Institute

Article 4. Functions of the Institute

Article 5. Administrative Bodies of the Institute

Article 6. The Council

Article 7. Council's Attributions

Article 8. Council's Meetings

Article 9. The Executive Director

Article 10. Internal Structure of the Institute

Article 11. Institute's Staff Wages

#### Chapter III

##### Initial Training of Candidates for Judges and Prosecutors

##### Continuous Training of Judges and Prosecutors

Article 12. Initial Training of Candidates for Judges and Prosecutors

Article 13. Contest for Admission to the Institute

Article 14. Organization of Initial Training Courses

Article 15. Internships during the initial training

Article 16. Disciplinary Liability of the persons who are attending initial training courses

Article 17. Knowledge Assessment

Article 18. Appointment to the position

Article 19. Continuous Training of Judges and Prosecutors

#### Chapter IV

##### Initial and Continuous Training of Court Clerks and Bailiffs

Article 20. Initial Training of Court Clerks and Bailiffs

Article 21. Continuous Training of Court Clerks and Bailiffs

#### Chapter V

##### Final and Transitory Provisions

Article 22.

The Parliament adopts the present organic law.

### **Chapter I General Provisions**

### **Article 1. Objective of the Law**

The objective of the present law is to establish and to provide for the legal status of the National Institute of Justice, its organizational and functioning principles, the methods of initial and continuous training of judges and prosecutors, as well as of other persons contributing to the well-functioning of justice.

### **Article 2. Status of the National Institute of the Justice**

(1) The National Institute of Justice, hereinafter – “*the Institute*”, is a public institution, which carries out the vocational training of the candidates for judges and prosecutors, the continuous training of judges and prosecutors, as well as of other persons that contribute to the well-functioning of justice.

(2) The Institute has the status of a legal person, manages its own patrimony and enjoys administrative, financial, scientific and pedagogical autonomy.

(3) The financial expenses of the Institute are to be covered from the state budget: Other sources of financing can be allowed if they do not hinder the autonomy of the Institute, and if they are not prohibited by law.

(4) The Institute is not part of the national system of education, and is not subject to the legal regulations of accreditation and licensing of higher educational institutions and those from the sphere of science and innovation.

(5) The Institute operates according to its Statute, approved by the Council of the Institute, hereinafter – “*the Council*”.

(6) The Institute’s headquarters are situated in Chisinau.

### **Article 3. Institute’s Patrimony**

(1) In order to carry out the tasks provided by the present law, the Institute manages a patrimony, consisting of:

a) goods transferred according to the law in its possession;

b) goods purchased on the account of the Institute's own means;

c) the means from the activities undertaken on a contractual basis;

d) donations and sponsorships from individuals and legal entities, national and foreign.

e) other sources allowed by law

(2) The goods of the Institute may be alienated only upon acceptance of the Council, according to the law.

## **Chapter II**

### **Organization and Functioning of the Institute**

#### **Article 4. Functions of the Institute**

(1) The main functions of the Institute are:

a) drawing up a national strategy on initial and continuous training of judges, prosecutors and of other persons that contribute to the well-functioning of justice and submit it for approval to the Superior Council of Magistracy – for judges and the General Prosecutors Office – for prosecutors;

b) initial training of candidates for judges and prosecutors;

c) continuous training of acting judges and prosecutors;

d) initial and continuous training of persons that contribute to the well-functioning of justice, in cases provided by law;

(2) The Institute can perform other functions on:



- a) organization and conducting of vocational and continuous training for other categories of legal professions on contractual basis ;
  - b) international cooperation in its fields of activity;
  - c) drawing up and publication of didactical and other materials drawn up as a result of its activity.
- (3) The Institute can carry out other activities required for the performance of its functions.

#### **Article 5. Administrative Bodies of the Institute**

The administrative bodies of the Institute are the Council, and Executive Director.

#### **Article 6. The Council**

- (1) The Council is the supreme administrative body of the Institute.
- (2) The Council consists of 13 members:
- a) 7 judges, elected by the Superior Council of Magistracy from among judges of different levels;
  - b) 4 members are designated by the General Prosecutor's Board;
  - c) 1 member designated by the Minister of Justice,
  - d) 1 member, titular law professor, designated by the Senate of the State University from Moldova;
- (3) The members of the Council are appointed for a four-year term. The mandate of the Council's members may be renewed only once.
- (4) The quality of Council's membership ceases at the mandate's expiry, at his request or in the event of his death. The membership may be revoked by the nominating body, in cases of circumstances that exclude the possibility of the member's performing of functions, as well as at 2/3 of the Council's members' request, in the event of failure to perform or inappropriate performing of the member's functions.
- (5) The Council's chairperson shall be elected through secret ballot from the members of the Council, for the mandate's term. The Council's chairperson may be recalled at the request of 1/3 of the Council's members. The decision on recalling the Council's chairman shall be adopted through secret ballot with 2/3 of Council's members' votes.
- (6) One member of the Council will be appointed Secretary.

#### **Article 7. Council's Attributions**

- (1) The Council exercises the following main competences:
- a) approve the strategy on initial and continuous training as well as the action plan for its implementation;
  - b) approves the regulation on the organization of the admission contest to the Institute;
  - c) approves yearly but not later than September 1st the syllabuses and the educational curriculum for the initial and continuous training courses;
  - d) approves the regulation on the organization of the contests for filling in the vacancies for teaching staff;
  - e) organizes the competition and approves the results of the contest for filling in the vacancies for teaching staff;
  - f) organizes the competition for filling in the vacancy for executive director position;
  - g) appoints and dismisses the Executive Director and the Deputy Executive Director;

- h) approves the number of vacancies proposed within the admission contest for initial training for judges and prosecutors, taking into consideration the real necessities and the available resources;
  - i) examines, approves and submits to the Ministry of Finances the Institute's annual draft budget, according to the legally established procedure;
  - j) authorizes cooperation agreements with similar institutions from abroad and donors contributions;
  - k) approves the salaries of the non permanent teaching staff of the Institute;
  - l) approves the composition of the Admission and Graduation Examination Commission;
  - m) organizes the admission contest in the Institute for initial training for judges and prosecutors;
  - n) approves the results of admission and graduation exams;
  - o) approves the activity annual report of the Institute, submitted by the Institute's Executive Director to the Superior Council of magistracy, General Prosecutor Office and Ministry of Justice for the purpose of keeping them informed on its; activity. Publishes and disseminates annual report of activities and financial report;
  - p) approves the functions' establishment and the list of personnel of the Institute;
  - q) approves the Internal Regulations of the Institute.
- (2) Under its functions, the Council may also perform other attributions in accordance with the present law.
- (3) Decisions under paragraph (1), letters a) d), h), l) can be adopted only after preliminary consultation with Superior Council of Magistracy, General Prosecutor's Office and Ministry of Justice.

#### **Article 8. Council's Meetings**

- (1) The ordinary meetings of the Council shall be convened once per trimester.
- (2) At the request of Council's chairperson or 1/3 of its members the Council is convoked in extraordinary meetings.
- (3) Council's meetings are presided over by the Council's chairperson. In his absence, the meeting is presided over by a member appointed by the Council's chairperson, or, eventually, by the member, elected from those present at the meeting.
- (4) The Council holds its deliberative meetings if the majority of members are present.
- (5) The Executive Director shall attend to all meetings of the Council and has the right of a consultative vote.
- (6) At the request of Council's chairperson or 1/3 of its members the Council, representatives of donors and invited experts can attend the meetings of the Council.
- (7) The Council's decisions shall be adopted with at least 7 votes and shall be signed by the Council's chairman and secretary. Training Programs devoted to judges and prosecutors should be approved with the majority of the members of the Council among judges and among prosecutors respectively.
- (8) The works the Council's meetings are recorded in a minutes, signed by all the members of the Council, present at the meeting.

#### **Article 9. The Executive Director**

- (1) The Executive Director shall be selected through a contest from among candidates with a degree in law, with highly professional skills and have at least 7 years of working experience in law-related sphere, higher education or scientific research sphere.
- (2) The Executive Director shall be appointed by the Council, for a term of 5 years, and his mandate can be renewed

(3) The Executive Director ceases his activity at the mandate's expiry, at his request or in the event of his death. At the proposal of 1/3 of all Council's members the Executive Director can be dismissed by a Council's decision, in cases of lack of performing or inappropriate performing of his functions, ascertaining of insufficient qualification and systematic disciplinary misconducts.

(4) The Executive Director shall ensure the management of the Institute's activity and has the following main attributions:

- a) to represent the Institute in its relations with public authorities, natural and legal persons, domestic or foreign;
- b) to ensure the organizational activity of the Council;
- c) to organize the implementation of Council's decisions;
- d) to draw up the initial and continuous training programs;
- e) to appoint the teaching staff, after approval by the Council of the results of the contest for filling in vacancies;
- f) to approve Institute's internal Regulations;
- g) to ensure the implementation of training programs;
- h) to manage the patrimony of the Institute;
- i) to draw up the Institute's draft budget and submit it to the Council for approval within the terms established by later;
- j) to draw up the draft of the functions' establishment and the list of personnel of the Institute;
- k) to appoint the administrative and technical staff of the Institute;
- l) to sign cooperation agreements with similar authorities from abroad and donors contribution, maintain relations with international bodies in areas within the competence of the Institute, informing previously the Council;

(5) Annually, not later than July 31, the Executive Director submits to the Council, a report on Institute's activities.

(6) The Institute shall have a Deputy Director. The Deputy Director shall be appointed and dismissed by the Council, at the Executive Director's proposal.

(7) Whenever the Executive Director is absent, the Deputy Director ensures the fulfilling of Director's responsibilities.

#### **Article 10. Internal Structure of the Institute**

(1) The structure of the Institute, its functions' establishment and the list of personnel are approved by the Council.

(2) The Institute's personnel consist of teaching, administrative and technical staff.

(3) The rules established for the teaching staff of higher education system shall apply to the teaching staff of the Institute whenever special rules are not provided for.

(4) Judges and prosecutors, if they wish so can be seconded to work within the Institute.

(5) The rights and duties of the employees of the Institute are provided by the internal Regulations of the Institute and by the regulations of its divisions.

#### **Article 11. Institute's Staff Wage**

(1) The salary of the permanent teaching staff at the Institute, with the exception of seconded persons, shall be established by the Council, according to the rules for the payment of judges from the courts, set up in accordance with the law on salaries of judges.

(2) The wage of the administrative and technical staff of the Institute shall be performed according to the norms established by the Government for the given staff categories.

(3) The Council is entitled to decide the payment of a supplement to the basic salary on the account of extra-budgetary means and donations.

**Chapter III**  
**Initial Training of Candidates for Judges and Prosecutors**  
**Continuous Training of Judges and Prosecutors**

**Article 12. Initial Training of Candidates for Judges and Prosecutors**

The initial training at the Institute represents the training of persons having a degree in law, and is one of the requirements to be met for the appointment as a judge and, respectively, as a prosecutor.

**Article 13. Contest for Admission to the Institute**

- (1) Admission within the Institute shall take place on the basis of a contest exclusively, observing the principles of transparency and equality of rights.
- (2) Only those who meet the established requirements for the appointment as judge or, respectively, prosecutor are entitled to participate to the admission contest.
- (3) The admission contest shall be organized by the Executive Director according to the Council's decision.
- (4) The date and place of the admission contest shall be announced at least 60 days in advance through mass-media and Internet.
- (5) The results of the contest shall be posted up at the Institute's Office and published on the web-sites of the Superior Council of magistracy, General Prosecutor Office and of the Institute.
- (6) The results of the competition can be contested, within 3 days term from the moment of posting up, at the Admission Examination Commission. The Commission will solve the contests, within 3 days term, by adopting final decisions.

**Article 14. Organization of Initial Training Courses**

- (1) The initial training courses for the candidates to the position of judge and prosecutor last 18 months, including a theoretical and practical training.
- (2) The candidates to the position of judge and prosecutor shall be trained in separate groups. The Council may determine if courses are to be provided in mixed groups.
- (3) The courses include theoretical and practical training and are organized according to the study curriculum approved by the Council.
- (4) During the courses, the candidates for the position of judge or prosecutor are entitled to a monthly scholarship equal to 50 per cent of the basic salary of a judge of a court.

**Article 15. Internships during the initial training**

- (1) During the period of initial training, the persons that follow the initial training courses at the Institute undertake internships, in accordance with internship programs, under the guidance of a supervisor from the institution where the internship takes place.
- (2) The internships shall be undertaken within the courts and the prosecution offices, criminal investigation authorities and lawyers' offices, in order to be acquainted with the activities of judges, prosecutors, criminal investigators, lawyers, clerks and of the auxiliary staff.

**Article 16. Disciplinary Liability of the persons who are attending initial training courses**

- (1) Persons who are attending initial training courses shall be subject to disciplinary liability for deviation from duties stated by the law and Internal Regulation of the Institutes.
- (2) The following shall be considered disciplinary deviations:

- a) Carrying on public activities with political character or expressing political opinions within the period of training;
  - b) Disrespectful attitude towards colleagues, teaching staff or managing board of the Institute, as well as towards persons with whom he/she has contact within the period of training.
  - c) Groundless absence from courses;
- (3) Disciplinary sanctions shall be the following:
- a. Admonition;
  - b. Diminishing the scholarship with 15% for 1 up to 3 months;
  - c. Expelling from Institute;
- (4) The sanctions stated by the paragraph 3, letter a) shall be applied by the executive director in written form.
- (5) The sanctions stated by the paragraph 3, letter b) and c) shall be applied through Council's decision, after consulting the Superior Council of Magistracy, and respectively General Prosecutor Office.
- (6) In the event of expelling from the Institute, the Council may claim the reimbursement to the Institute's account the scholarship received during the period of initial training.

#### **Article 17. Knowledge Assessment**

- (1) The level of theoretical knowledge and practical skills of candidates shall be evaluated through a system of marks and/or qualification tests. The individual evaluation records shall be kept for the entire study period and 3 years after graduation.
- (2) In the event of a negative evaluation the person who attends the initial training courses can be expelled from the Institute, by Council's decision, at the proposal of the Executive Director and only after consulting Superior Council of Magistracy or respectively General Prosecutor's Office.
- (3) The initial training courses are finalized with graduation exams at disciplines established by the Council after coordinating them with Superior Council of Magistracy, and respectively General Prosecutor's Office.
- (4) The results of the graduation exams may be contested, within 3 days term from the moment of posting up, at the Graduation Examination Commission. The Commission will solve the contests, within 3 days term, by adopting final decisions.
- (5) The person who has attended initial training courses but did not pass the graduation exams may take the exams once again at the next session organized by the Institute.
- (6) The Institute graduates shall receive a certificate in which the length of the courses and the average mark received shall be mentioned. On the basis of this certificate the graduates shall participate in the contest for filling in vacancies of judges and respectively prosecutors.
- (7) In the event of groundless absence of the candidate from the final exam, or the obtaining of a negative final assessment, the Council may claim the reimbursement to the Institute's account the scholarship received during the period of initial training.

#### **Article 18. Appointment to the position**

- (1) The graduates from the Institute shall take part to the contest for the vacancies for the position of judge or prosecutor according to the procedure provided for by the Law on the status of judges or the Law on the Prosecutor's office respectively.
- (2) The graduates taking part in the contest for the vacancies shall choose, in descending order of their graduation average mark, the positions of judge or prosecutor open for competition.

(3) The graduates who have not passed successfully the contest for available vacancies for the position of judge or prosecutor shall further take part in any open contest for the above mentioned positions during three years after graduation from the Institute. After three years the graduates cannot participate in such contests.

(4) The ungrounded absence of the graduate from the contest for the vacancies for the position of judge or prosecutor, respectively, entail his /her obligation to reimburse to the Institute's account the scholarship received during the period of initial training.

#### **Article 19. Continuous Training of Judges and Prosecutors**

(1) The Institute organizes continuous training of judges and prosecutors, according to an annual program. The program is submitted to the Council for approval, but not later than July of the year preceding the academic year envisaged by it.

(2) The judges and prosecutors have the right to continuous training and may choose from the subjects proposed by the program, but they have the duty to cumulate at least 40 hours annually. The selected subjects shall be communicated to the Institute by the end of October.

(3) The Council can establish compulsory subjects for judges and prosecutors respectively.

### **Chapter IV**

#### **Initial and Continuous Training of Court Clerks and Bailiffs**

##### **Article 20. Initial Training of Court Clerks and Bailiffs**

(1) Court clerks and bailiffs shall attend the initial training courses within the Institute after their appointment.

(2) The initial training courses of court clerks and bailiffs shall last 3 months.

(3) In order to ensure the proper conduct of courses and internships, mixed or separate groups may be organized for the candidates for court clerks and bailiffs.

(4) After finishing the courses of initial training, a capability exam shall be passed.

(5) A negative final assessment or the ungrounded resignation from the position during the first 2 years after the initial training course entails the obligation to reimburse all the expenses made by the Institute during the period of initial training.

##### **Article 21. Continuous Training of Court Clerks and Bailiffs**

(1) The institute organizes continuous training of court clerks and bailiffs according to the program approved by the Council after consultations with the Superior Council of magistracy and Ministry of Justice, as case may be.

(2) The court clerks and the bailiffs are obliged to undertake the continuous training courses according to the program approved by the Superior Council of Magistracy and Ministry of Justice.

### **Chapter V**

#### **Final and Transitory Provisions**

##### **Article 22.**

(1) The initial training shall be a compulsory condition for appointment to the position of judge or prosecutor from the moment of approval by the Council of the results of graduation examination of the first trainees of the Institute.

(2) The number of training hours provided by art. 19 (2) shall be compulsory as from January 1st, 2008.

(3) The authorities mentioned in art. 6 (2) shall nominate the members to the Council in two months from the moment of official publication of the present law. During 10 days from the day of designation of all members, the Ministry of Justice shall organize the first session of the Council.

(4) The Council of the Institute shall call a contest for the position of Executive Director of the Institute within 45 days from the moment of nomination of all members of the Council.

(5) The National Institute of Justice shall be operational as of September 1st, 2007

(6) The Government, within a period of up to 6 months: shall present to the Parliament proposals concerning the harmonization of the legislation with the present law; shall bring its normative acts in accordance with the present law.

PARLIAMENT'S  
CHAIRMAN Marian Lupu  
Chisinau, June 8, 2006  
No.152-XVI



**STATUTE  
OF THE NATIONAL INSTITUTE OF JUSTICE**

*Approved  
at the meeting  
of NIJ Council  
of 6 June 2007*

Contents:

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**I. GENERAL PROVISIONS**

- 1.1. The National Institute of Justice, hereinafter referred to as „the Institute”, is an independent public institution, carrying out the initial training of candidates for the position of judge and prosecutor, for appointed court clerks and bailiffs, as well as the continuous training of judges, prosecutors, court clerks and bailiffs, and of other professions, contributing to the administration of justice.
- 1.2. The Institute shall carry out its activity in accordance with international treaties, to which the Republic of Moldova is part, the Constitution of the Republic of Moldova, the Law on the National Institute of Justice, the given Statute and other normative acts.
- 1.3. The Institute shall have the status of legal entity, having its stamp with the State Emblem of the Republic of Moldova, its name and its own symbols approved by the decision of the Council, budgetary and extra-budgetary accounts, including accounts in foreign currency, at the State Treasury.
- 1.4. The legal address of the Institute is: 1 Serghei Lazo St., Chisinau municipality
- 1.5. The Institute shall enjoy administrative, scientific and didactic autonomy.
  - 1.6. The Institute shall own property, consisting of:
    - a) goods transmitted for its use in accordance with the established procedure;
    - b) goods purchased on its own expense;
    - c) results of activity carried out on contract basis;
    - d) donations and sponsorship on behalf of natural and legal entities from the country and from abroad , approved by the Council of the Institute;
    - e) other sources which are not prohibited by law.
- 1.7. The Institute's property may be alienated only with the consent of the Council, in conditions of law.
- 1.8. The Institute shall have its own transport means used for the fulfilment of its duties, with limited mileage per year levelled to that of the Supreme Court of Justice.
- 1.9. The funding of the Institute shall be made from:
  - a) resources allocated from the state budget;



- b) resources gained from the continuous training of other professions contributing to the administration of justice carried out on contract basis;
- c) incomes from international collaboration as well as from donations of natural and legal entities from the country and from abroad;
- d) incomes from scientific research activity;
- e) other sources which do not hinder the Institute's activity and are not prohibited by law.

1.10. Incomes received in conformity with paragraph 1.6. let. b) and d) of the given Statute shall be used for the improvement of the Institute's technical-material basis and for the payment of wage supplements to the Institute's administrative and teaching staff, as well as for the coverage of other costs provided by current legislation.

1.11. The Institute shall co-work with the scientific and higher education institutions, which train specialists in the field, with similar foreign institutions as well as various international bodies.

1.12. The Institute shall certificate initial and continuous training of judicial employees by issuing diplomas and certificates in accordance with the Law on the National Institute of Justice.

## **II. FUNCTIONS OF THE INSTITUTE**

2.1. The Institute shall carry out the following main functions:

- a) drawing-up of a draft strategy on initial and continuous training of judges, prosecutors and other professions contributing to the administration of justice, with its further approval by the Superior Council of Magistrates and by the General Prosecutor's Office;
- b) drawing-up of a draft strategy on initial and continuous training of court bailiffs, which shall be co-ordinated with the Enforcement Department and approved by the Ministry of Justice;
- c) drawing-up of a draft strategy on initial and continuous training of court clerks, which shall be approved by the Superior Council of Magistrates;
- d) initial training of candidates for the positions of judge and prosecutor;
- e) continuous training of judges and prosecutors;
- f) initial and continuous training of court clerks and bailiffs, under the law;
- g) training of trainers of the Institute.

2.2. The Institute can as well fulfil functions regarding:

- a) initial and continuous training, on contract basis, of other legal professions contributing to the administration of justice;
- b) organization and development of roundtables, meetings, conferences, etc., with the participation of representatives of different authorities contributing to the administration of justice;
- c) international cooperation in the field of training, scientific research activity and trainings for trainers;
- d) the drawing up, editing and publication of didactic and other materials drawn up within its activity;
- e) planning and the carrying-out of scientific research in the field of training of the judiciary;
- f) issuance of publications: monographs, collections of scientific researches, textbooks, course materials and other didactic materials;
- g) issuance of the periodical scientific practical, informative and legal publication;
- h) the setting-up and the update of a database on trainees;
- i) promotion of knowledge in the field of justice and of outcomes of scientific researches made in this field, in the country and abroad;

- j) informing the general public about the outcomes of the Institute's activity;
  - k) design, maintenance and permanent update of the Institute's website;
- 2.3. The Institute can as well implement other tasks necessary for the exercise of its functions.

### **III. TRAINING ACTIVITY OF THE INSTITUTE**

3.1. Training activity of the Institute shall include:

- a) initial training of candidates for the position of judge and prosecutor, and of the appointed court clerks and bailiffs;
- b) continuous training of judges and prosecutors, court clerks and bailiffs, as well as of other professions, contributing to the administration of justice;
- c) organisation and monitoring of internships for candidates for the position of judge, prosecutor, and for the appointed court clerk and bailiff;
- d) certifying the initial training and the certification of continuous training;
- e) training for trainers;
- f) other activities needed for the exercise of its functions.

3.2. The training activity of the Institute shall target at applicable practical and theoretical training of trainees, at the use of modern didactic technologies, interactive and participative training methods as well as of informational technologies.

3.3. The training within the Institute shall be carried out in accordance with the educational plans and with curricula approved by the Institute Council, and co-ordinated in advance with the Superior Council of Magistrates, the General Prosecutor's Office or the Ministry of Justice, accordingly;

3.4. The training shall be carried out in separate and mixed groups. The Council shall decide upon the training of candidates for the position of judge and prosecutor in mixed groups.

### **IV. SCIENTIFIC RESEARCH ACTIVITY OF THE INSTITUTE**

4.1. Main tasks of the scientific research activities of the Institute shall be the following:

- a) to carry out scientific researches to provide monographs, collections of scientific works, textbooks, course materials and other didactic materials for the initial and the continuous training of trainees;
- b) to encourage the participation of trainees of the Institute in the scientific research activity;
- c) to carry out comparative studies in the context of the European integration and the adjustment of the judicial system of the Republic of Moldova to the European standards;
- d) to carry out studies in the field of the judicial theory and practice, depending on the evolution of the judiciary reform and on the need to create adequate scientific support for its development;
- e) other tasks related to the scientific research activity of the Institute.

4.2. The scientific research activity shall be carried out on basis of special programs, selected in advance and approved by the Institute Council.

### **V. ACTIVITY OF THE INSTITUTE IN THE FIELD OF INTERNATIONAL RELATIONS**

The activity of the Institute in the field of international relations shall include:

- a) international cooperation in the field of training and vocational training of the judiciary staff for the purpose of ensuring the conditions needed for the implementation of the international experience in the field of justice administration;

- b) negotiation and conclusion, under the law, of agreements of co-operation in the field of training of trainers, of the initial and continuous training, etc. with similar institutions from abroad;
- c) application of the experience of similar international institutions during the drawing-up of the staff policy and the creation of the legal framework for the activity of the Institute;
- d) sending of trainees for studies abroad and enrolment at the Institute of foreign citizens on basis of international agreements;
- e) implementation of instructive and scientific projects jointly with foreign partners;
- f) informing of the judiciary staff in the Republic of Moldova about the advanced international practices in the field of justice administration.

## **VI. FINANCIAL ACTIVITY OF THE INSTITUTE**

- 6.1. Standard expenses and the way of use of budgetary and extra-budgetary resources for the organisation and carrying-out of courses, seminars and other forms of activities related to training, research and training for trainers of the Institute shall be provided for in the Regulation on continuous training, approved by the decision of the Institute Council.
- 6.2. At the stage of the drawing-up of budget proposals, as well as of the drafting of financing plans and of costs estimates, the Institute shall provide for the necessary costs in accordance with standards established and confirmed through calculations and an explanatory note.
- 6.3. The trainees, who shall be seconded for the continuous training, from outside the Chisinau municipality, shall be provided by the seconding institution with:
- a) per diems for the continuous training period in the amount set up in current normative acts on compensation of costs to the employees seconded for business purposes;
  - b) payment of roundtrip transportation costs.
- 6.4. The Institute shall cover all the costs for internships, study visits and training in similar institutions abroad.

## **VII. ADMINISTRATIVE BODIES OF THE INSTITUTE AND THEIR FUNCTIONS**

- 7.1. The Council shall be the supreme administration body of the Institute and shall be set up in conformity with the Law on the National Institute of Justice.
- 7.2. The Institute Council shall meet for ordinary sessions once in three months.
- 7.3. The Council shall meet for extraordinary sessions at the request of the Chairman of the Council or of one third of its members.
- 7.4. Meetings of the Council shall be chaired by its Chairman. In absence of the Chairman a meeting shall be chaired by a member appointed by the Chairman of the Council or, where appropriate, by a member elected from among those present at the meeting.
- 7.5. Meetings of the Council shall be considered deliberative, if attended by the majority of its members.
- 7.6. The Director shall be obliged to assist at the Council meetings, having the right to consultative vote.
- 7.7. At the request of the Chairman of the Council or of one third of its members the representatives of donor institutions and invited experts can be present at the Council meetings.
- 7.8. Decisions of the Council shall be adopted by at least seven votes and shall be signed by the Chairman and Secretary of the Council. The decisions on training curricula and educational plans for judges and prosecutors shall be considered adopted, only if they have been voted for by the majority of members of the Council from among judges and prosecutors, accordingly.

7.9. The works of the Council meetings shall be registered in a verbatim record which shall be signed by all members of the Council attending the meeting.

7.10. The Institute Council shall have the following functions:

- a) to approve the curriculum for initial and continuous training as well as the action plan on its implementation;
- b) to approve the Regulation on the organisation of the admission contest to the Institute;
- c) to approve annually, before the date of 1 September, curricula of the Institute for the initial training courses (educational plans and curricula for every study discipline provided in the plans);
- d) to approve the year plan (a quarter plan, when needed) for the thematic activities within the continuous training;
- e) to approve the Regulation on the organisation of contest for filling the positions for teaching staff and payment;
- f) to organise the contest for filling the positions of teaching staff and to approve its outcomes;
- g) to organise the contest for filling the position of the Director;
- h) to appoint and dismiss the Director and his/her Deputy;
- i) to approve the number of places announced for the admission contest for the initial training of judges and prosecutors, with due account of the real needs and available resources;
- j) to approve the Regulations on the initial and the continuous training;
- k) to examine, to approve and to submit to the Ministry of Finance the draft budget of the Institute in accordance with the procedure provided by the law;
- l) to authorise the cooperation agreements concluded with similar institutions from abroad and agreements on donors' contribution;
- m) to approve the method of payment of the teaching staff that is not part of the permanent staff of the Institute;
- n) to approve the composition of the Admission and Graduation Commission;
- o) to organise the admission contest to the Institute for the initial training of candidates for the position of judge and of prosecutor in accordance with the Regulation on the organisation of the admission contest to the Institute;
- p) to approve the marks for the admission and graduation examinations;
- q) to approve the annual progress report of the Institute, submitted by the Director, and to advance it to the Superior Council of Magistrates, General Prosecutor's Office and Ministry of Justice for information;
- r) to approve lists of personnel and the function's establishment of the Institute;
- s) to approve the Internal (Order) Regulation of the Institute;
- t) to exercise also other functions provided by the law.

7.11. The current administration of the Institute shall be ensured by the Director.

7.12. The Director shall be selected on contest basis from among people who are licentiates in law, dispose of high professional skills and at least 7 years of work experience in the field of law, of higher education or of scientific research.

7.13. The Director shall be appointed by the Institute Council for a 5-year term and his/her mandate can be renewed.

7.14. The Director shall cease his/her activity on expiry of his/her mandate, at his/her own request or in the event of his/her decease. The Director can be dismissed by a decision of the Council at the suggestion of 1/3 of all members of the Council, in cases of non-fulfilment or inappropriate fulfilment of his/her duties, in case of determining insufficient qualification or in cases of systematic disciplinary violations.

7.15. The Director shall have the following functions:

- a) to represent the Institute before public authorities and institutions, natural and legal entities from the country and from abroad;
- b) to ensure the organisational activity of the Council;
- c) to be the secondary credit release authority;
- d) to organise the enforcement of decisions of the Council;
- e) to issue orders and ordinances governing the activity of the Institute;
- f) to ensure the drawing-up and the implementation of curricula on the initial and the continuous training;
- g) to take measures with regard to the organisation and enhancement of the scientific research activity;
- h) to draw up a draft of list of personnel and a draft of the function's establishment of the Institute, and to take measures for their improvement;
- i) to appoint the teaching staff following the Council's approval of the results of the contest for filling the respective positions;
- j) to appoint and to dismiss, on basis of an order, the Institute's personnel, in conditions of the law;
- k) to approve job descriptions for the Institute's personnel;
- l) to study applications on the behalf of the Institute's personnel and to issue corresponding orders;
- m) to ensure an effective distribution and use of the labour force by filling the structural subdivisions of the Institute with efficient and appropriate staff;
- n) to draw up the Internal (Order) Regulation of the Institute;
- o) to manage the assets of the Institute;
- p) to ensure an efficient management of material and financial funds of the Institute;
- q) to ensure the equipping, the upgrading and the extension of classrooms and of the library;
- r) to ensure the drawing-up of the draft budget of the Institute and to submit it to the Council within the established timeline;
- s) on basis of authorisation on behalf of the Council to conclude cooperation agreements with similar institutions from abroad and agreements on donor's contributions, to keep relations with international agencies with regard to issues which fall within the competence of the Institute, informing the Council in advance;
- t) to exercise also other functions necessary for the carrying-out of the Institute's activity.

7.16. The Director shall have one adviser in his/her subordination, who shall be appointed and dismissed by the Director of the Institute, in accordance with law.

7.17. The Director can delegate a part of his functions to the Deputy Director;

7.18. In the absence of the Director, his/her functions shall be carried out by the Deputy Director, appointed and dismissed by the Institute Council at the suggestion of the Director.

7.19. The Deputy Director of the Institute shall have the following functions:

- a) to ensure the implementation of provisions of the Internal (Order) Regulation of the Institute;
- b) to ensure the observance of the curriculum;
- c) to ensure the drawing-up of strategies and plans for the initial and the continuous training of judges, prosecutors, court clerks and bailiffs, including the curricula for training of trainers;
- d) to ensure the co-ordination of the activity of the Institute structural subdivisions in accordance with an order of the Director regarding the delegation of attributions;
- e) to ensure the drawing-up of draft pay rolls and of lists of personnel;
- f) to ensure the drafting of foreign relations programme of the Institute;
- g) to carry out the functions of the Director in his/her absence;

h) to exercise other functions delegated to him/her by an order of the Director of the Institute.

7.20. If a judge or a prosecutor is appointed for the position of Director or of Deputy Director, the Institute Council shall demand from the Superior Council of Magistrates or from the General Prosecutor's Office, accordingly, his/her secondment for the period of exercise of this position. The period of secondment shall not break the term for the promotion in the qualification or, where appropriate, of classification degree, and in case of judges for appointment until the age limit.

## **VIII. STRUCTURAL SUBDIVISIONS OF THE INSTITUTE**

8.1. Within the Institute there shall be formed:

- a) Department of training and research;
- b) Economic-Administrative Department;
- c) Division of human resources and documentation.

8.2. There can be formed a Scientific Board within the Institute, which shall act on basis of its own regulation approved by the Institute Council.

8.3. The Department of training and research shall exercise the following functions:

- a) to implement the initial training of candidates for the position of judge and of prosecutor, as well as for the appointed court clerks and bailiffs;
- b) to implement the continuous training for judges and prosecutors, as well as for other professions, contributing to the administration of justice;
- c) to organise the training of trainers of the Institute;
- d) to ensure the development of internships for trainees, as part of the initial training;
- e) to co-ordinate the didactic and scientific activity of the Institute and to plan the publication of didactic and scientific materials needed for the training and educational process;
- f) to ensure the design of an electronic database of trainees;
- g) to ensure the design and the update of the official website of the Institute;
- h) to carry out also other activities needed for the exercise of its functions.

8.4. Within the Department of training and research there shall be formed:

- a) Division of initial training;
- b) Division of continuous training;
- c) Division of training for trainers and international relations;
- d) Division of non-legal skills, public relations and publications;
- e) Division of teaching methodology and scientific research;

8.5. There can be created chairs within the Department of training and research to provide a better development of the training activity.

8.6. The economic-administrative Department shall have the following functions:

- a) to organise and to ensure a correct and effective accountancy;
- b) to provide preventive control over the proper and opportune drawing-up of documents and over the legality of the implemented operations;
- c) to regulate the bookkeeping and the drawing-up of financial reports prepared by the public authorities, which should be co-ordinated with a subdivision of the Ministry of Finance that co-ordinates the methodology of bookkeeping and of financial reporting;
- d) to ensure the authentic and within the set terms recording of expenses of the Institute, to implement the cost estimate, to provide and to distribute the material goods;
- e) to provide control over the integrity of the fixed funds, of the short-term and little-valued objects at the places of their keeping and usage;
- f) to provide periodically the inventory of monetary resources, money flows and material valuables;

- g) to ensure on a large scale the application of a modern technique of calculation during the calculations and recordings;
- h) to maintain and to update the register of employees;
- i) to monitor and coordinate the administrative household of the Institute, ensuring the provision with necessary goods and their management;
- j) to lead to implementation the measures established to ensure the appropriate working conditions within the Institute, in accordance with norms of labour protection and those for building and good's security, as well as to take care of fire-fighting system, in accordance with the law;
- k) to exercise also other functions required for the well-development of the activity of the Institute.

8.7. Within the Economic-Administrative Department there shall be created:

- a) Division of Finance;
- b) Division of Administration and Constructions.

8.8. The Division of human resources and documentation shall have the following functions:

- a) to draw up job descriptions for the Institute's personnel and to co-ordinate them with heads of corresponding subdivisions;
- b) to ensure the observance of conditions, provided by the law, regarding the framing in the salary scheme and grade;
- c) to fill in service records and the register book of employees;
- d) to suggest measures regarding the update of lists of personnel and of pay rolls;
- e) to update and to keep the individual assessment records and the personal files of trainees;
- f) to receive, register and distribute the correspondence of the Institute
- g) to ensure the archiving of the documents received or drawn up in the Institute and to be responsible for their keeping and preservation;
- h) to communicate necessary information and documents to other subdivisions for the implementation of their functions;
- i) to exercise also other functions.

8.9. The subdivisions provided in point 8.1. shall collaborate for the purpose of implementation of their functions. The staff of these subdivisions shall exercise their attributions provided in the job description approved by the Director of the Institute.

## **IX. THE INSTITUTE'S PERSONNEL**

9.1. The following categories of personnel shall carry out their activity within the Institute:

- a) the administrative staff: the Director, the Deputy Director, heads of departments, heads of divisions, advisers, consultants, leading specialists, coordinating specialists and specialists;
- b) the teaching staff: titular professors (trainers) working full- or part time (associates);
- c) the technical staff.

9.2. The teaching and administrative staff can include judges and prosecutors who are seconded to the Institute with their consent and the consent of the competent seconding body, in accordance with the law.

9.3. To carry out the training process the Institute can use, under the law, the teaching staff from the field of legal higher education that train specialists in the field, accredited under the law, also other, national and international specialists, as well as other personnel needed for the training process.

9.4. To ensure the optimal implementation of the training and educational process, there can work also associated trainers within the Institute, namely the teaching staff that is not permanently employed within the Institute.

9.5. The training shall be carried out by the teaching staff of the Institute, and should there be met the requirements provided for the filling of the respective teaching position, the training process can be implemented also by the administrative staff of the Institute.

9.6. The remuneration of the administrative and technical staff of the Institute shall be made on basis of lists of personnel approved by the decision of the Council and in conformity with the Law no. 152-XVI approved on 8 June 2006 on the National Institute of Justice, the Law on the salarisation system in the budgetary sector no. 355-XVI approved on 23 December 2005, the Governmental Decision no. 381 approved on 13 April 2006 on conditions of salarisation of personnel from the budgetary units based on the Single Network of Tariffs, the Governmental Decision no. 1108 approved on 25 September 2006 on the salarisation of the personnel of institutions financed from the budget, and according to other normative acts.

9.7. The teaching staff shall be remunerated in accordance with the Law on the National Institute of Justice and with the Regulation on the organisation of the contest for filling the positions of the teaching staff and work remuneration approved by the Institute council under the law.

9.8. The Institute Council can decide upon the payment of a supplement to salaries from the special resources or from donations.

9.9. The conditions of selection and of appointment of the Institute's personnel shall be stipulated in the Internal (Order) Regulation approved by the Institute Council.

9.10. The rights, obligations, functions and responsibilities of the Institute's personnel shall be stipulated in the Internal (Order) Regulations and in job descriptions approved by the Director of the Institute.

9.11. The Institute's personnel shall dispose of a work identification card, the template of which shall be approved by the Institute Council.

## **X. THE INSTITUTE'S TRAINEES**

10.1. Among the *ex officio* trainees of the Institute there shall be judges, prosecutors, court clerks and bailiffs as well as candidates for the position of judge and of prosecutor enrolled for studies by an order of the Director issued on basis of the decision of the Institute Council on the approval of the results of the admission contest.

10.2. Other categories of professions contributing to the administration of justice can become trainees of the Institute on contract basis.

10.3. The enrolment to the initial training within the Institute shall be made exclusively on contest basis, with due respect to principles of transparency and equality of rights for all candidates for the position of judge and of prosecutor. The manner and conditions of the carrying-out of the contest shall be stipulated in the Regulation on the organisation of the admission contest to the Institute.

## **XI. FINAL AND TRANSITORY PROVISIONS**

Amendments to the given Statute shall be made by a decision of the Council, at the suggestion of the Director or of 1/3 of members of the Institute Council.





**REGULATION  
OF INTERNAL ORDER  
OF THE NATIONAL INSTITUTE OF JUSTICE**

*Approved at the meeting  
of NIJ Council  
from 6 June 2007*

Contents:

- I. General provisions
- II. Rights and obligations of the Institute's personnel
- III. Conclusion, amendment, suspension and cease of individual employment agreements with the Institute's personnel
- IV. Work and leisure time
- V. Disciplinary liability
- VI. Final and transitory provisions

**I. GENERAL PROVISIONS**

1.1 The Regulation of Internal Order of the National Institute of Justice, hereinafter referred to as *the Regulation*, is a normative act of internal use, regulating labour relations and other relations related directly to the former in all structural subdivisions of the Institute, in conformity with provisions of international treaties, to which the Republic of Moldova is part, of the Constitution of the Republic of Moldova, of the Labour Code, of employment agreements and other current normative acts.

1.2 Provisions of the given Regulation refer to the whole staff of the Institute, notwithstanding the content and duration of a concluded employment agreement or of the held position.

1.3 The activity of the Institute is carried out with respect to principles of legality, equality, equity, mutual co-operation, as well as other principles in accordance with current legislation and taking in consideration the specifics of the Institute's activity.

1.4 It is prohibited to show any form of discrimination based on race, nationality, ethnicity, language, religion, gender, opinion, political belonging, property, social origin, cultural level or on other similar criteria in the sense of access to all levels of professional and vocational training within the Institute.

**II. RIGHTS AND OBLIGATIONS OF THE INSTITUTE'S PERSONNEL**

2.1. The Institute's personnel enjoy the rights to:

- a) work in conformity with his/her professional training and qualification;
- b) labour and health protection and to labour safety;
- c) advanced vocational training;
- d) work remuneration according to the current legislation;
- e) premiums based on work performance;
- f) rest and leisure ensured by offering weekly days-off, holidays and annual leaves;
- g) social vacation, guarantees and compensations, indemnities and state social insurances stipulated by the current legislation;
- h) leave without pay in accordance with the current legislation;
- i) other rights stipulated by law.

2.2. In addition to the above-enumerated rights, the administrative and teaching staff enjoys the rights to:

- a) participate in settlement of issues related to the Institute's performance;

- b) use books, classrooms, technical means and laboratories aiming at fulfilling one's teaching and scientific tasks and advanced vocational training;
- c) participate at conferences, symposiums, congresses and seminars at national and international level;
- d) draw up curricula, teaching forms and methodology, textbooks and didactic materials, which are considered appropriate for the implementation of educational standards;
- e) participate in the drawing-up of syllabuses and curricula, textbooks, methodical materials and to carry out scientific researches;
- f) have the experience in teaching included;
- g) combine employments within the limits provided by the law;
- h) other rights stipulated by the law.

2.3. The Institute's personnel have the obligations to:

- a) ensure observance of the Constitution of the Republic of Moldova, of normative acts of the Republic of Moldova, orders, ordinances, decrees and tasks for the Institute's administration within the limits of their competence and of the given Regulation;
- b) as of the date of employment to provide necessary documents, to communicate personal information as set by the law, to inform immediately about all changes referring to required data, particularly changes of home address, family status, etc.;
- c) respect the order and discipline at work place, under any circumstances;
- d) use the working hours for productive work;
- e) take measures to eliminate cases hindering the normal work performance, and to immediately inform the Director about such cases;
- f) handle carefully the technical resources and other assets of the Institute, to keep the workplace clean and in order, to observe the set rules of keeping of material goods and documents;
- g) refrain from actions hindering other employees to perform their duties;
- h) be polite and tolerant;
- i) have a pleasant appearance;
- j) economically use stationery and other material resources, as well as not to make any local, interurban and international phone calls not related to one's duties;
- k) before going on vacation or on a business trip to leave all technical resources and other material goods, which are at his/her disposal, in proper condition, to render one's unfinished acts to the superior head for decision making in the sense of their transfer to other employee;
- l) in the event of cease of one's individual employment agreement or functions to return one's service identification card and other documents as stipulated by law;
- m) keep the state secret or other type of secret protected by the law, as well as not to disseminate information, known to him/her due to the fulfilment of his/her duties and related to private lives of citizens;
- n) refrain from making statements on public, expressing opinions and evaluations regarding the activity of public authorities as well as of their administration;
- o) other obligations stipulated by the law.

2.4. In addition to the above-enumerated obligations the administrative and teaching staff participating in the process of training has the obligations to:

- a) observe standards and instructions related to the carrying-out of teaching activity;
- b) participate in the drawing-up and the fine-tuning of syllabuses and curricula, of textbooks and methodical materials;

- c) ensure the implementation of organisational activity and of the training process, of teaching-methodological as well as scientific activity at high professional level;
- d) systematically enhance one's professional qualification, to upgrade one's theoretical knowledge and practical skills, and to improve one's managerial and teaching skills;
- e) be impartial and objective when assessing trainees' knowledge;
- f) carry out scientific researches and to apply the achieved outcomes in initial or, depending on case, continuous training;
- g) other obligations that are specific to teaching.

2.5. The Institute's personnel are forbidden to:

- a) take material goods and documents belonging to the Institute from its premises without having an appropriate permission for this;
- b) bring explosives, toxic and fire-driven substances, as well as objects and goods for sale in the Institute's premises, to use non-standard electric devices and heaters;
- c) post announcements in places other than the ones specially provided for this without having an appropriate permission;
- d) perform at the workplace activity which is not related to the exercise of duties;
- e) create structures of political parties within the Institute, to use his/her employment status for personal interests;
- f) commit deeds (actions or inactions) which may prejudice one's own reputation and the Institute's reputation;
- g) smoke in other places than the ones specially provided for;
- h) stay in the Institute's premises in the state of alcohol, toxic or drugs intoxication.

### **III. CONCLUSION, AMENDMENT, SUSPENSION AND CEASE OF INDIVIDUAL EMPLOYMENT AGREEMENTS WITH THE INSTITUTE'S PERSONNEL**

3.1. Conclusion, amendment and cease of individual employment agreements with the Institute's employees are carried out in accordance with the current legislation.

3.2. Administrative and technical personnel are appointed by the Director of the Institute.

3.3. Teaching personnel are appointed by the Director after the Institute Council approves the outcomes of a contest for filling respective positions.

3.4. Should a judge or a prosecutor be proposed to fill one of administrative or teaching positions at the Institute, the Institute Council shall require from the Superior Council of Magistrates or from the General Prosecutor's Office, accordingly, the secondment of this person for the whole period of performance of the position.

3.5. Teaching, administrative and technical personnel cease their activity in accordance with the law.

### **IV. WORK AND LEISURE TIME**

4.1. The established working week for the Institute's staff consists of 5 days, with 40 working hours. Provided days-off are Saturday and Sunday as well as other days set by the Labour Code and by the Government of the Republic of Moldova.

4.2. Duration of one working day is 8 hours, except for the teaching staff, for whom the specifics of work is governed by the Regulation on Contest Organisation for Filling Teaching Positions and Work Payment, as well as by other normative acts in the field.

4.3. The work schedule for administrative and teaching staff begins at 8 a.m. and ends at 5 p.m., and for technical staff a workday lasts from 7 a.m. till 4 p.m., except for days before holidays, when the work schedule is reduced by one hour. Lunch time is from noon till 1 p.m.

4.4. By an order of the Institute's Director the work schedule may be changed depending on the operational needs and tasks. Should the teaching process be scheduled for Saturday, the teaching staff and other categories of employees shall be offered appropriately one day-off in one of working days, and it shall not be considered a breach of provisions of p. 4.3. of the given Regulation.

4.5. Before starting the work employees from among the Institute's staff shall sign in according to the procedure set by the order of the Director. The Institute shall organize a procedure of registration of the Institute's personnel coming and leaving hour. A clock with exact time shall be put near the spot of time registration.

#### **V. DISCIPLINARY VIOLATIONS AND APPLICABLE SANCTIONS**

5.1. The Institute's personnel bear disciplinary liability in accordance with current legislation.

#### **VI. FINAL AND TRANSITORY PROVISIONS**

6.1. The given Regulation shall entry in force on the day of its approval by the Institute Council and shall be brought to the knowledge of the Institute's personnel.

6.2. Non-observance of provisions and requirements of the given Regulation shall be regarded as a violation of work discipline and shall lead to the liability-bearing in accordance with current labour laws.

6.3. Issues related to the implementation of the given Regulation shall be settled by the Director of the Institute, as well as by the Institute Council in accordance with its authority.



### **REGULATIONS ON THE ORGANISATION OF ENTRANCE COMPETITION TO THE INITIAL TRAINING OF JUDGES AND PROSECUTORS AT THE NATIONAL INSTITUTION OF JUSTICE**

*Approved by decision  
of the Board of the National Institution of Justice  
№ 7/1 of 29.06.2011*

#### **I. GENERAL PROVISIONS**

1.1. The Regulations on organisation of entrance competition to the initial training of judges and prosecutors at the National Institution of Justice, hereafter the Regulations, were worked out in accordance with Art. 7 para. (1), point b) and Art. 13 of the Law on National Institution of Justice №152-XVI of 08.06.2006 with the purpose of indicating the manner of organisation and the method of conducting entrance competition.

1.2. Admission to the National Institution of Justice, hereafter the Institution, shall be organised on a competitive basis in compliance with principles of openness and transparency.

1.3. The number of seats available for the entrance competition, hereafter the competition, shall be annually approved by the Institution Board after having consulted with the Superior Council of Magistracy, the General Prosecutor's Office and the Ministry of Justice.

1.4. The competition shall take place every year. Date, venue and manner of conducting the competition shall be indicated by the Institution Board. The latter shall approve and announce the competition in media and the Institution web site no later than sixty days

before the start of the competition. Topics and other important information on organisation of the competition shall be published on the Institution web site.

## **II. CONDITIONS FOR PARTICIPATION IN COMPETITION**

2.1. . A person can take part in the competition if he/she meets the requirements for the post of judge or prosecutor as specified in Art.6 para.(1) of the Law on Status of Judges No 544-XIII of 20.07.1995 and Art.36 para.(1) of the Law on Prosecutors No 294-XVI of 25.12.200. [It should be a person who]:

- a) is a citizen of the Republic of Moldova and resides in its territory;
- b) enjoys full legal capacity;
- c) is a licentiate in law;
- d) has not been convicted of any crime and enjoys good reputation;
- e) is proficient in the state language;
- f) is healthy enough to carry out professional duties.

2.2. Applications for participation in the competition should be submitted to the Commission for the Organisation of Competition in accordance with Annex № 1 to the Regulations. The following documents should be provided:

- a) an identity document;
- b) a diploma of licentiate in law and [respective] enclosures;
- c) a diploma of master in law (if applicable);
- d) a diploma of doctor in law (if applicable);
- e) a job record book (if applicable);
- f) a military service card (if applicable);
- g) a certificate on convictions (if applicable)
- h) a declaration on income and assets;
- i) an opinion on personal qualities from the most recent place of work or study;
- j) a medical certificate;
- k) two photos (3x4).

2.3. Participation in the competition shall be allowed only for persons with diplomas of licentiate in law issued by establishments of higher education which were accredited in the Republic of Moldova in a manner established by law. Persons with foreign diplomas of licentiate in law shall submit a certificate of recognition and equivalence of education issued by the Ministry of Education of Moldova.

2.4. An application for participation in the competition together with the documents specified in points 2.2 and 2.3 shall be submitted in person within 30 days from the date of the announcement of the competition. Documents specified in para. 2.2 points a)-f) shall be provided in originals and copies. Copies shall be attested by a notary or, on the basis of originals by the Commission for Conducting Entrance Exam.

2.5. A person admitted to participation in the competition shall be issued, on the first day of the competition, with a certificate of a competition participant in accordance with Annex No 4.

## **III. ORGANISATION AND CONDUCTING COMPETITION**

### **Commission for organisation and conducting entrance competition**

3.1. For the purpose of organising and conducting the competition, the Executive Director shall set up the Commission for organising and conducting the entrance competition. This Commission shall comprise of four administrative staff members of the Institution.

- 3.2. The Commission shall function from the date of its setting up until the date of the approval of the results of competition.
- 3.3. The Commission shall carry out following functions. [It]:
- a) ensures transparency in the competition and exams;
  - b) inform candidates on any questions concerning admission;
  - c) verifies documents submitted and register participants in a list of judges and a list for prosecutors;
  - d) accepts, or refuses to accept applications if a candidate does not meet the requirements specified in paras. 2.1-2.3 of the present Regulations;
  - e) works out and publishes the timetable of exams;
  - f) prepares premises and draws up lists;
  - g) prepares templates of records and examination sheets;
  - h) takes measures aimed at the exclusion of unauthorized persons from an examination room;
  - i) immediately informs the management of the Institution or, if there is a need the Chairman of the Commission, of any question/problem which is not envisaged in the present Regulations;
  - j) monitors the manner of conducting exams;
  - k) carries out any other function necessary for proper conducting the competition.
- 3.4. The Chairman of the Commission shall be responsible for:
- a) organising and conducting the competition;
  - b) provision of Commission members with the present Regulations and other legal acts concerning organisation and conducting the competition;
  - c) the exercising of duties by Commission members in a proper manner;
  - d) drawing up of a report on organisation and conducting the competition.

#### **Selecting topics, tests and questions**

- 3.5. Questions shall be selected by the Institution Department for Teaching and Research and approved by the Institution Board.
- 3.6. The Institution Board shall appoint a working group which selects tests and exercises. The group shall consist of eight members. Each subject [apparently there are four] shall be represented by two persons. One of the members of the working group is appointed by the Institution Board to be the Chairman.
- 3.7. The working group shall be responsible for:
- a) the development of tests and exercises according to competition topics and ensuring a due level of complexity;
  - b) the ensuring of uniformity and confidentiality of developed tests and exercises;
  - c) the provision of the Commission with tests and exercises for the entrance exam.
- 3.8. The Chairman of the working group shall be responsible for coordination of its activities as regards terms of preparing tests and exercises, as well as for ensuring their uniformity and confidentiality.
- 3.9. The Chairman and members of the working group shall keep secret the content of tests and exercises which were worked out for the entrance exam. They shall sign a liability declaration.
- 3.10. Members of the working group shall prepare tests and exercises in one of rooms of the Institution where they use personal computers without access the Internet. At the end of every working day, tests and exercises shall be stored on a storage device and the information from the computers should be deleted. The storage devices containing tests and exercises shall be kept in a safe which should be sealed by the Chairman and attested by all members of the group.

3.11. In the twenty four hour before the first exam, the Chairman, in the presence of working group members, shall hand over the storage device to the Chairman of the Examination Commission, also in the presence of this Commission members. This action should be noted in a respective record.

3.12. For the written exam the working group shall prepare 100 questions for each subject in accordance with the competition topics.

3.13. For the oral exam, the working group shall prepare 100 exercises for civil and civil procedural laws and criminal and criminal procedural laws. Exercises should be formulated in such a manner that they would contain practical questions on substantive law, as well as procedural law.

3.14. The Examination Commission shall prepare 4 packages of tests for the written exam. For each package, and in respect of each subject, there should be 25 tests selected. Every test should contain three answers, one of which should be correct.

3.15. Depending on a number of persons admitted to the oral exam and the number of groups, the Examination Commission shall, in the twenty four hours before the start of the examination, prepare sealed envelopes with examination cards in accordance with the procedure specified in Para. 3.11 of the present Regulations. The envelopes shall be kept in a sealed safe.

3.16. On the day of the examination, the Chairman of the Examination Commission shall open the safe in the presence of all Commission members and the Chairman of the Commission for organising and conducting the competition. The Chairman of the Examination Commission shall collect the envelopes and then seal the safe. These actions shall be noted in a respective record.

3.17. The working group shall receive remuneration in accordance with the Regulations on the organisation of competitions for filling in vacant teaching positions and remuneration of 06.06.2007.

#### **Examination Commission**

3.18. The Institution Board approves the composition of the Examination Commission no later than five days before the first exam.

3.19. The Commission consists of six persons: the Chairman, the secretary and four members representing the four subjects included in the competition:

- a) The Chairman of the Commission and two members proposed by the Institution Board;
- b) One member proposed by the Superior Council of Magistracy;
- c) One member proposed by the High Council of Prosecutors;
- d) A secretary proposed by the Executive Director of the Institution.

3.20. The Chairman of the Commission should be appointed from among prominent lawyers. He/she should have a higher legal education and ten years working experience in the field of law.

3.21. Persons whose relatives (husband or wife, cousins up to 4<sup>th</sup> degree of sanguinity) take part in the competition cannot be members of the Commission. The Commission members shall sign the liability declaration to this effect. If incompatibility is found after the appointment of the Commission members, the Commission member concerned should immediately withdraw from the Commission and inform the Institution Board of the need of replacement.

3.22. The Commission shall carry out following functions. [It]:

- a) ensures the confidentiality of examination tests and exercises;
- b) safely stores the written works of candidates;
- c) distributes tests to participants;
- d) monitors the conducting of an exam;

- e) objectively assesses the works of candidates at each stage of competition;
- f) signs records and examination sheets;
- g) announces examination results;
- h) considers appeals;
- i) immediately informs the management of the Institution of any question/problem which is not envisaged in the present Regulations, as well as any situation which entails the annulment of tests such as loss, damage and declassification of tests;
- j) submits a report on the process of conducting an exam;
- k) carries out other duties necessary for proper conducting of an exam.

3.23. The Secretary of the Commission shall be responsible for drawing up records in respect of each exam, records on consideration of appeals, as well as filling in of examination sheets.

3.24. The Commission shall receive remuneration in accordance with the Regulations on the organisation of competitions for filling in vacant teaching positions and remuneration of 06.06.2007.

#### **IV. COMPETITION EXAMS**

4.1. There are two stages of the competition process:

- 1) The first stage consists of the written exam in the form of a test on the following subjects:
  - a) civil law;
  - b) law of civil procedure;
  - c) criminal law;
  - d) law of criminal procedure.
- 2) The second stage includes doing exercises on civil and civil procedural laws, and criminal and criminal-procedural laws.

##### **Conducting the written exam**

4.2. The written exam is conducted in one day. Participants should complete tests within three astronomic hours.

4.3. With the purpose of successfully conducting the written exam, on the day of the exam the Commission for organising and conducting the competition shall:

- a) check examination rooms in order to find foreign objects;
- b) take measures in order to prevent the use by participants of [unauthorised] sources; admit participants to the exam on the basis of their identity document and the certificate of a participant. The admission shall take place prior to the time set for the exam and no later than the moment of the opening of envelope containing the tests;
- c) exercise any authority which is necessary for properly conducting the written exam.

4.4. During the exam, participants shall keep their identity documents and certificates of participants on display.

4.5. Participants who failed to be present at the examination room at the moment of the opening of the envelope shall not be admitted to the exam.

4.6. During the exam, access of unauthorised persons to the examination room shall be prohibited and participants may not leave the examination room. In exceptional cases a participant who asks the Commission for a brief leave shall be obliged to hand over his/her work and be accompanied by a Commission member.

4.7. Commission members may not leave the building where the exam is held or disclose the content of tests during the process of conducting the exam.

4.8. On the day of the exam, the Chairman of the Examination Commission shall open the envelope containing the tests in the presence of participants and Commission members.



4.9. The Examination Commission shall hand each participant a test and two answer sheets, one of which shall be used as a rough paper. Tests and sheets shall be sealed by the Commission. The latter shall inform the students on the manner of answering; i.e. the time for answering; prohibition of copying another person's work, using signs and talking to other participants; and other organisational questions. Rough papers should be kept by participants. Answers on the rough paper shall not be taken into account if they do not correspond to those in the paper which was handed over to the Commission.

4.10. Upon the collection of test papers, Commission members shall verify the information on [the personality] of a participant and seal the upper part of the sheet upon which his/her name and surname are indicated, as well as a profile [candidate to a judge/candidate to a prosecutor], so that this information could not be accessed before the opening of the paper. A record should be kept which indicates the number of answers completed. The latter information should be attested with a participant's signature.

4.11. The introduction of any additional marks which were not envisaged by the present Regulations and which make possible the identification of work, especially any indication of a candidate's name outside the sealed area, shall be considered as a deliberate action and entail the exclusion of a participant and annulment of his/her work.

4.12. Commission members shall refrain from any consultations of participants on the answering of tests during the exam.

4.13. The Secretary of the Commission shall draw up a record which should include:

- a) the venue, date and start time of the written exam;
- b) a list of participants who were present in the examination room;
- c) information on participants who were absent;
- d) information on all incidents which took place during the written exam;
- e) the time of completion of the written exam;
- f) the signatures of Commission members and the Secretary;
- g) any other information as regards the organisational process of the written exam.

4.14. On the same day, after finishing the tests, sheets with correct answers should be displayed in the building of the Institution, as well as published on the Institution web site.

### **Conducting the oral exam**

4.15. All participants who scored more than fifty points should be admitted to the oral exam.

4.16. During the oral exam, and in respect of each group, there should be drawn up a record which includes:

- a) the venue, date and start time of the oral exam;
- b) a list of participants who were present in the examination room;
- c) information on participants who were absent;
- d) information on all incidents which took place during the oral exam;
- e) time of completion of the oral exam;
- f) signatures of Commission members and the Secretary;
- g) any other relevant information.

4.17. Before each exam, the Chairman of the Examination Commission shall verify the participants' attendance and explain the manner of conducting the exam.

4.18. The Chairman of the Examination Commission shall open the envelope containing the tests in the presence of participants and Commission members.

4.19. The first five participants shall take two tests – one on civil/civil procedural laws and the other on criminal/criminal procedural laws – and receive two stamped sheets for the preparation of answers.

4.20. Participants shall be given one hour for preparation and thirty minutes for presentation. Every member of the Commission is entitled to put questions before a participant.

4.21. An individual record should be drawn up in respect of each participant which would include:

- a) surname, name and patronymic;
- b) numbers of tests;
- c) questions of Commission members and answers of the participant;
- d) duration of the participant's presentation;
- e) general average score given by the Commission;
- f) signatures of Commission members and the Secretary.

4.22. Upon completion of the presentation, a participant shall hand over tests and sheets with answers to the Commission Secretary. They should be written down in the record. Then, following the procedure specified in point 4.19, the next participants shall be invited in.

4.23. Any participant who has already delivered his/her answers may stay in the examination room on condition that they respect the procedure and order of proceedings.

## **V. ASSESSMENT METHDOLOGY**

5.1. As regards the written exam, each correct answer shall receive one point. If a participant chose more than one answer, it should be considered wrong.

5.2. The Examination Commission shall check the works within twenty four hours from the moment of completion of the exam.

5.3. As regards the oral exam, every Commission member shall rate each participant on a scale from one to ten in respect of each subject and calculate his/her score with accuracy to tenths of a unit. The filled in examination sheet should be enclosed to the examination record.

5.4. On the basis of points given by Commission members, the average score should be calculated with accuracy to hundreds of a unit. The general score should be indicated in the examination sheet. The latter should be signed by all Commission members.

5.5. For the purpose of assessment, the Commission takes into account:

- a) quality of the answer's presentation, accuracy and reasoning;
- b) level of knowledge received within the framework of higher education;
- c) ability to assess and apply the substantive and procedural laws;
- d) ability to analyse and generalise;
- e) ability to respond to questions quickly and precisely;
- f) other relevant criteria.

5.6. The Chairman of the Examination Commission shall immediately, upon conclusion of the discussion of results, announce the participants' results publicly. Scores shall be displayed at the entrance of the Institution building and on the Institution web site on the day of the announcement of results.

## **VI. SUBMISSION AND EXAMINATION OF APPEALS**

6.1. Participants shall be entitled to bring appeals as regards their results.

6.2. An appeal should be lodged with the Examination Commission within three days of the announcement exam results.

6.3. Within three days from the date of registration, the Examination Board should consider the appeal in the applicant's presence.

6.4. The Examination Board can uphold the appeal in the case of establishing procedural violations committed in the course of the examination.

- 6.5. Lowering of an examination mark shall not be permitted. In the case of lifting a candidate's final grade, an applicant should be issued with a fresh examination statement.
- 6.6. A meeting of the Examination Commission shall be qualified if attended by more than two-thirds of its members.
- 6.7. The outcome of the examination of an appeal shall be noted in a record which should be presented to the participant concerned. Consultation with the record shall be attested by the participant's signature.

#### **VII. APPROVAL OF COMPETITION'S RESULTS**

- 7.1. After completion of the competition, the Examination Commission shall draw up lists of candidates to judges and candidates to prosecutors in descending order and submit the lists to the Institution Board together with a report on examination procedure.
- 7.2. The Institution Board shall approve competition results and lists of candidates to judges and candidates to prosecutors who succeeded in the competition. It is assumed that those participants who received the highest scores expressed in hundredths and according to a number of seats available were successful.
- 7.3. If candidates receive equal scores, then priority shall be given to a person who received more points for the written exam. If points are equal, the relevant criteria shall be an academic degree and working experience in the field of law.
- 7.4. Persons who succeeded in the competition shall be enrolled [in courses] by order of the Executive Director issued on the basis of a decision of the Institution Board on approval of lists of candidates to judges and candidates to prosecutors who passed the exams.
- 7.5. Competition's results shall be displayed in the Institution building and published on the web sites of the Superior Council of Magistracy, the General Prosecutor's Office and the Institution web site.
- 7.6. The documents of candidates who failed to pass the exams shall be returned within three months from the date of approval of the competition's results.

#### **VIII. CONCLUDING PROVISIONS**

- 8.1. The Regulations on the organisation of admission to the National Institution of Justice of 06.06.2007 with subsequent amendments shall be annulled.
- 8.2. The Regulations on the examination of appeals on entrance exams to the National Institution of Justice of 25.08.2008 shall be annulled.
- 8.3. The present Regulations shall enter into force from the moment of adoption.



## **REGULATIONS** **on Initial Training and Completion of Training**

*Approved at the meeting of  
the Board of the National Institution of Justice on  
from 21.06.2007  
(with amendments of 13.02.2009,  
22.01.2010, 15.03.2011, 27.09.2011)*

1. General provisions
2. Plan for training
3. Curriculum of the initial training
4. Assessment system
5. Rights and duties of attendees
6. Disciplinary offenses and disciplinary measures
7. Graduation
8. Appointment to post

### **I. GENERAL PROVISIONS**

- 1.1 An attendee of the National Institution of Justice shall be:
  - a) a person who took part in the entrance competition, passed all stages of the competition and on the basis of the entrance exams' results approved by the Institution Board received a required score;
  - b) a person who was appointed to the post of secretary to court proceedings or a bailiff, sent by a competent body to undertake initial training and enrolled in the course of initial training by the decision of the Executive Director of the Institution.

*[Point 1.1 b) amended by decision of the Institution Board №1/4 of 22.01.2010]*
- 1.2 Initial training of candidates to the posts of judge and prosecutor, secretaries of court proceedings and bailiffs appointed to post (hereafter – attendees) shall be a guarantee of supremacy of law and its uniform application, as well as of independent, impartial and professional administration of justice.
- 1.3 Responsibility for initial training of attendees should be borne by the National Institution of Justice (hereafter – Institution) which is a guarantor of professional standards in the field of justice, in cooperation with the Superior Council of Justice, the General Prosecutor's Office, the Ministry of Justice, as well as every single attendee by means of his/her self-education.
- 1.4 The duration of the course of initial training of candidates to the post of judge or prosecutor shall be eighteen months and three months for secretaries of court proceedings and bailiffs.
- 1.5 Initial training shall be organised at the Institution.
- 1.6 Initial training shall be ensured by the teaching and administrative staff of the Institution, judges, prosecutors, secretaries of court proceedings and bailiffs who possess good reputation, the teaching staff of accredited establishments for higher legal education and other local and foreign experts.
- 1.7 Initial training should be focused on the process of implementation of priority projects defined by strategy documents, on development of non-legal skills and capacities and professional ethics and on the practical nature of study of subjects concerned.
- 1.8 Initial professional training of attendees shall be organised and conducted with regard to their specialisation needs and the dynamics of the law-making process. Basically, it shall concern in-depth study of the national legislation and international treaties to

which the Republic of Moldova is a party; of jurisprudence of judicial instances, the Constitutional Court, the European Court of Human Rights and the European Court of Justice; of comparative law and deontological norms of the profession of judge, prosecutor, secretary of court proceeding and bailiff; of multi-subject study of new institutions; as well as in-depth study of foreign languages and development of ICT skills.

- 1.9 The Institution shall coordinate initial training at the expenses of budget funds, in accordance with curricula approved by the Institution Board.

## II. CURRICULA

- 2.1 Initial training of candidates to the posts of judge or prosecutor at the Institution shall be conducted in accordance with three-semester curricula approved by the Institution Board after having received approval of the Superior Council of Magistracy and the General Prosecutor's Office.

*[Point 2.1 amended by decision of the Institution Board № 11/4 of 27.09.2011]*

- 2.1.1 The first semester is the start of specialisation. It includes basic courses for judges and prosecutors. During the first semester the two groups study together except for seminars.

*[Point 2.1.1 amended by decision of the Institution Board № 1/4 of 22.01.2010]*

*[Point 2.1.1 amended by decision of the Institution Board № 1 of 13.02.2009]*

- 2.1.2 The second semester is the separate specialisation for judges and prosecutors. It includes different subjects. Therefore, there should be separate groups formed for judges and prosecutors. Every week will comprise of five working days (Monday-Friday) in accordance with the timetable and curriculum.

*[Point 2.1.2 amended by decision of the Institution Board № 1/4 of 22.01.2010]*

*[Point 2.1.2 amended by decision of the Institution Board № 1 of 13.02.2009]*

- 2.1.3 The third semester includes internships and simulations. Internships shall be organised at judicial bodies and prosecutors' offices under the supervision of one of the leaders at the place of the internship. An intern should comply with the internal regulations of a place of practice. An intern should make entries in a diary every day as regards the process of the internship. These entries should be validated by a signature from his/her supervisor. Upon completion of the internship, the supervisor should draft his/her opinion as regards the characteristics of the intern with recommendations for the assessment of his/her achievements.

*[Point 2.1.3 amended by decision of the Institution Board № 11/4 of 27.09.2011]*

*[Point 2.1.3 amended by decision of the Institution Board № 1 of 13.02.2009]*

- 2.1.4 During the period of the internship, once a week attendees should attend simulation courses which include moot courts and drafting of procedural documents.

*[Point 2.1 amended by decision of the Institution Board № 11/4 of 27.09.2011]*

*[Point 2.1 amended by decision of the Institution Board № 1/4 of 22.01.2010]*

*[Point 2.1.4 amended by decision of the Institution Board № 1 of 13.02.2009]*

- 2.1.5 According to the timetable and curriculum, every academic week shall consist of five working days.

*[Point 2.1 amended by decision of the Institution Board № 1/4 of 22.01.2010]*

- 2.2 Initial training of secretaries of court proceedings and bailiffs shall be conducted in accordance with curricula approved by the Institution Board after having received approval of the Ministry of Justice.

### **III. PROGRAMM OF INITIAL TRAINING**

- 3.1 The Institution shall organise initial training in accordance with the program.
- 3.2 Curricula and programs in respect of each subject included in curricula shall be approved by the Institution Board on motion of the Executive Director and after having consulted with the Superior Council of Magistracy, the General Prosecutor's Office and, where required, the Ministry of Justice.
- 3.3 At the start of a new academic year the curriculum should be updated. The Institution Board should approve respective changes.
- 3.4 Proposals of the Council of Europe, future attendees, the Institution teaching staff and experts from civil society, as well as the practice of other states and results of initial trainings in the past, should be taken into account (non-obligatory, though) during the process of working out of curriculum and programs for each subject.

### **IV. ASSESSMENT SYSTEM**

- 4.1 The level of practical and theoretical training of candidates to judges or prosecutors is evaluated by means of assessments. The personal assessment sheet should be kept until the end of the course and during the three years after graduation.
- 4.2 The evaluation of Institution attendees' achievements shall be conducted in compliance with principles of transparency, objectivity and impartiality. The Institution teaching staff, including members of the examination commissions, who breach these principles, may lose the right to work at the Institution.  
*[Point 4.2 amended by decision of the Institution Board № 1/4 of 22.01.2010]*
- 4.3 During a semester, teachers can evaluate, encourage or grade attendees who work actively and efficiently. Evaluation, encouragement and scoring can be taken into account for the purpose of exams but do not affect the final grade.
- 4.4 Assessment of attendees' knowledge should take place in the end of each semester by means of an exam or an assessment. Depending on the responses to exam questions, marks can vary from "1" to "10". It shall be considered that an attendee has passed an exam if he/she receives a mark between "5" and "10". A repeated exam or an assessment can take place only once and must take place before the start of the next semester.  
*[Point 4.4 amended by decision of the Institution Board № 11/4 of 27.09.2011]*
  - 4.4.1 The results of semester sessions can be appealed against within three days of the date of their announcement.
  - 4.4.2 Appeals are to be examined within three days from the date of their submissions by the Commission formed by decision of the Executive Director.
  - 4.4.3 The lowering of a received mark is prohibited.
  - 4.4.4 A decision to uphold or dismiss an appeal should be reflected in minutes [of the Commission]. If an appeal is upheld, there should be drawn up an additional [examination] statement.
  - 4.4.5 An attendee can consult the outcome of the appeal examination and should attest this fact by his/her signature.
  - 4.4.6 A decision taken upon the examination of an appeal shall be binding.  
*[Points 4.4.1-4.4.6 included by decision of the Institution Board № 3/2 of 15.03.2011]*
- 4.5 In the case of an unsatisfactory evaluation, a person who attended the initial training course can be excluded from the Institute by decision of the Board on motion of the Executive Director and only after having consulted with the Superior Council of Magistracy or the General Prosecutor's Office, respectively.

- 4.6 The average score of all received marks of an attendee should be counted at the end of each semester and by decision of the Executive Director the attendee should be admitted to the next semester.

## **V. RIGHTS AND DUTIES OF ATTENDEES**

- 5.1 Proper training shall be considered a prerequisite for the respect paid to a judge in society, therefore it is not only latter's duty but also his/her right which should be ensured for the purpose of obtaining, mastering and improving professional skills.

*[Point 5.1 amended by decision of the Institution Board № 1/4 of 22.01.2010]*

- 5.2 Persons enrolled in the initial training courses shall be entitled to:

- a) theoretical and practical training in accordance with curricula approved by the Institution Board;
- b) use the material and technical resources of the Institution;
- c) express their views as regards the adequacy of curricula, as well as the quality of courses and practical tuitions;
- d) make suggestions for enhancement of the process of training;
- e) take part in academic research, development of specialisation curricula, publications, posters and other visual materials;
- f) take part in conferences, symposiums and other events in the country and abroad;
- g) exercise other rights specified by law.

- 5.3 In addition to the aforementioned rights, candidates to the post of judge or prosecutor shall be entitled to:

- a) receive a monthly stipend which is equal to 50 % of the salary of a judge;
- b) stay at the Institution mini-hotel.

*[Point 5.3 amended by decision of the Institution Board № 1/4 of 22.01.2010]*

- 5.4 Attendees are required to:

- a) attend tuitions in accordance with the approved timetable;
- b) study properly, within established deadlines, and perform exercises specified in the curricula and the program;
- c) take part in research;
- d) comply with the present Regulations;
- e) use with care the Institution's stationery, teaching materials and manuals;
- f) demonstrate respect to colleagues and the Institution teaching staff;
- g) be polite, respectful and patient;
- h) be neat and in good physical form;
- i) refrain from behaviour which would impede the study process of others;
- j) use with care the Institution's property;
- k) carry out other duties specified by law.

## **VI. DISCIPLINARY OFFENCES AND DISCIPLINARY MEASURES**

- 6.1 Attendees shall be subject to disciplinary liability for a failure to comply with the duties specified by law and the present Regulations.

- 6.2 The following actions shall be considered disciplinary offences:

- a) conducting political events and manifestation of political views during the training period;
- b) disrespect towards colleagues, the Institution teaching and managing staff, as well as towards persons with who they contact in the training period;
- c) a failure to attend three tuitions during a semester without a valid excuse.

- 6.3 The following actions shall be considered disciplinary measures:

- a) warning;

- b) lowering of the stipend up to 15 % for 1-3 months;
  - c) exclusion from the Institution.
- 6.4 The disciplinary measure specified in point 6.3 a) shall be applied by decision of the Executive Director in writing; the disciplinary measures specified in points 6.3 b) and c) shall be applied by decision of the Board after having consulted with the Superior Council of Magistracy or the General Prosecutor's Office, respectively.
- 6.5 Before the application of a disciplinary measure, it is required to examine all cases of breach of discipline and to establish relevant circumstances, the attitude of an offender and other evidence. An offender must be heard and his/her submissions must be verified.
- 6.6 The examination of cases of breaches of discipline should be conducted by the head of a department of the Office of Education and Science in which an attendee concerned undergoes training. The attendee shall have a right to consult all examination materials and make a submission in his/her defence.
- 6.7 The examination shall be concluded by the drafting of a report by the head of department who should outline the results of the examination. The report should be submitted to the Executive Director for consideration. The latter shall examine the case of disciplinary violations and, depending on circumstances, apply an appropriate measure, or refer the matter to the Institution Board.
- 6.8 Within three days, a decision of the Director or the Institution Board on application of a disciplinary measure shall be communicated to an offender.
- 6.9 Decisions of the Board on application of disciplinary measure specified in point 6.3 can be appealed against in accordance with the procedure established by the Labour Code.
- 6.10 In case of exclusion from the Institution, the Board can demand the return of the stipend paid during the period of study.
- 6.11 Attendees of the Institution shall bear responsibility in accordance with law for any harm caused to the Institution property.

## **VII. GRADUATION FROM THE INSTITUTION**

- 7.1 Initial training of candidates to judges and prosecutors shall be concluded by final exams. For initial training of secretaries of court proceedings and bailiffs training will be concluded by exams in certain subjects of specialisation. The exams shall be conducted after having consulted with the Superior Council of Magistracy, the General Prosecutor's Office and the Ministry of Justice. The exams shall include theoretical and practical questions for verification of obtained knowledge which are necessary for the exercise of the duties of judges, prosecutors, secretaries of court proceedings and bailiffs.
- 7.2 The graduation exams shall follow forty hours of concluding tuitions.
- 7.3 The graduation exams and the exams in subjects of specialisation shall comprise two stages: written exam and oral exam.
- 7.4 A written exam is conducted in respect of major subjects and includes the drafting of procedural documents on the basis of real cases.  
*[Point 7.4 amended by decision of the Institution Board № 11/4 of 27.09.2011]*  
*[Point 7.4 amended by decision of the Institution Board № 1 of 13.02.2009]*
- 7.5 An oral exam is conducted in respect of subjects of specialisation and includes verbal replies to questions and sometimes solving case studies.  
*[Point 7.5 amended by decision of the Institution Board № 11/4 of 27.09.2011]*



7.6 Written and oral exams take place on different days. For each person, the time allocated for a written exam is six hours, and for an oral –exam is sixty minutes of preparation and thirty minutes of presentation of an answer.

*[Point 7.6 amended by decision of the Institution Board № 11/4 of 27.09.2011]*

*[Point 7.6 amended by decision of the Institution Board № 3/2 of 15.03.2011]*

*[Point 7.6 amended by decision of the Institution Board № 1 of 13.02.2009]*

7.7 Graduation exams and the exams in subjects of specialisation shall sit to different examination commissions for judges, prosecutors, secretaries of court proceedings and bailiffs, respectively.

7.8 The Graduation Exams Commission shall include five members and one secretary:

- a) the Chairman of the Commission appointed by the Institution Board;
- b) two members appointed by the Institution Board;
- c) one member appointed by the Superior Council of Magistracy;
- d) one member appointed by the General Prosecutor's Office;
- e) Secretary of the Commission appointed by the Institution Board on motion of the Executive Director.

7.9 The Commission for Exams in Subjects of Specialisation shall include three members and one secretary:

- a) the Chairman of the Commission appointed by the Institution Board;
- b) one member appointed by the Institution Board;
- c) one member appointed by the Ministry of Justice;
- d) Secretary of the Commission appointed by the Institution Board on motion of the Executive Director.

7.10 A mark for each exam shall be calculated on the basis of the average score given by each Commission member.

7.11 Exam results shall be displayed in the Institution building and published on the Institution web site.

*[Point 7.11 amended by decision of the Institution Board № 1/4 of 22.01.2010]*

7.12 Exam results can be appealed against to the Graduation Exams Commission within three days from the date of the announcement. These decisions shall be binding.

7.12.1 Appeals shall be examined following the procedure specified in points 4.4.3-4.4.5 of the present Regulations.

7.12.2

*[Point 7.12.1 amended by decision of the Institution Board № 3/2 of 15.03.2011]*

7.13 The average score of every graduate of the Institution shall be the average of the two marks received: the average score for the semester and the average score for the graduation exam.

7.14 A person who completed an initial training course but did not pass final exams can be provided with an opportunity to sit them again during the next session held at the Institution.

7.15 In the case of a failure to appear to sit an exam without a valid excuse, or in the case of an exam failure, the Board can demand the return of the stipend received in the course of training to the Institution. .

7.16 Graduates of the Institute shall be issued with a certificate stating the duration of the course, the average score received for exams and general average score.

*[Point 7.16 amended by decision of the Institution Board № 1/4 of 22.01.2010]*

## **VIII. APPOINTMENT TO POST**

8.1 On the basis of a received certificate, a graduate of the Institution who is a candidate to the post of judge or prosecutor shall participate in the competition for filling in posts of

a judge or a prosecutor respectively, in accordance with a procedure set forth in the Law on judges or the Law on prosecutors, respectively.

- 8.2 Graduates who participate in the competition for the posts of judge or prosecutor shall be selected on the basis of the average score received for the graduation exams in the descending order of scores.
- 8.3 Graduates who did not succeed in the competition for the post of judge or prosecutor, respectively, shall be required to participate in the competition within three years after graduation. After this period, the graduate can no longer participate in the competition on the basis of the average score.
- 8.4 In case of a failure to take part on the competition for posts of judge or prosecutor without a valid excuse, the Institution can demand the return of the stipend received in the course of study.



## **REGULATION ON CONTINUOUS TRAINING**

*Approved  
at the meeting of NIJ Council  
of 21 June 2007*

- I. General Provisions
- II. Curriculum on continuous training
- III. Continuous training course
- IV. Expenses related to training organisation and development
- V. Continuous training for other professions, contributing to the administration of justice
- VI. Distance training

### **I. GENERAL PROVISIONS**

1.1 Continuous training for judges, prosecutors, court clerks and bailiffs, as well as for other professions, contributing to the administration of justice (hereinafter referred to as „trainees”) is a guarantee for an even implementation, the rule of law and for an independent, impartial and professional administration of justice.

1.2 The responsibility for the trainees’ continuous training shall be assumed by the National Institute of Justice (hereinafter referred to as „the Institute”), guarantor of professional standards in the field of justice, by the Superior Council of Magistrates, by the General Prosecutor’s Office and by the Ministry of Justice, as well as by every trainee individually.

1.3 Continuous training shall be organised both, at the premises of the Institute and in seven regions of the country (Balti, Orhei, Calarasi, Chisinau – 2, Causeni, Cahul) at courts of appeals for judges and court clerks; at prosecutor’s offices for prosecutors, and at enforcement agencies for bailiffs.

1.4 Continuous training shall be ensured by the Institute’s training personnel, including judges, prosecutors, court clerks and bailiffs with good professional background, the teaching staff from accredited higher education institutions in legal field, as well as by other national and foreign experts. Also lawyers, notaries and other professions contributing to the administration of justice with good professional background may work as trainers at the Institute.

1.5 Continuous training shall focus on fields of priority, set in strategic documents, regarding the development of applied authorities and professional ethics, the acquirement of some non-legal techniques and skills as well as regarding the practical aspect of the studied topics.

1.6 Continuous training of trainees shall be carried out with due account for the need in their specialisation, to the dynamics of the legislative process, and, in general, it shall include thorough knowledge of domestic laws, European and international documents, to which the Republic of Moldova is part, the jurisprudence of the courts and of the Constitutional Court, the case law of the European Court of Human Rights and of the European Court of Justice, comparative law, ethical and deontological standards regarding the profession of judge or of prosecutor, court clerk or bailiff, and the innovating interdisciplinary approach, as well as the profound knowledge of foreign languages and the training and development of computer skills with the use of Internet.

1.7 The Institute shall organise continuous training of judges, prosecutors, court clerks and bailiffs from the budgetary resources, while the continuous training for other professions contributing to the administration of justice shall be provided on contract basis.

## II. CURRICULUM ON CONTINUOUS TRAINING

- 2.1. The Institute shall organise the continuous training on basis of curricula and syllabuses, which shall be obligatorily coordinated with the Superior Council of Magistrates, with the General Prosecutor's Office and with the Ministry of Justice.
- 2.2. In the process of drafting of a curriculum on continuous training there shall be taken into consideration (not obligatorily, however) the suggestions of the Council of Europe, of future trainees, of the Institute's trainers and of other specialists in fields of law and civil society, as well as the practices of other states and the assessment of results of trainings in previous years.
- 2.3. A curriculum on continuous training should include: periods of time and names of activities, categories and number of trainees, as well as agencies responsible for the detachment and agencies responsible for the organisation.
- 2.4. A curriculum on continuous training shall be annually submitted to the Institute Council for approval not later than in July of the year preceding the next academic year.
- 2.5. A curriculum on continuous training approved by the Institute Council shall be obligatorily rendered to the Superior Council of Magistrates, to the General Prosecutor's Office and to the Ministry of Justice for the detachment of trainees for each separate training course, taking into consideration the options of judges, prosecutors, court clerks and bailiffs.
- 2.6. The Superior Council of Magistrates, the General Prosecutor's Office and the Ministry of Justice in co-operation with the Institute shall make and approve lists of trainees, based on the minimal number of 40 training hours per year, which judges and prosecutors should attend on the ground of provisions of the Law on the National Institute of Justice, and on the minimal number of hours, which the Ministry of Justice should approve for court clerks and bailiffs.
- 2.7. When drawing up lists of trainees the competent authorities shall take into account the trainees' right to take at most three optional courses of continuous training during one academic year as part of a curriculum on continuous training regarding those fields in which the trainees wish to specialise or the fields, in which they need additional knowledge.
- 2.8. Choices of judges, prosecutors, court clerks and bailiffs regarding the taking of certain study courses shall be made by informing the Institute or the Superior Council of Magistrates, the General Prosecutor's Office or, if it is the case, the Ministry of Justice, in written form or directly on the Institute's official webpage.
- 2.9. After the analysis of all choices made by judges, prosecutors, court clerks and bailiffs, the responsible authorities in co-work with the Institute shall select participants for each study course of the continuous training. The selection of trainees for study courses shall be made in one's order of preferences, depending upon the specifics of a study course and upon areas of trainees' speciality.
- 2.10. Should the number of options exceed the number of available places for a study course, the selection should be provided with arguments in the list of trainees for the respective study course, or at request of disregarded trainees.
- 2.11. Bodies responsible for the drawing-up of lists of trainees shall keep the recording of options made by all judges, prosecutors, court clerks and bailiffs, these being taken into consideration in the process of the drawing-up of lists of trainees for next phases of implementation of respective courses.
- 2.12. Lists of trainees approved by the Superior Council of Magistrates, by the General Prosecutor's Office and by the Ministry of Justice shall be submitted to the Institute, to the courts, to prosecutor's offices and enforcement offices, as well as to trainees in order to be taken into account during the organisation of their activity.

2.13. The Superior Council of Magistrates, the General Prosecutor's Office or the Ministry of Justice shall have the obligation to detach judges, prosecutors, court clerks and bailiffs to permit them to participate in courses of continuous training. The detached persons shall keep their salaries during the whole period of detachment.

2.14. Judges, prosecutors, court clerks and bailiffs shall be obliged to take the continuous training courses in compliance with the curriculum on continuous training, approved by the Institute Council, and with the lists of trainees approved by the Superior Council of Magistrates, by the General Prosecutor's Office and by the Ministry of Justice.

### **III. COURSES OF CONTINUOUS TRAINING**

3.1. The Institute shall organise the continuous training courses in strict accordance with the curriculum on continuous training approved by the Institute Council.

3.2. The continuous training courses shall be carried out, as a rule, in the form of seminars, interdisciplinary courses and thematic courses, study visits and practical trainings or in other forms of implementation of continuous training based on course objectives.

3.3. Every continuous training course shall enjoy the participation of 20 to 40 trainees, depending on course methodology. It shall be possible to set a smaller number of participants in the event of courses based on interaction (for example, tests or workshops aiming at debating over case studies, mock trials and case files) and a bigger number of trainees in the event of seminars, during which the basic method of work is the presentation (for instance during meetings, conferences or roundtables).

3.4. The continuous training courses shall be implemented in accordance with a course syllabus drawn up by the Institute in co-operation with a trainer responsible for the respective study course

3.5. A course syllabus should include names of institutions responsible for course organisation, date and venue of a seminar, its topic, agenda and list of participants.

3.6. The Institute shall provide every participant in a training with necessary stationery and teaching and informational materials, which shall be used during the respective course.

3.7. Trainers of a course shall draw up guidelines, booklets and other teaching or informational materials, having the support and approval of the Institute, which afterwards should be rendered to the Section for Non-Legal Skills, Public Relations and Publications to be posted on the official webpage of the Institute as well as to be offered to trainees free of charge.

3.8. The Institute shall organise both the general course of continuous training and the special one.

3.9. A special course of continuous training shall be organised for:

- a) judges of specialty courts and for prosecutors from specialty prosecutor's offices;
- b) judges appointed under the provisions of Article 20 of the Law on the Status of

Judge;

3.10 Fields of training, its topics, and the manner of organisation and development of courses as provided in point 3.9 shall be approved by the Institute Council coordinated by the Superior Council of Magistrates and by the General Prosecutor's Office.

3.11. The courses provided in point 3.9. let. b) shall end up with a test and the issuance of a certificate according to the template approved by the Institute Council.

### **IV. EXPENSES RELATED TO TRAINING ORGANISATION AND DEVELOPMENT**

4.1. Expenses related to the implementation of continuous training of judges, prosecutors, court clerks and bailiffs shall be covered from and within the limits of the budgetary

resources allocated for this purpose, according to estimated budgets approved in accordance with the established procedure.

4.2. Expenses related to the implementation of courses mentioned in point 4.1. shall be compensated with due account for the Institute's financial possibilities, within the limits of the following normative standards established per one participant:

- a) stationery – 50 MD lei;
- b) drinks, coffee, mineral water and snacks during breaks – 15 MD lei per day;
- c) lunch – 30 MD lei per day;
- d) certificates – 25 MD lei.

*Note: The normative standard regarding stationery includes the expenses related to the procurement of consumables, name plates for every participant, as well as of necessary materials for the arrangement of classrooms.*

4.3. To develop a planned course the Director shall issue an order on the approval of an estimated budget, with indicated responsible employees.

4.4. After the training course the responsible employees appointed by the order of the Director shall obligatorily submit a financial report, which shall include justifications of expenses based on relevant documents, to the Economic-Administrative Division.

4.5. Responsibility for the observance of provided normative standards and for the reasonable usage of resources shall be taken by the Director and by responsible employees appointed by his/her order.

## **V. CONTINUOUS TRAINING FOR OTHER PROFESSIONS CONTRIBUTING TO THE ADMINISTRATION OF JUSTICE**

5.1. The Institute shall organise the continuous training course for other professions contributing to the administration of justice in accordance with a curriculum approved by the Institute Council.

5.2. A curriculum on continuous training shall be drawn up with due account for requirements submitted either on the Institute's webpage or in written form by future trainees until the end of June of the year preceding the next academic year.

5.3. Curricula on continuous training for other professions contributing to the administration of justice, shall be obligatorily posted on the Institute's webpage and published in the Institute's journal.

5.4. People willing to take the continuous training course on contract basis shall fill in the application form either directly on the Institute's webpage or submit it personally or by post.

5.5. At the end of each course of continuous training trainees shall fill in an assessment form regarding the appraisal of debates and of trainers, and afterwards they shall receive a certificate based on a template approved by the Institute Council.

5.6. The payment for training courses should be made in full amount on the bank account of the Institute at least 5 days before the beginning of training.

## **VI. DISTANCE TRAINING**

6.1. The Institute shall organise distance training course for the professions contributing to the administration of justice by means of Internet resources.

6.2. Distance training shall be optional.

6.3. Access to distance training shall be free.



## **REGULATION**

### **On the Organisation and Holding of a Traineeship for Trainees of the National Institute of Justice and Candidates for Positions of Judge and Prosecutor**

*Approved  
by the session of the Board of the National Institute of Justice on 26.06.2009  
(as amended and modified on 02.07.2010, 10.06.2011)*

#### **I. GENERAL PROVISIONS**

1. This Regulation determines the organisation and holding of practical training for trainees of the National Institute of Justice who are candidates for the positions of judge and prosecutor, the purpose and the objectives of the traineeship, the rights and duties of a trainee and the mentor from the place where the traineeship will take place and also the method of assessing the results of the traineeship.
2. This Regulation corresponds to the requirements of the Law on the National Institute of Justice, No 152-XVI of 08.06.2006, the Charter of the National Institute of Justice approved by the session of the Board of the National Institute of Justice on 06.06.2007, the Regulation on Initial Training and the Completion approved by the session of the Board of the National Institute of Justice on 21.06.2007, and other legislative acts.
3. Traineeships shall be an integral part of the initial professional training. Being an element of that process, traineeships facilitate the development of professional skills and the accumulation of experience in the organisation and realisation of activities in the professional sphere.
4. Objectives of the traineeship:
  - a) the strengthening and deepening of theoretical knowledge and the development of skills acquired during the initial training;
  - b) development of practical and professional skills;
  - c) acquiring knowledge of the rules of professional behaviour and moral qualities specific for this profession;
  - d) acquiring knowledge of the administrative system, the specificity of the activity of the institutions where the traineeship takes place and normative acts, regulating their activity;
  - e) using management instruments for the monitoring and flexible realisation of practical activity;
  - f) cooperating with all parties involved in the professional activity;
  - g) development of the professional skills necessary for the performance of the duties of a judge or a prosecutor;
  - h) development of skills of drafting and editing procedural documents;
  - i) using logical and legal arguments based on interpretation of the legislation of Republic of Moldova, jurisprudence of the Constitutional Court and the European Court of Human Rights and other international legal acts in the course of court proceedings.

#### **II. ORGANISATION AND HOLDING OF PRACTICAL TRAINING**

5. Trainees, having completed the initial training in the institute, undertake the traineeship in accordance with practical programs under the supervision of one of the mentors at the place where the traineeship is organised.
6. Practical training is organised in courts, prosecutor's offices, criminal prosecution bodies and advocates' bureaus for the purpose of obtaining first-hand knowledge about

the activity of judges, prosecutors, criminal prosecution officers, advocates, state servants and employees.

The trainee undertakes each stage of practical training under the supervision of a mentor appointed by the Superior Council of Magistracy, the Prosecutor General's Office, the Ministry of Internal Affairs, the Council of the Advocates' Union respectively, as a rule, from among the teachers of the Institute.

The traineeship mentor shall be appointed from among the judges, prosecutors, criminal prosecution officers and advocates having high level of theoretical and practical knowledge, by the heads of the above-mentioned institutions.

Two or more trainees cannot undertake practical training under the supervision of the same mentor.

*[Item 6) as amended by the Decision of the Board of the National Institute of Justice №.5/6 of 10.06.2011]*

7. The traineeship is an obligatory module taking place in the III semester of studying which lasts 22 weeks and includes the following stages:<sup>67</sup>

**For the position of a judge:**

- a) Initial practical training in court – 1 week;

*[Item a) as amended by the Decision of the Board of the National Institute of Justice №.5/6 of 10.06.2011]*

- b) practical training in the prosecutor's office – 2 weeks;

- c) practical training in criminal prosecution bodies – 2 weeks;

*[Item c) as amended by the Decision of the Board of the National Institute of Justice №.5/6 of 10.06.2011]*

- d) practical training at the bar– 1 week;

- e) final practical training in court – 15 weeks;

*[Item e) as amended by the Decision of the Board of the National Institute of Justice №9/3 of 2.07.2010]*

- f) assessment of the results of the practical training – 1 week.

*[Item f) as amended by the Decision of the Board of the National Institute of Justice №9/3 of 2.07.2010]*

**For the position of the prosecutor:**

- a) Initial practical training in the Prosecutor's Office – duration of 1 week;

*[Item a) as amended by the Decision of the Board of the National Institute of Justice №9/3 of 2.07.2010]*

- b) practical training in court – 2 weeks;

*[Item b) as amended by the Decision of the Board of the National Institute of Justice №5/6 of 10.06.2011]*

*[Item b) as amended by the Decision of the Board of the National Institute of Justice №9/3 of 2.07.2010]*

- c) practical training at the bar – duration of 1 week;

- d) practical training in criminal prosecution bodies – duration of 2 weeks;

*[Item d) as amended by the Decision of the Board of the National Institute of Justice №9/3 of 2.07.2010]*

- e) final practical training in the Prosecutor's Office – duration of 15 weeks;

*[Item e) as amended by the Decision of the Board of the National Institute of Justice №5/6 of 10.06.2011]*

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<sup>67</sup> This item will be modified in 2012 with due account of the study plan of trainees who enrolled for training in 2011. According to that plan the traineeship will last 8 months.



*[Item e) as amended by the Decision of the Board of the National Institute of Justice №9/3 of 2.07.2010]*

f) assessment of the results of the practical training – duration of 1 week.

*[Item f) as amended by the Decision of the Board of the National Institute of Justice №9/3 of 2.07.2010]*

*[Item 7) as amended by the Decision of the Board of the National Institute of Justice №5/6 of 10.06.2011]*

8. The traineeship journal is envisaged for the recording of everyday activities performed by the trainees according to the stages and their duration provided for by the training programs as well as for expression of proposals and remarks in the process of the traineeship which shall be filled in on daily basis and signed by the traineeship mentor at the end of the process.
9. At the end of the traineeship the traineeship mentor composes a character reference for the trainee in which the mentor assesses his/her practical work, by making, among other things, a general summary of the traineeship describing its stages and purposes, the activity of the trainee and also of his/her knowledge, the ability to apply the knowledge received in practice, the way the trainee resolves cases, the characteristic features of the trainee's personality with indications of the prevailing interests (as regards the branches of law and professions), skills (the easiness of acquiring knowledge, the ability to work with specialists in other areas, the quality of the results, the ability to appreciate the variety and multiplicity of cultures, creativity, the ability of conducting self-assessment, the ability to work in a team, the ability to argue), the temperament (the ability for physical and intellectual work, the pace of work, the balance, the irritability), character features (self-esteem, resoluteness, courage, initiative, self-control, leadership, perseverance) and the final results of the traineeship.

During the traineeship stage in the court and the prosecutor's office respectively the traineeship mentor gives an assessment of the practical training in the final character reference.

*[Item 8) as amended by the Decision of the Board of the National Institute of Justice № 5/6 of 10.06.2011]*

### **III. RIGHTS AND DUTIES OF PERSONS INVOLVED IN THE ORGANISATION AND HOLDING OF TRAINEESHIP**

10. The following persons take part in the traineeship:

a) the trainee;

b) the traineeship mentor;

*[Item a) as amended by the Decision of the Board of the National Institute of Justice № 5/6 of 10.06.2011]*

c) employees of the National Institute of Justice from the Department on Education and Academic work.

11. The trainee has a right to:

a) know the purposes and the conditions of undertaking the traineeship;

b) take an active part in the development of an individual program of activity depending on individual educational needs;

c) receive training;

d) the corresponding conditions at the place of the traineeship (material resources, information, etc).

- e) the methodical assistance and guidance from the organisation where he/she undertakes the traineeship, the traineeship mentor, the representatives of the Department on Education and Academic Work of the National Institute of Justice;  
*[Item f) excluded by the Decision of the Board of the National Institute of Justice № 5/6 of 10.06.2011]*
  - g) the review of the duration of the traineeship in case of the existence of a valid reason impeding the implementation of the traineeship program.
12. In the course of the practical training the trainee is obliged to:
- a) undertake the traineeship in strict compliance with the provisions of bylaws regulating the procedure of holding a traineeship and perform tasks within the established time-limits;
  - b) undertake training in the specialty of the institution he/she was sent to pursuant to the order;
  - c) carry out the necessary measures, requirements and recommendations of the traineeship mentor;
  - d) comply with the established working program and follow the internal rules of the institution where the traineeship takes place and the rules of the organisation of labour protection;
  - e) fill in the Journal on Practical Training on a daily basis and at the end of the traineeship submit the Report on Practical Training;
  - f) furnish explanations and documents justifying any absence from the traineeship.
13. The traineeship mentor:
- a) organises and controls the actions of the trainee during the whole duration of the traineeship;  
*[Item a) as amended by the Decision of the Board of the National Institution of Justice № 5/6 of 10.06.2011]*
  - b) provides, to the extent possible, for the conditions required for proper holding of a traineeship and provides the trainees with everything necessary for the development of practical skills;  
*[Item b) as amended by the Decision of the Board of the National Institution of Justice № 5/6 of 10.06.2011]*
  - c) assists in the collection of materials to be attached to the report on undertaking practical training;
  - d) ensures that the trainee knows the internal organisation rules, technical safety and labour protection rules and the legal basis of the activity of the institution;  
*[Item d) as amended by the Decision of the Board of the National Institution of Justice № 5/6 of 10.06.2011]*
  - e) provides the trainee with the opportunity to use documents and other materials necessary for the performance of the practical programs and also affords the opportunity to use the institution's library;  
*[Item e) as amended by the Decision of the Board of the National Institution of Justice № 5/6 of 10.06.2011]*
  - f) constantly assesses the process and the results of the practical training, the level of the abilities developed, the behaviour and the trainee's level of integration into the staff;
  - g) shall not involve the trainee in any activities not contemplated by the traineeship;  
*[Item g) as amended by the Decision of the Board of the National Institution of Justice № 5/6 of 10.06.2011]*  
*[Item h) excluded by the Decision of the Board of the National Institute of Justice № 5/6 of 10.06.2011]*

- i) studies the program of the traineeship and, when necessary, proposes reasoned amendments and modifications to it;
  - j) coordinates individual tasks for each trainee;
  - k) informs the administration of the Institute about any violations committed by the trainee;  
*[Item k) as amended by the Decision of the Board of the National Institute of Justice № 5/6 of 10.06.2011]*
  - l) at the end of the practical training, presents the Institute with a character reference for the relevant trainee.  
*[Item l) as amended by the Decision of the Board of the National Institute of Justice № 5/6 of 10.06.2011]*
14. The traineeship mentor has the right to:  
*[Items a) u b) excluded by the Decision of the Board of the National Institute of Justice № 5/6 of 10.06.2011]*
- c) control the observance by the trainee of the established labour discipline, the program of work, the rules of internal organisation of the institution and request explanations for violations of discipline or non-compliance with the rules of the traineeship;  
*[Item c) as amended by the Decision of the Board of the National Institute of Justice № 5/6 of 10.06.2011]*
  - d) request the performance of activities within the framework of the program, give orders and recommendations necessary for the proper holding of practical classes;
  - e) participate in the sessions of the Commission on the Assessment of the Practical Training and express an opinion about the trainee's undertaking of the practical training ;  
*[Item e) as amended by the Decision of the Board of the National Institute of Justice № 5/6 of 10.06.2011]*
  - f) to receive compensation for the work as a mentor.
15. The Department on Education and Academic Work:
- a) facilitates the organisation and holding of the practical training by way of determining the institutions and mentors at the place of holding of the traineeship;
  - b) prepares orders allocating trainees at the places conducting traineeships;
  - c) assists in the organisation of seminars and instruction sessions with a view to bringing issues arising from the practical training to the attention of trainees and mentors and conducts conferences summarising the results of the traineeship in certain specialties;
  - d) constantly assesses the process of holding the traineeship and informs the administration of the National Institute of Justice about its results;
  - e) requests that the trainee compiles and presents the traineeship journal and the report on undertaking the traineeship by him/her;  
*[Item e) as amended by the Decision of the Board of the National Institute of Justice № 5/6 of 10.06.2011]*
  - f) requests that the traineeship mentors submit character references for each trainee during the traineeship.  
*[Item f) as amended by the Decision of the Board of the National Institute of Justice № 5/6 of 10.06.2011]*

#### **IV. ASSESSMENT OF THE RESULTS OF THE TRAINEESHIP**

16. Practical training shall be assessed throughout its whole duration in accordance with its stages and purposes and their completion.
17. The ongoing assessment of the traineeship shall be conducted by the traineeship mentor and the authorised employees of the National Institute of Justice from the Department on Education and Academic Work.
18. The ongoing assessment of the traineeship takes into account:
- a) the organisation and the performance of the tasks planned for each stage within the time-limits established;
  - b) the level and the quality of the exercise and coordination of the activities included into the program jointly with the traineeship mentor;
  - c) the quality of the daily records in the corresponding chapters of the traineeship journal;
  - d) the level of participation of the trainee in different activities and projects organised at the place of holding the practical training;
  - e) the quality of drafting of procedural documents;
  - f) the observance of the adopted working program, the observance of the internal organisation rules of the institution where the traineeship takes place and the professional behaviour of the trainee during the traineeship.
- Based on the results of the traineeship a certificate shall be composed and the trainees, the administration of the institution where the traineeship took place and the administration of the Institute shall be informed of its content.
19. Upon completion of the traineeship the trainee shall furnish the following documents:
- a) a report about the practice in the specialty including information about the specific actions performed by the trainee, short descriptions of the specificity of the activity of the institution where the traineeship took place, conclusions and proposals on the traineeship;
  - b) a journal of the training in the specialty which the trainee has daily filled in regarding his/her activities performed in accordance with the study program;
  - c) a character reference on undertaking the traineeship signed by the head of the institution where the traineeship took place;  
*[Item c) as amended by the Decision of the Board of the National Institute of Justice № 5/6 of 10.06.2011]*
  - d) drafts of procedural acts, prepared by the trainee in the course of the whole practical study (in total no more than 30 acts).  
*[Item d) as amended by the Decision of the Board of the National Institute of Justice № 5/6 of 10.06.2011]*
20. The final assessment of the traineeship is carried out in the form of exam by the Commission on the Assessment of the Practical Training created pursuant to an order of the Executive Director of the National Institute of Justice which includes:
- a) the representative of the Department on Education and Academic Work;
  - b) the representative of the Superior Council of Magistracy;
  - c) the representative of the Prosecutor General's Office;  
*[Item d) excluded by the Decision of the Board of the National Institute of Justice № 5/6 of 10.06.2011]*
- It is obligatory for the traineeship mentor of the trainee to attend the exam.  
*[Item 19 as amended by the Decision of the Board of the National Institute of Justice № 5/6 of 10.06.2011]*
21. Trainees who did not complete the traineeship program shall not be admitted to the exam pursuant to the order of the Executive Director of the National Institute of Justice.

Trainees who did not fulfil the purposes of the traineeship within the established time-limits for certain reasons shall undertake a repeated traineeship pursuant to the order of the Executive Director of the National Institute of Justice without interrupting the educational process.

22. The final assessment of the trainees shall be conducted in the end of the traineeship by way of taking the exam by the trainees graded according to the marking scale from "1" to "10". Trainees who receive a grade from "5" to "10" shall be considered to have passed the exam. Should the grade be negative the re-taking the exam is possible only once before the beginning of the next semester pursuant to the order of the Executive Director of the National Institute of Justice.
23. In the course of carrying out the final assessment of the traineeship the following shall be taken into account:
  - a) organisation and carrying out of all activities planned for each stage within the established time-limits, the completeness and the quality of their exercise;
  - b) the level of coordination of the activities included in the traineeship program with the traineeship mentor;
  - c) the completion of the chapters of the traineeship journal;
  - d) the quality and the completeness of drafting of procedural acts depending on the specialisation sphere;
  - e) the observance of the established working program, the observance of the internal organisation rules of the institution where the trainee undertook the traineeship and his/her professional behaviour during the traineeship;
  - f) the level of knowledge and skills acquired, the level of training and knowledge in the field of legislation regulating to the activities envisaged within the framework of the traineeship.

The final exam grade consists of average grades received on each of the above-mentioned points. In the course of the final assessment of the traineeship the character reference of the traineeship mentor, the current grades and the trainee's reaction to them shall be taken into account.

24. The grade received at the exam shall become the general grade for the III study semester.
25. The results of the exams can be appealed in writing within three days from their announcement to the Commission on the Assessment of the Practical Training. The Commission, with participation from the Director of the National Institute of Justice and his/her deputy, examines the appeals within three days and the decisions of the Commission is final.

*[Item 24 as amended by the Decision of the Board of the National Institute of Justice № 5/6 of 10.06.2011]*

26. After the announcement of the results of the traineeship a conference shall be organised for summarising the results of the traineeship where the trainees and traineeship mentors express proposals and remarks concerning the organisation and holding of the traineeship and also the solutions for the improvement of the practical training.

## **V. CONCLUDING PROVISIONS**

27. All persons involved in the holding of traineeship shall perform functions in accordance with the items of this Regulation.
28. The Regulation on the organisation and holding of practical training for trainees of the National Institute of Justice being candidates for positions of a judge and a prosecutor enters into force upon its approval by the Board of the National Institute of Justice.

29. In order to conduct the traineeship effectively the National Institute of Justice may conclude partner agreements with interested institutions.

*[[Item 28 added by the Decision of the Board of the National Institute of Justice № 5/6 of 10.06.2011]]*



## **Regulation on Organisation of Competition for Teaching Positions and Remuneration**

Regulation on the organisation of the competition for teaching positions and remuneration (hereinafter - Regulation) has been developed in accordance with the Law on the National Institute of Justice and the Labour Code of the Republic of Moldova

### **1. ORGANISATION OF THE COMPETITION**

1.1 National Institute of Justice (hereinafter - the Institute) for initial and continuous training of judges, prosecutors, secretaries of court sessions, court bailiffs and other person involved in the administration of justice, hires teachers and training personnel, in accordance with the number of positions at the NIJ.

1.2 Teaching personnel is hired on the basis of competition in the Institute.

1.3 Competition is organised by the Board of the National Institute of Justice.

1.4 Judges, prosecutors, university teaching staff with experience of not less than 5 years, speaking the state language and having an impeccable professional reputation can participate in the competition for the teaching position at the Institute.

1.5 Teaching positions are declared vacant once every 5 years and are teachers are replaced on a competitive basis, the competition being valid only for the Institute.

1.6 Competition for taking teaching positions at the Institute includes the following steps:

1.6.1 Public announcement of the competition for teaching positions posted on the website of the Institute, at of the Supreme Council of Magistracy, the General Prosecutor's Office and the Ministry of Justice. The announcement specifies the conditions for participation in the competition, required documents for completing personal files for participation in the competition, place and deadline for submission of the documents. [Para. 1.6.1 amended by the decision of the Board of the NIJ No 9/4 from 01.09.2011]

1.6.2 In 30 days period from the date of publication of the competition announcement, the candidates submit and register their application, which includes: a personal personnel registration document, written motivation letter, curriculum vitae, a copy of the labour registration book, certificate of employment, copies of documents on education and scientific degree, information on criminal record (except for judges and prosecutors), a letter of recommendation. This also may be accompanied by copies of certificates of participation in the courses for increasing qualifications (internships) indicating the courses taken, examinations passed and received qualifications, a list of published scientific and methodological papers and other documents. [Para. 1.6.2 amended by the decision of the Board of the NIJ No 3/3 of 10.03.2010]

1.6.3 Examining the individual files submitted having been approved by the executive director, their admission to the competition by the Board of the Institute and appointing dates for interviews with candidates for teaching positions at the Institute.

1.6.4 Interviews with candidates for teaching positions that are conducted in an open session of the Board of the Institute. There could be invited experts with advisory vote in an interview; who express their views concerning professional qualities of candidates for teaching positions at the Institute.

1.6.5 Selection of candidates, who are qualified for the teaching positions, in an open vote and approval of the competition results by the Board of the Institute. The voting procedure is each member of the Board of the Institute presenting their opinions. After counting the vote, the Board of the Institute, upon suggestion of the chairman, approves the results in open vote. Those candidates pass the competition who receive most of the votes, not less than 50 percent from the Board members. If none of the candidates receive the required minimum vote, the vote is repeated at the same meeting for the first two candidates with the highest number of votes or for the candidate with the highest number of votes. Results of the competition, recorded in the minutes of session of the Board of the Institute are transferred to the executive director of the Institute for execution.

1.6.6 If, after re-vote, the candidate does not receive simple majority of votes, a new competition is announced.

1.6.7 Announcement of the approved results of the competition is carried out in line with Para. 1.6.1 of this Regulation.

1.7 A person who passed the competition receives the corresponding position on the basis of an individual employment contract for a period of five years.

1.8 A candidate, who passed the competition, can work at the Institute as a full or part-time staff member. If a judge or prosecutor who passed the competition takes teaching position, they should be seconded from their main positions at the court instances or the prosecution bodies.

1.9 A candidate, who passed the competition and is appointed to a teaching position, is responsible for developing programme for teaching a course corresponding to the teaching curriculum.

1.10 Teaching staff can be recruited by the Institute also as hourly staff in accordance with decision of the board of the Institute and by order of the executive director.

## II. REGULATION OF WORK OF TEACHING STAFF

2.1 The scope of work of teaching staff includes: lectures, practical training, consultations with a group and (or) individual consultations, ongoing and final evaluation activities (checking of written work, taking tests, exams, etc.).

2.2 Lectures are planned by a coefficient of 2, practical training – by coefficient of 2. For hours, provided for the practical preparations, the coefficient is not applicable.

[Item 2.2 was modified by the decision of the Board of NIJ No 11/4 of 27.09.2011]

2.3 Position of staff is determined by the executive director based on the total number of hours, in accordance with the teaching curricula, programs and standards of the teaching work-load.

2.4 Model standards of work hours and calculation of volume of teaching, methodical and scientific work of the faculty of the Institute:

	Activities	Time standards in hours, for calculating volume of work of the faculty
<b>I. TEACHING</b>		
1.	Lectures	2 hours for one academic hour
2.	Practical training (seminars, workshops)	2 hours for one academic hour
3.	Individual work	1 hour for one academic hour
4.	Consultations    On-going	2 hours per group



		During the period of exams	course	4 hours per group
			final	6 hours
5.	Evaluation of knowledge		examination	1 hour per trainee
			evaluation	0,5 hour per trainee
6.	Participating in entrance and graduation exams			4 hours per one observer
	-oral -written			1 hour for each examiner per each candidate 1 hour for evaluation of one examination work
7.	Checking of contested examination works			1 hour per each examination work
8.	Checking of the test works, envisaged by teaching programmes			Up to 0,5 hour per each test work
9.	Mentoring practical internship			1 hour per trainee in a week
10.	Hours of continuous teaching			2 hours for one academic hour
<b>II. METHODOLOGICAL WORK</b>				
1.	Development of plans and curricula for the disciplines			Up to 50 hours in a year
2.	Development of tests and exercises for entrance exams -written exam (test) -oral exam (exercise)			One version – 10 hours A set – 60 hours
3.	Development of supporting teaching materials, envisaged in the publishing plans			Up to 40 hours per one printed page
4.	Preparations for lectures, seminars and other in-class work			2 hours per one, not more than 60 hours in a year
5.	Development of computerised knowledge			Up to 100 hours in a year
6.	Development of themes for examination tests			Up to 15 hours for one version
<b>III. SCIENTIFIC WORK</b>				
1.	Implementing the planned scientific work in the Institute			Up to 100 hours per each print page, not more than 0,5 of the planned scientific degree candidacy norm
<b>IV. ORGANISATIONAL WORK</b>				
1.	Participation in the events of the scientific council, other commissions and other works planned by the Institute			Up to 40 hours in a year
2.	Participation in the work of the Commission for the Entrance Competition to the Institute			Up to 100 hours

[Para.2.4., sub-point 6, section I, was amended by the NIJ Board decision No 3/3 of 10.03.2010]

[Para.2.4., sub-points 2, 5, 10, section I, was amended and completed by the NIJ Board decision No 11/4 of 27.09.2011]

2.5 Standards set forth in this Regulation serve as a model of norms and is a tool for adequate planning and distribution of the workload of teaching staff for the purpose of efficient use of their activities.

2.6 Note the "up to" implies that the specific norms are established by the executive director at the suggestion of head of department for education and research within the limits of the payroll funds and approved staff positions, and also depending on a number of hours envisaged in the teaching plan for each discipline. [Para.2.6 amended by the NIJ Board No 3/3 of 10.03.2010]

2.7 In determining the individual workload of staff, the executive director considers the nature of teaching work, volume and weight of other work - methodical and scientific research.

2.8 The annual norm/standard for workload of one teaching staff of the Institute is approximately 600 hours and includes activities proposed in Section 1 of the model standards. Other sections add number of hours established for the teaching staff.

2.9 Remuneration of the full-time faculty and part-time teachers working at the Institute, except for the seconded of person, is established at a level of remuneration of judges of the Appeals Chamber determined by the Law on the System of Wages in Public Sector.

2.10 Teaching staff working at the Institute on non-permanent basis, are remunerated, taking into account actual hours worked and in accordance with the model standards. A single rate per one academic hour is determined considering the level of remuneration of judges at the Appeals Chamber established by the Law on the System of Wages in Public sector, in correlation with 60 hours of monthly teaching standard of one full-time teacher.

### **III. CONCLUDING PROVISIONS**

3.1 Provisions of the following Regulation shall also apply to the teaching work of the administrative staff of the Institute, who fulfil the conditions required for the taking the corresponding teaching positions.

3.2 Provisions of this Regulation concerning the competition for taking teaching positions, do not apply to the personnel referred in the paragraph.

## APPENDIX 5

### Legal Acts of Ukraine

#### Law of Ukraine on the Judiciary and the Statues of Judges (Extract)

##### Requirements for Judicial Candidates

#### SECTION IV. PROCEDURE FOR ASSUMING THE OFFICE OF A PROFESSIONAL JUDGE OF A COURT OF GENERAL JURISDICTION

##### Chapter 1. General Provisions

###### Article 64. Requirements for Judicial Candidates

1. To be eligible for recommendation for a judicial position, the candidate must be a citizen of Ukraine at least twenty five years of age who has higher legal education and a record of at least three years of service in the legal profession, has resided in Ukraine for at least ten years, and has command of the state language.
2. Citizens shall not be eligible for recommendation for a position of a professional judge if they:
  - 1) were found by court to have limited legal capacity or legal incapacity;
  - 2) are suffering from chronic mental or other diseases which prevent them from performing judicial duties;
  - 3) have an outstanding or unquashed conviction.
3. Additional requirements for candidates for a judicial position in a higher-level court shall be specified by this Law.
4. For the purpose of this Article, it shall be deemed as follows:
  - 1) higher legal education shall be taken to mean higher legal education of Specialist or Master degree received in Ukraine, as well as higher legal education of relevant educational and qualification level received in foreign countries and recognized in Ukraine as prescribed by the legislation;
  - 2) [length of] record of service in the legal profession shall be taken to mean a person's overall record of service in the legal profession – after receiving complete higher legal education – in positions requiring higher legal education of at least specialist level.

###### Article 65. Selection of Judicial Candidates

1. Selection of candidates for a judicial position shall be made from among persons meeting the requirements set forth by the Constitution of Ukraine and Article 64 of this Law based on selection results, upon special training and qualification exam as required by this Law.
2. During the process of selection of candidates, they shall be equal in rights without distinction of race, colour, political, religious or other convictions, sex, ethnic or social origin, property status, domicile, linguistic or other characteristics.
3. Anyone who meets the requirements established for a judicial candidate shall have the right to apply to the High Qualifications Commission of Judges of Ukraine for participation in the selection to position of a judge.

#### CHAPTER 2. APPOINTMENT TO A JUDICIAL POSITION

##### Article 66. Procedure for Appointing to a Judicial Position

1. First appointment to a judicial position shall take place exclusively following the procedure defined by this Law and include the following stages:
  - 1) taking into account the estimated number of open judicial vacancies, the High Qualifications Commission of Judges of Ukraine shall post on its web portal an announcement about competition of candidates for judicial positions and publish an announcement in the newspapers Holos Ukrainy and Uriadovyi Kurier;
  - 2) persons wishing to become a judge shall submit to the High Qualifications Commission of Judges of Ukraine a respective application and documents specified by this Law;
  - 3) on the basis of submitted documents the High Qualifications Commission of Judges of Ukraine shall review the eligibility of the person whether he/she meets the requirements for a candidate for a judicial position and conduct a background check in the manner prescribed by the Law;
  - 4) persons who meet the requirements established for a judicial candidate shall take an examination on general theoretical knowledge before by the High Qualifications Commission of Judges of Ukraine;
  - 5) candidates who passed an examination and required inspections/checks successfully shall be sent to take special training at a specialized higher law school of fourth level of accreditation;
  - 6) after successful training at a specialized higher law school of fourth level of accreditation the High Qualifications Commission of Judges of Ukraine shall send the candidates to take special training at the National School of Judges of Ukraine;
  - 7) candidates who successfully passed the special training shall be admitted to take a qualification examination by the High Qualifications Commission of Judges of Ukraine;
  - 8) taking into account the results of qualification examination the High Qualifications Commission of Judges of Ukraine shall rate candidates and put them on reserve list to fill vacancies;
  - 9) in case the vacancies to be filled are available, the High Qualifications Commission of Judges of Ukraine shall announce the competition among candidates from reserve list;
  - 10) taking into account the place of candidate in the rating list the High Qualifications Commission of Judges of Ukraine according to the number of vacant judicial positions shall conduct the selection among the candidates who have taken part in the competition and forward to the High Council of Justice recommendation to appoint the candidate to the judicial position;
  - 11) according to recommendation of the High Qualifications Commission of Judges of Ukraine, the High Council of Justice at its meeting shall consider the issue of appointing the candidate to the judicial position and in case of a positive decision consider the issue of submitting a motion to the President of Ukraine for appointment of the candidate to a judicial position;
  - 12) the President of Ukraine shall take a decision on the candidate's appointment to the judicial position.

**Article 67. Submission of Documents to the High Qualifications Commission of Judges of Ukraine by the Applicant**

1. In order to take part in the competition, the applicant shall be required to submit:
  - 1) an application written by the candidate in his/her own handwriting;
  - 2) a copy of his/her passport of a citizen of Ukraine;
  - 3) a personal data sheet and curriculum vitae;
  - 4) a copy of his/her certificate of higher legal education/diploma, of academic degree or academic rank;

- 5) extract from the work record book certifying record of service in the legal profession;
- 6) certificate of the applicant's health, issued by a medical institution (medical institutions authorized to issue such certificate and its form are defined by the High Qualifications Commission of Judges of Ukraine with the concurrence of authorized government body in charge of health care issues);
- 7) [the applicant's] written consent to the collection, storage, and use of information about him/her for the purpose of evaluating his/her fitness for judicial work and to be subjected to a background check.

It shall be prohibited to demand from candidate to submit other documents not mentioned in part one of this article.

2. Acceptance of documents shall be terminated two days before the competition. Applications coming in after the said deadline shall not be considered.
3. Admitted to the selection shall be persons who provided all the necessary documents. Refusal to admit an applicant shall be given in a well-grounded decision taken by the High Qualifications Commission of Judges of Ukraine.

#### **Article 68. Procedure of Selection for a Judicial Position**

1. Selection of candidates to a judicial position shall consist in the applicant's taking of anonymous test to find his/her level of general theoretical knowledge and conducting special inspection/verification whether the applicant meets the established requirements for a judicial position. Special inspections shall be conducted as well regarding the data and information submitted by applicant personally in the manner prescribed by the Law.
2. For the purposes of special inspection (background check), the High Qualifications Commission of Judges of Ukraine shall have the right to collect information about the candidate, make inquiries to enterprises, institutions and organizations of all form of ownership in order to receive the information about candidate. Upon the result of consideration of such inquiries the information shall be provided to the High Qualifications Commission of Judges of Ukraine within 10 days. Not providing or providing such information with violation of defined terms leads to amenability prescribed by the Law.
3. Organizations and citizens shall have the right to present to the High Qualifications Commission of Judges of Ukraine information they may have about the candidate.
4. Applicants who meet the established requirements for candidate for a judicial position are permitted to take an examination.

#### **Article 69. Special Training of Candidates for a Judicial Position**

1. Special training of candidates for a judicial position shall consist of theoretical training delivered by a specialized higher law school of fourth level of accreditation and practical training delivered by the National School of Judges of Ukraine.
2. The curriculum and procedure of special training of candidates for a judicial position shall be approved by the High Qualifications Commission of Judges of Ukraine with the concurrence of specialized higher law schools of fourth level of accreditation and the National School of Judges of Ukraine.
3. Special training shall be conducted during 6 (six) months at the expense of the State Budget of Ukraine. For the period of training the candidate for a judicial position shall retain his/her principal position and receive grant of at least two thirds of official salary of a judge of a local court of general jurisdiction.
4. Based on the results of the special training the candidates shall get the appropriate document of the established form. Materials on candidates who passed special training

successfully shall be sent to the High Qualifications Commission of Judges of Ukraine in order to take qualification examination.

5. In case of violation by the candidate of the procedure for special training which resulted in his/her expulsion or if the candidate stops such training of his/her free will, the candidate shall be obliged to reimburse the expenses spent on his/her training.

#### **Article 70. Qualification Examination**

1. The qualification examination shall be an attestation [appraisal] of a person who has received special training and expressed his/her willingness to be recommended for appointment (election) for a judicial position.

2. The qualification examination shall involve evaluation of the theoretical knowledge and level of professional training of the judicial candidate, the degree of his/her readiness to administer justice in matters within the jurisdiction of the respective court, and the candidate's personal and moral qualities.

3. The qualification examination shall include taking by the candidate a written anonymous test and case study to be resolved by the candidate in order to evaluate the level of practical skills and abilities to apply the law.

4. Written anonymous testing shall be conducted by the High Qualifications Commission of Judges of Ukraine in a special room intended for this purpose; the process of the testing shall be recorded with means of audio and video record.

5. The procedure for taking the qualification examination and evaluation methodology shall be determined by the regulation to be approved by the High Qualifications Commission of Judges of Ukraine.

6. The results of the qualification examination shall be valid for the next three years.

7. Any person failing to pass the qualification examination may be admitted to take exam for a judicial position not sooner than in one year. Any person failing to pass the qualification examination for the second time may be admitted to the next exam not sooner than in two years.

8. Based on the score of the candidate as a result of the qualification examination the High Qualifications Commission of Judges of Ukraine rates the candidates and enters them into a reserve list of candidates for a judicial position.

9. Information about results of qualification examination and position of candidate in the rating list shall be public and shall be posted at official web portal of the High Qualifications Commission of Judges of Ukraine.

10. The results of qualification examination may be appealed against to the High Council of Justice, which has the right to reverse the decision of the High Qualifications Commission of Judges of Ukraine and oblige it to give the candidate who complained a second (one more) qualification examination.

#### **Article 71. Holding of Competition for a Judicial Position**

1. In order to conduct competition for judicial vacancies, the High Qualifications Commission of Judges of Ukraine shall post respective information on its official web portal and publish an announcement in the newspapers "Holos Ukrainy" and "Uriadovyi Kurier" not later than one month before the competition.

2. The competition announcement shall specify the names of courts where judicial vacancies are available, the number of such vacancies, terms and conditions of the competition, the date, place and time of the competition.

3. Candidates for a judicial position being in the reserve list and willing to take part in the competition shall submit a written application to the High Qualifications Commission of Judges of Ukraine within the established term.

4. The High Qualifications Commission of Judges of Ukraine shall conduct a competition and select candidates for a judicial position taking into account the results of qualification examination and score they received. The score is a primary criterion in conducting competition by the High Qualifications Commission of Judges of Ukraine among candidates to fill judicial vacancies. If candidates have identical score the advantage shall have the candidate who has a longer record of service in the field of law.

5. Based on the results of the competition the High Qualifications Commission of Judges of Ukraine shall send to the High Council of Justice recommendations for appointment to judicial positions according to the number of open vacancies.

6. According to the recommendation submitted by the High Qualifications Commission of Judges of Ukraine the High Council of Justice at its meeting shall review the issue of appointing the candidate to judicial position and if the decision is positive it shall submit a motion to the President of Ukraine for appointment of the candidate to a judicial position.

#### **Article 72. Appointment to a Judicial Position**

1. Appointment to a position of a professional judge shall be made by the President of Ukraine on the basis of a motion by the High Council of Justice of Ukraine within 30 days from the day the motion was received.

### **National training institution**

#### **SECTION V. ENSURING THE APPROPRIATE QUALIFICATION LEVEL OF A JUDGE**

#### **Article 81. Status and Structure of the National School of Judges of Ukraine**

1. The National School of Judges of Ukraine shall be a state institution with a special status; it shall ensure training of highly skilled personnel for the judicial system and conduct scientific-research activity. The legislation on higher education shall not be applied to the National School of Judges of Ukraine.

2. The National School of Judges of Ukraine shall be established under the High Qualifications Commission of Judges of Ukraine and shall operate according to this Law and the Charter to be approved by the High Qualifications Commission of Judges of Ukraine.

3. The National School of Judges of Ukraine shall be headed by Rector appointed by the High Qualifications Commission of Judges of Ukraine. Vice-rectors of the National School of Judges of Ukraine shall be appointed by the High Qualifications Commission of Judges of Ukraine based on the motion of the Rector of the National School of Judges of Ukraine.

4. The employees of the National School of Judges of Ukraine in terms of payment shall be given the same status as public servants.

5. The National School of Judges of Ukraine shall be the legal entity, have the seal with imprint of the State Emblem of Ukraine and its name on it, an independent balance sheet and accounts in the bodies of State Treasury of Ukraine and may have regional branches.

#### **Article 82. Objectives of the National School of Judges of Ukraine**

1. The National School of Judges of Ukraine shall conduct:

1) practical training of candidates for a judicial position;

2) training of judges:

appointed to the judicial position for the first time;

elected to a lifetime judicial position;

appointed to administrative positions in courts;

3) periodical on-going training of judges to improve their professional level;

4) training of court staff;

- 5) scientific research in issues concerning judiciary improvement;
- 6) study of international experience of organizing court operation;
- 7) scientific-methodological support of the operation of court of general jurisdiction, the High Qualifications Commission of judges of Ukraine and the High Council of Justice.

### **Institutions participating in judges training**

#### **Article 90. Status of the High Qualifications Commission of Judges of Ukraine**

1. The High Qualifications Commission of Judges of Ukraine shall be a standing body (operating on a permanent basis) in the judiciary system of Ukraine.
2. The High Qualifications Commission of Judges of Ukraine shall be the legal entity, have the seal with imprint of the State Emblem of Ukraine and its name on it, an independent balance sheet and accounts in the bodies of State Treasury of Ukraine.
3. The procedure of operation of the High Qualifications Commission of Judges of Ukraine shall be established by its procedural rules approved by a majority of all members of the High Qualifications Commission of Judges of Ukraine.

#### **Article 91. Powers of the High Qualifications Commission of Judges of Ukraine**

1. The High Qualifications Commission of Judges of Ukraine shall:
  - 1) maintain data about the number of judicial positions in courts of general jurisdiction, including the vacant ones;
  - 2) register data about the number of administrative positions in courts of general jurisdiction and immediately inform the correspondent council of judges, the High Council of Justice on opening of vacant positions of chief judge, deputy chief judge;
  - 3) conduct a selection of the candidates for first appointment to judicial position, including organization of special background check according to the law and conduction of a qualification examination;
  - 4) forward to the High Council of Justice recommendation to appoint a candidate to judicial position in order to further submit a respective motion to the President of Ukraine;
  - 5) provide or refuse to provide recommendation to appoint/elect candidate to a lifetime position;
  - 6) determine the need for state order for professional training of candidates for a judicial position at the National School of Judges of Ukraine;
  - 7) take decision on removing a judge from his office due to initiated criminal proceedings against the judge based on reasoned resolution of the Prosecutor General;
  - 8) review petitions and information on disciplinary responsibility of judges of local courts and courts of appeal and if there are grounds open disciplinary cases as well as execute disciplinary proceedings;
  - 9) make decisions based on the results of disciplinary proceedings and provided there are grounds impose disciplinary sanctions on judges of local courts and courts of appeal;
  - 10) take a decision on early (ahead of time) removing disciplinary sanctions imposed on a judge;
  - 11) exercise other powers specified by law.
2. In order to exercise its powers the High Qualifications Commission of Judges of Ukraine shall have the right to demand and receive necessary information from judges, State Judicial Administration of Ukraine, judicial self-government bodies and other judicial institutions, state and local government bodies, their public officers, enterprises, institutions



or organizations irrespective of forms of ownership and subordination, as well as from citizens and associations thereof; not submitting the necessary information shall result in liability specified by law.

#### **Article 92. Composition of the High Qualifications Commission of Judges of Ukraine**

1. The High Qualifications Commission of Judges of Ukraine shall be composed of eleven members who are citizens of Ukraine, have higher legal education and a record of service in the legal profession of at least twenty years. The Commission shall consist of:

- 1) six judges to be appointed by the Congress of Judges of Ukraine;
- 2) two persons appointed by congress of representatives of higher law schools and scientific institutions;
- 3) one person to be appointed by the Minister of Justice of Ukraine;
- 4) one person to be appointed by the Ombudsman of the Verkhovna Rada of Ukraine;
- 5) one person to be appointed by the Head of State Judicial Administration.

2. The term of appointment of a member of a qualifications commission of judges shall be three years from the day of appointment. One and the same person may not serve as a member of a qualifications commission of judges for two terms in a row.

3. The members of the High Qualifications Commission of Judges of Ukraine shall, for the term of their appointment, be seconded to the High Qualifications Commission and may not discharge any professional duties associated with their primary employment.

4. The members of the High Qualifications Commission of Judges of Ukraine during the term of their appointment shall keep their status and place of work.

#### **Article 93. Procedure for the Formation of the High Qualifications Commission of Judges of Ukraine**

1. The members of the High Qualifications Commission of Judges of Ukraine who are judges shall be appointed in an open or secret ballot by the Congress of Judges of Ukraine. The Congress of Judges of Ukraine may elect more than six judges and determine their order of priority in case a judicial member or judicial members of the High Qualifications Commission of Judges of Ukraine appointed under the quota of the Congress of Judges of Ukraine drop out. These persons automatically shall get the powers of the member of the High Qualifications Commission of Judges of Ukraine, when one or several members of the Commission appointed under the quota of the Congress of Judges of Ukraine drop out. Persons appointed by the Congress of Judges of Ukraine to be members of the High Qualifications Commission of Judges of Ukraine in case one or more members drop out shall continue to perform their duties as judges until the moment they fill the position of the member of the High Qualifications Commission of Judges of Ukraine according to the set order of priority.

2. The members of the High Qualifications Commission of Judges of Ukraine shall be appointed by the congress of representatives of higher education law schools and scientific institutions in an open or secret ballot.

3. The Minister of Justice of Ukraine shall appoint a member of the High Qualifications Commission of Judges of Ukraine by his/her order.

4. The Ombudsman of the Verkhovna Rada of Ukraine shall appoint a member of the High Qualifications Commission of Judges of Ukraine by an ordinance.

5. The Head of the State Judicial Administration of Ukraine shall appoint a member of the High Qualifications Commission of Judges of Ukraine by his/her order.

6. People's deputies of Ukraine (MPs), members of the Cabinet of Ministers, chief judges of courts, their deputies, secretaries of judicial chambers, members of Council of Judges of

Ukraine, members of the High Council of Justice, Ombudsman of the Verkhovna Rada of Ukraine and officials on whom the disciplinary sanction is imposed may not be appointed to the High Qualifications Commission of Judges of Ukraine.

7. The High Qualifications Commission of Judges of Ukraine shall be deemed competent if at least eight members of the Commission have been appointed.

#### **Article 94. Organization of Work of the High Qualifications Commission of Judges of Ukraine**

1. The High Qualifications Commission of Judges of Ukraine shall elect from among its members, in an open or secret ballot, the head of the Commission, one deputy head, and secretary of the Commission. The candidate receiving a majority of the votes of all the members of the Commission shall be deemed to have been elected.

2. The head of the Commission shall organize the work of the Commission, determine responsibilities of his/her deputy and run meetings of the Commission. In the absence of the head of the High Qualifications Commission of Judges of Ukraine, his/her duties shall be performed by deputy head of the Commission; and in the absence of the deputy head, by the member of the Commission who has the largest record of service in the position of a judge.

3. To conduct verification of information on the presence of grounds for disciplinary action against a judge there shall be an automated/computerized system for designating a member of the High Qualifications Commission of Judges of Ukraine to conduct the verification. Regulation on automated (computer aided) system of determining the Commission member shall be approved by Council of Judges of Ukraine upon agreeing it with State Judicial Administration of Ukraine.

4. The secretary of the Commission shall prepare the meetings of the Commission and shall be responsible for organization of workflow/case management of the Commission.

5. The operating procedure of the Commission shall be determined by its procedural rules approved by a majority of votes of all members of the Commission.

6. A meeting of the High Qualifications Commission of Judges of Ukraine shall be open and public, except for cases stipulated by the law. The Commission's meeting shall be deemed competent if attended by at least two thirds of the total number of the Commission members.

7. The head of the High Qualifications Commission of Judges of Ukraine shall determine the date, time and place of the Commission's meeting, the list of items to be put on the agenda of the meeting, and send a relevant notification to the persons whose issue shall be considered not later than ten days before the meeting.

#### **Article 95. Rights of a Member of the High Qualifications Commission of Judges of Ukraine**

1. A member of the High Qualifications Commission of Judges of Ukraine shall have the right to:

- 1) get acquainted with materials submitted for the Commission's consideration, take part in their examination and verification;
- 2) present his/her reasons and arguments, as well as submit additional documents concerning the issues under consideration;
- 3) submit proposals regarding a draft resolution of the Commission on any issues whatsoever and vote for or against any particular decision;
- 4) express in written form his/her dissenting opinion on any decision of the High Qualifications Commission of Judges of Ukraine;
- 5) exercise other powers established by law.

**Article 96. Disqualification of a Member of the High Qualifications Commission of Judges of Ukraine**

1. A member of the High Qualifications Commission of Judges of Ukraine may not conduct verification of the grounds to discipline a judge of local or appellate court, take part in the consideration of an issue and decision making and shall be subject to recusal (self-recusal) if circumstances are established which might call into question his/her impartiality. In the presence of such circumstances, the Commission's member must refuse himself/herself. For the same reasons, disqualification of a Commission's member may be requested by persons who are subjects of the issue under consideration or by the persons who presented/initiated the issue for consideration.
2. A request for disqualification must be well-grounded and submitted prior to the beginning of the consideration of the issue in the form of a written application addressed to the Commission Head. The chair of the meeting shall be obliged to acquaint with the application the Commission's member whose disqualification is sought.
3. A decision on the disqualification (recusal) of a member of the Commission shall be taken by a majority of the votes of the Commission's members present at the meeting, in the absence of the Commission's member whose disqualification (self-recusal) is to be voted upon.

**Article 97. Decision the High Qualifications Commission of Judges of Ukraine**

1. A decision of High Qualifications Commission of Judges of Ukraine shall be taken by a majority of the Commission's members. The voting shall be held in the absence of the person concerned as well as of the invited persons.
2. A decision of High Qualifications Commission of Judges of Ukraine shall be stated in writing. The decision shall indicate the date and place of the decision, the Commission's members present, the issues under consideration, and the reasons for the decision taken. The decision shall be signed by the chair of the meeting and by the Commission's members present thereat.
3. When there is a dissenting opinion, the latter shall be presented in writing by the respective member of the Commission and appended to the case file. This fact shall be announced at the meeting by its chair; yet the contents of the opinion shall not be disclosed at the meeting.
4. A decision of the High Qualifications Commission of Judges of Ukraine may be appealed in court in the manner prescribed by the procedural law.
5. In cases prescribed by this Law, a decision of the High Qualifications Commission of Judges of Ukraine may be appealed to the High Council of Justice.

**Article 98. Support for the Operation of the High Qualifications Commission of Judges of Ukraine**

1. The Secretariat shall be established in order to provide organizational support for the operation of the High Qualifications Commission of Judges of Ukraine.
2. In order for the members of the High Qualifications Commission of Judges of Ukraine to conduct a proper verification of the grounds for disciplinary action against judges of local courts and courts of appeal there shall be acting a service of disciplinary inspectors which consists of thirty three disciplinary inspectors. Three disciplinary inspectors are assigned to each member of the High Qualifications Commission of Judges of Ukraine.
3. The staff of the Secretariat shall be appointed and dismissed by the Head of the High Qualifications Commission of Judges of Ukraine. Disciplinary inspectors shall be appointed and dismissed by the Head of the High Qualifications Commission of Judges of

Ukraine based on the motion of the correspondent member of the High Qualifications Commission of Judges of Ukraine.

4. Salary scale of the staff of the Secretariat and disciplinary inspectors, their provision and the level of social security shall be determined by the Law of Ukraine on Public Service, other legal acts and may not be less than corresponding categories of public servants of the staff of central executive power bodies have.

5. The members of the Commission shall keep the guarantees for material, social and everyday provision, prescribed by law for judges, employees of the Ministry of Justice, the State Judicial Administration and representative of the Ombudsman of the Verkhovna Rada of Ukraine. In such a case, the compensation shall be paid on the basis of the pay rates to which these persons are entitled as employees of the bodies from which they were seconded. The members of the Commission appointed by congress of representatives of higher law schools and scientific institutions shall be paid remunerations in the amount of the average salary of other members of the Commission.

6. The remunerations shall be paid from the State Budget of Ukraine.



## LAW OF UKRAINE

### On Amendments to the Law of Ukraine On Judiciary and the Status of Judges regarding Special Training of Candidates for Judicial Positions (03.02.2011, № 2982-VI)

The Verkhovna Rada of Ukraine hereby resolves:

1. To introduce the following amendments to the Law of Ukraine on the Judiciary and the Status of Judges (Vidomosti (Official Bulletin) of the Verkhovna Rada of Ukraine, 2010, No. 41-45, p. 529; as amended by the Law of Ukraine dated December 2, 2010 No. 2748-VI, dated December 23, 2010 No. 2856-VI):

1) in part 1 of Art. 66:

In paragraph 1 substitute the wording “and the Uriadovyi Kuryer” with the wording “or the Uriadovyi Kuryer;”

In paragraph 5 **remove** the wording “specialized higher law schools of IV level of accreditation”;

**Remove** paragraph 6;

2) set forth parts 1 and 2 of Art. 69 as follows:

“1. Special training of candidates for a judicial position shall include theoretical and practical full-time (intramural) or distance training. National School of Judges of Ukraine shall be responsible for the organization of special training.

2. The curriculum, timetable and procedure of special training and the list of higher law schools to conduct the training of candidates for a judicial position shall be approved by the High Qualifications Commission of Judges of Ukraine;”

3) set forth paragraph 1 of part 1 of Art. 82 as follows:

“1) organization of special training of candidates for a judicial position”;

4) supplement part 1 of Art. 91 with paragraph **6-1** having the following content:

“**6-1**) approve in accordance with the criteria determined in the regulations on the procedure of special training of candidates for a judicial position, the list of higher law schools that shall conduct such training”;

5) set forth subparagraph 4 of paragraph 1 of Section XII (Final Provisions), as follows:

“part 1 of Art. 65, paragraphs 5, 7 of part 1 of Art. 66, Art. 69, part 1 of Art. 70 hereof with respect to the necessity of passing a special training by a candidate for a judicial position in the process of first appointment which shall enter into force **since the day of adoption of the resolution by the High Qualifications Commission of Judges of Ukraine on first selection of candidates for judicial positions for their passing of special training;**”

6) supplement paragraph 7 of Section XIII (Transitional Provisions) with subparagraphs 6 and 7 of the following content:

«Candidates for a judicial position having passed a qualification exam before this Law entering into force but not recommended to a judicial position due to the absence of vacancies shall be appointed to judicial positions according to the procedure established by Art. 66 hereof.

Judicial appointment of candidates who applied for a judicial position for the first time **upon this Law entering into force and who** prior to the day of full enactment of the provisions of part 1 of Art.65, paragraphs 5, 7 of part 1 of Art. 66, Art. 69, part 1 of Art. 70 hereof **had passed the stage determined by paragraph 8 of part 1 of Art. 66 hereof** shall be done without initial training requirement”.

2. This Law shall enter into force since the day of its promulgation.



**APPROVED**

**Decision of the High Qualification Commission of  
Judges of Ukraine of April 21, 2011**

**REGULATION**

**On the procedure of passing anonymous testing (examination) by candidates to  
judicial position and the methodology of its evaluation**  
*(without annexes)*

This Regulation is developed according to the Law of Ukraine ‘On the Judiciary and Status of Judges’ (hereinafter referred to as the Law), Regulation on the Procedure of Issues Consideration and Preparation of the Materials Regarding Selection of Candidates to Judicial Position for the First Time, approved by the Decision of the High Qualification Commission of Judges of Ukraine of March 16, 2011, and shall determine the principles and procedure of passing anonymous testing (examination) (hereinafter referred to as testing) by candidates to judicial position (hereinafter referred to as the candidates) in order to define the level of general theoretical knowledge of law, as one of the stages of the procedure of appointment to the judicial position for the first time, as well as shall regulate the procedure of evaluation and defining the results of testing.

**I. General provisions**

- 1.1. Testing shall be passed by the candidates who comply with the established requirements to the candidate to judicial position and are admitted to the test passing. Procedure of admission by the High Qualification Commission of Judges of Ukraine to the test passing shall be established by the Regulation on the Procedure of Issues Consideration and Preparation of the Materials Regarding Selection of Candidates to Judicial Position for the First Time.
- 1.2. The aim of carrying out testing shall be objective evaluation of the candidates’ level of general theoretical knowledge of law. Objectivity of carrying out testing shall be ensured by level conditions for the candidates regarding date of testing, its duration, number and level of complexity of test tasks, uniform criteria of test evaluation and openness of information about its results.
- 1.3. Testing shall consist in accomplishing by the candidate a test task which includes a determined within the procedure stipulated by this Regulation list of questions according to the Program of anonymous testing (examination) of candidates to judicial positions in order to define the level of general theoretical knowledge of law, with variants of answers among which only one is correct.
- 1.4. Testing of the candidates shall be carried out by the High Qualification Commission of Judges of Ukraine. Testing shall start and end simultaneously for all the candidates regardless of the venue. Date, time and venue (venues) of testing shall be defined by the High Qualification Commission of Judges of Ukraine.
- 1.5. Authorized subjects to ensure organizational preparation for carrying out testing and performing functions of administrative and regulatory nature shall be:
  - 1.5.1. members of the High Qualification Commission of Judges of Ukraine and staff of the Secretariat of the High Qualification Commission of Judges of Ukraine;
  - 1.5.2. authorized representatives of the High Qualification Commission of Judges of Ukraine from among research and educational personnel of higher educational establishments (hereinafter referred to as the authorized representatives).

1.6. Testing shall be carried out at testing venues defined by cooperation agreements between the High Qualification Commission of Judges of Ukraine and higher educational establishments.

Setting up testing venues, requirements to their arrangement and organization of work on the testing day shall be defined by the High Qualification Commission of Judges of Ukraine upon coordination with the higher educational establishments who provide cooperation regarding organization of events on appointment to judicial position for the first time (hereinafter referred to as the higher educational establishments).

1.7. Testing shall consist of four stages:

- Development and approval of test items;
- Organizational preparation for testing;
- Passing the test;
- Processing testing results.

1.8. Documents regarding formalization of the testing process shall be prepared and filled in by the authorized subjects to ensure organizational preparation for carrying out testing and performing functions of administrative and regulatory nature.

1.9. After carrying out testing the High Qualification Commission of Judges of Ukraine shall process and formalize testing results according to the procedure stipulated by Section VI of this Regulation and based on the results of tests passed by the candidates shall make a decision on admission of the candidates to the next stage of appointment to judicial position for the first time.

## **II Rights and duties of the candidates**

2.1. During testing the candidate shall be entitled to:

2.1.1. Courteous and unbiased treatment on the part of the persons responsible for organizing and carrying out testing.

2.1.2. Safe testing conditions.

2.1.3. Access to information about:

- aim of testing;
- form of test tasks;
- procedure of passing the test;
- time and venue of testing;
- way and time of notifying about the testing results.

2.2. During passing the test the candidate shall be obligated to:

2.2.1. Familiarize with information about procedure of test passing.

2.2.2. Courteously treat persons who organize, carry out or participate in testing.

2.2.2. Timely arrive to the defined by the High Qualification Commission of Judges of Ukraine testing venue with documents necessary for test passing, listed in point 5.1 of Section V of this Regulation.

2.2.3. Adhere to instructions and requirements of the authorized subjects to ensure organizational preparation for carrying out testing regarding testing procedure.

2.2.4. Hand the answer sheet in to the authorized representatives immediately after announcement about the end of testing.

2.2.5. Not bring dangerous objects and substances which may pose a threat to the testing participants' life and health to the testing venues, hinder the testing process.

2.3. During passing the test the candidate shall be strictly prohibited from:

- 1) using any sources of information;
- 2) communicating with other candidates;
- 3) accomplishing the test task instead of other candidates and/or giving his/her test task to be accomplished by other candidates;

- 4) allowing other candidates to use answers to the test task or attempting to use answers to the test task of other candidates him-/herself;
  - 5) using any electronic devices, including mobile phones;
  - 6) leaving the room and building of the testing venue without permission of the member of the High Qualification Commission of Judges of Ukraine who is present at the testing venue;
  - 7) making a copy of a test assignment, carrying the test assignment out from the room where the testing is carried out;
  - 8) violating the rules of discipline and common rules of conduct during testing.
- 2.4. In case of violation of the requirements stipulated by the subpoints 2.2.4.-2.2.6. of this Regulation the candidate shall be deprived of a right to continue work on test items and upon the request of the members of the High Qualification Commission of Judges of Ukraine present at the testing venue shall be obliged to hand in the answer sheet and leave the room where the testing is carried out.

### **III. Test items development and approval procedure**

- 3.1. Development and approval of test items shall be performed on a basis of the Program of anonymous testing (examination) of candidates to judicial positions in order to define the level of general theoretical knowledge of law, which shall be approved by the High Qualification Commission of Judges of Ukraine.
- 3.2. Test tasks shall be developed by the High Qualification Commission of Judges of Ukraine jointly with the National School of Judges of Ukraine. Higher legal educational establishments may be involved in the process of development of test tasks.
- 3.3. Test items shall be prepared in the official language and shall contain the tasks to define the level of general theoretical knowledge of law. A set of test items shall form a test database which must contain items on the following disciplines:
  - 1) Theory of state and law;
  - 2) Constitutional law;
  - 3) Convention for the Protection of Human Rights and Fundamental Freedoms and decision of the European Court of Human Rights;
  - 4) Civil law;
  - 5) Civil proceedings;
  - 6) Criminal law;
  - 7) Criminal proceedings;
  - 8) Economic law;
  - 9) Economic proceedings;
  - 10) Administrative law;
  - 11) Administrative proceedings;
  - 12) Labor law.
- 3.4. Test items and variants of answers should be formulated clearly and should not raise doubts regarding their interpretation. Each test item shall have not more than 4 variants of answers, among which only one is correct.
- 3.5. The High Qualification Commission of Judges of Ukraine shall conduct regular update of the Program of anonymous testing (examination) of candidates to judicial positions in order to define the level of general theoretical knowledge of law, test database, in particular in case of termination or changes of legal norms being a basis of test items.
- 3.6. The High Qualification Commission of Judges of Ukraine shall ensure regular approbation of test items which are a part of the test database in order to verify their reasonability and adequacy in defining the sufficient level of theoretical knowledge of the candidates to judicial position.



3.7. 100 items shall be randomly selected from a test data base with the help of special software to form a specific test to be passed by the candidates. 5 test variants shall be formed from the selected test items. The selected test variants shall be formalized in a form of test sheets.

Organization of software development to compile a test variant shall be ensured by the High Qualification Commission of Judges of Ukraine.

3.8. Preparation of test items, compilation of test variants, and organization of production of test sheets shall be performed by the High Qualification Commission of Judges of Ukraine under conditions of strict confidentiality. Any form of disclosure of confidential information about test database and test contents shall be strictly prohibited.

3.9. Printing test assignments and their arrangement, printing answer sheets, organization of delivery of packages with test materials to the testing venues shall be ensured by the High Qualification Commission of Judges of Ukraine.

#### **IV. Organizational preparation of testing**

4.1. The High Qualification Commission of Judges of Ukraine shall make a decision on admission of the candidates who comply with the established by the Constitution of Ukraine and the Law requirements for the candidate to judicial position, to test passing and shall define date, time and venue (venues) of testing.

4.2. Decision of the High Qualification Commission of Judges of Ukraine on admission of the candidates to test passing shall be placed at the web-portal of the High Qualification Commission of Judges of Ukraine not later than 10 days before the testing date. Information about the date, time and venue of testing shall be placed at the official web-site of the High Qualification Commission of Judges of Ukraine and published in the newspapers 'Golos Krayiny' ('Voice of the Country') or 'Uriadovyi Kurier' ('The Governmental Courier').

4.3. General control on carrying out testing at the testing venue, resolution of contingencies and conflict situations, coordination of actions during preparation for and carrying out testing shall be conducted by the members of the High Qualification Commission of Judges of Ukraine and staff of the Secretariat of the High Qualification Commission of Judges of Ukraine.

4.4. Organizational preparation and carrying out testing itself, ensuring compliance with the procedure of test passing in the rooms shall be performed by the authorized representatives.

4.5. The Members of the High Qualification Commission of Judges of Ukraine, staff of the Secretariat of the High Qualification Commission of Judges of Ukraine, authorized representatives shall be held liable for disclosure of confidential information regarding carrying out testing according to the current legislation of Ukraine.

#### **V. Test passing**

5.1. The candidate admitted to test passing must attend testing at the venue, on the date and time defined by the High Qualification Commission of Judges of Ukraine according to the point 4.2. of this Regulation, and with passport or any other document which pursuant to the current legislation proves the candidate's identity.

5.2. Prior to the testing the authorized representatives shall check the attendance of the candidates according to the register of persons admitted to test passing, and make registers of persons who failed to come to the testing.

5.3. The candidate who shall not exhibit the document proving his/her identity, shall be considered as one who did not come to the testing and shall not be admitted to passing it.

5.4. Testing shall be passed by the candidates in the room access of other persons to which shall be limited. One can enter the facility during testing and leave it only upon permission

of the member of the High Qualification Commission of Judges of Ukraine who is present at the testing venue.

5.5. The candidate who shall be late for testing, may be admitted to test passing by the member of the High Qualification Commission of Judges of Ukraine who is present at the testing venue, but shall only use the time available to the end of the testing.

Any additional time shall not be provided, whereof a candidate shall be notified before receiving test assignment and answers sheet.

5.6. The candidates shall be prohibited from wearing outerwear, having bags, backpacks, etc., books or other materials in hard copy, mobile phones, pocket computers, video, photo devices, electronic communication devices and other similar things in the testing room. The candidates who carry such things to testing shall be obliged to leave them in an area designated by the authorized representative. In case the candidate refuses to comply with the requirements of the first and second paragraphs of this point, such candidate shall not be admitted to test passing, whereof the authorized representatives shall make an act (report) on candidate's refusal to take anonymous test.

5.7. Prior to the passing the test the authorized representatives shall notify the candidates about the general procedure of test passing.

5.8. After notifying the candidates about the general procedure of test passing the authorized representatives shall open the packages with test assignments in the presence of the candidates and together with answer sheets shall hand them out to the candidates. During handing the test assignment and answer sheet out the first two parts of stickers with the bar code shall be stuck to them, the third part of it shall be stuck opposite to the surname of the candidate in the test room register (Annex 1).

5.9. Testing shall be carried out in hard copy. Each candidate shall be provided with a test assignment and an answer sheet (Annex 2). Test assignment and answer sheet of the candidate shall be ciphered by sticking special bar codes and shall not contain any other identification information.

5.10. The candidate who received a test assignment must make a relevant mark at the answer sheet regarding the test variant number to be passed. The number of each test variant can be found at the cover page of the test assignment.

5.11. Test passing shall consist in making a tick on an answer sheet in a box opposite to a correct variant of answer to each question. The candidate may correct the already given answer by making a tick in a field for corrections.

5.12. Duration of test passing shall comprise 180 minutes.

5.13. During the entire testing process candidates shall be allowed to use and have on their desks only test assignments, answer sheets, and a pen with blue or black ink.

5.14. The authorized representatives who supervise the testing process and find out violation made by the candidate, shall prepare an act (report) on dismissing the candidate from anonymous testing (examination) (Annex 3). The authorized representative shall make a relevant mark indicating about dismissal of the candidate from the testing and specify time of dismissal at the answer sheet of such a candidate. In case specified by the first paragraph of point 5.14 of this Regulation the candidate shall be deemed as such who failed the test, regardless of quality and content of the answers provided.

5.15. During the whole testing procedure the candidate shall have a right to refuse to pass the test, including without giving any explanations about reasons.

Should the candidate announce about refusal to pass the test, the authorized representatives shall make an act (report) on candidate's refusal to take anonymous test (examination) (Annex 4). The authorized representative shall make a relevant mark indicating about refusal of the candidate to pass the test and specify time of refusal at the answer sheet of

such a candidate. This candidate shall be deemed as such who failed the test, regardless of quality and content of the answers provided.

5.16. As the time allowed for testing passing runs out, the authorized representatives shall announce about the end of testing, where after the candidates shall be obligated to stop the work on test assignments and hand their answer sheets in to the authorized representatives.

5.17. While collecting the answer sheets the authorized representatives shall check them for damages and proper formalization (availability of all marks envisaged in the form). Should improper formalization and/or damage of an answer sheet have been revealed during their collection, the act (report) on dismissing the candidate from anonymous test (examination) shall be made. The candidate with regard to whom an act (report) on dismissing the candidate from anonymous test (examination) was made shall be deemed as such who failed the test, regardless of quality and content of the answers provided.

5.18. Right after collection of the documents listed in point 5.17 of this Regulation from the last candidate in the room, the authorized representatives make an act (report) on sealing the envelope with test materials (Annex 5). Testing materials shall be packed by the authorized representatives in a package to be sent back, and submitted to the member of the High Qualifications Commission of Judges of Ukraine and staff of the Secretariat of the High Qualifications Commission of Judges of Ukraine to be prepared for sending to the High Qualifications Commission of Judges of Ukraine with the aim of consideration of testing results.

## **VI. Processing test results**

6.1. Processing test results shall take place in the following stages:

- High Qualifications Commission of Judges of Ukraine receives packages with test papers/test materials from the testing venues;
- computer scanning of answer sheets filled by the candidates takes place;
- data received following the procedure stipulated by par. 6.6. of this Regulation is evaluated;
- the test results are posted on the official web-portal of High Qualifications Commission of Judges of Ukraine.

6.2. Upon receiving a package of answer sheets the responsible person from Secretariat of High Qualifications Commission of Judges of Ukraine in the presence of members of High Qualifications Commission of Judges of Ukraine strictly complying with the prescribed sequence of actions shall:

- open a package with test papers/materials;
- write and sign the Act/Report on opening the packages with test materials (Annex 6) start procedure of processing test results.

6.3. High Qualifications Commission of Judges of Ukraine shall ensure that answer sheets are scanned with the help of computer hardware and software (herein after — automated system), which allows computerized calculation of correct answers and allows to determine the overall score of each candidate.

6.4. The answer sheets of candidates, who refused to take the test, were dismissed from taking test, or whose answer sheets had marks/notes in addition to answers to test questions shall not be scanned.

6.5. Calculation of correct answers by automated system shall be carried out based on the following principles:

- each correct answer to one test question gives 1 point;
- wrong answer is 0 points;
- all points are summed up.

6.6. After completion of the procedure envisaged by par. 6.1 - 6.5 of this regulation the responsible/assigned structural unit of Secretariat of High Qualifications Commission of Judges of Ukraine shall print with the help of computer the data on the basis of which High Qualifications Commission of Judges of Ukraine shall evaluate the test results. Personification of the test results shall take place after all answer sheets are processed and the score of each test participant is calculated.

#### **VI. Methodology for evaluating the test results**

7.1. The test results are generated by High Qualifications Commission of Judges of Ukraine as a list of candidates who scored sufficient number of points and successfully passed the test.

7.2. When determining the number of points sufficient to recognize the candidate as such that successfully passed the test, High Qualifications Commission of Judges of Ukraine shall take into account the following criteria:

- forecast/expected number of vacancies;
- total number of candidates who sat for the test;
- anonymous test results.

7.3. The list of candidates who successfully passed the test shall be approved by the decision of High Qualifications Commission of Judges of Ukraine based on evaluation of data received following the procedure envisaged by par. 6.6. of this Regulation.

7.4. Decision of High Qualifications Commission of Judges of Ukraine passed according to the procedure envisaged by par. 7.3. of this Regulation, shall be made public by posting it on the web-portal of Ukrainian courts and published in “Golos Ukrainy” or “Uriadovyi Courier” newspapers.

#### **VIII. Safekeeping of test results**

8.1. Test materials shall be kept in High Qualifications Commission of Judges of Ukraine. Members of High Qualifications Commission of Judges of Ukraine may at any time have access to/ get acquainted with test materials.

8.2. A candidate who took part in the test has the right to submit to High Qualifications Commission of Judges of Ukraine a written application requesting to get acquainted with his/her test materials. Decision on granting or refusing to grant to a candidate the possibility to get acquainted with test materials shall be taken by the leadership of High Qualifications Commission of Judges of Ukraine.

8.3. Dissemination and using the information on personal data received when the person was taking the test is prohibited without the latter’s written consent.



### **2006 Law of Ukraine on the Enforcement of Judgments and the Application of the Case-Law of the European Court of Human Rights** (unofficial translation)

13.2. General measures are aimed at eliminating underlying systemic problem indicated in Judgment as well as its origin through:

- a) amendments to the current legislation and changes in the practice of its application;
- b) changes in administrative practice;
- c) legal review of the draft legislation;

d) professional training on the Convention and the Court's case-law of prosecutors, lawyers, law-enforcement bodies' officers, immigration service employees, other persons whose professional activity is connected with law enforcement and restriction of person's liberty;

e) other measures, which shall be determined under the supervision of the Committee of Ministers of the Council of Europe by the respondent State in accordance with Judgment. These measures shall be aimed at eliminating underlying systemic problems, ceasing violations of the Convention caused by these shortcomings and securing the maximum redress for these violations.

14.2. The Motion shall contain proposals on settlement of an underlying systemic problem indicated in the Judgment as well as its origin, namely:

a) analysis of circumstances which caused the breach of the Convention;

b) proposals as to the amendments to the current legislation;

c) proposals as to the changes in administrative practice;

d) proposals to be taken into account during the drafting of laws;

e) proposals as to the professional training on the Convention and the Court's case-law of judges, prosecutors, lawyers, law-enforcement officers, immigration service employees, and other persons whose professional activity is connected with law enforcement and restriction person's liberty;

f) proposals as to other general measures aimed at eliminating the underlying systemic problems, ceasing violations of the Convention caused by these shortcomings and securing the maximum redress for these violations.

g) list of central executive bodies in charge of execution of measures proposed in the Motion.

#### **Section 5. Final provisions**

1. This Law shall enter into force on the date of its publication.

2. The Cabinet of Ministers of Ukraine shall:

1) within one month from the entrance into force of this law:

bring its acts in line with this Law;

ensure that acts of the central executive bodies are brought in line with this Law;

2) take action and, if necessary, submit proposals to the Verkhovna Rada of Ukraine on the incorporation of questions of the study of the Convention and the Court's case-law in:

qualifying requirements for some categories of judges, prosecutors, advocates, and notaries;

programmes of initial training and further raising of qualification of judges, prosecutors, advocates, law-enforcement officers, immigration service employees, and other persons whose professional activity is connected with law enforcement and restriction of person's liberty.

3) annually envisage in a separate budgetary program of the draft State Budget of Ukraine the funds for the enforcement of Judgments of the European Court of Human Rights.

President of Ukraine V.Yushchenko

Kyiv, 23 February 2006

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