
Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

**Monitoring report of the training sessions on
property rights carried out
in the framework of the Action
“Supporting effective domestic remedies and
facilitating the of ECtHR judgments”**

This analysis was prepared by Ms Naureda Llagami

<http://horizontal-facility-eu.coe.int>

This document has been produced using funds of a Joint Programme between the European Union and the Council of Europe. The views expressed herein can in no way be taken to reflect the official opinion of the European Union or the Council of Europe.

All rights reserved. No part of this publication may be translated, reproduced or transmitted, in any form or by any means, electronic (CD-Rom, Internet, etc.) or mechanical, including photocopying, recording or any information storage or retrieval system, without prior permission in writing from the Directorate of Communications (F-67075 Strasbourg Cedex or publishing@coe.int).

© Council of Europe, June 2018

This report covers the results collected during the monitoring of training sessions held in the framework of the Action “Supporting effective domestic remedies and facilitating the of ECtHR judgments” respectively in Vlora on 7-8 June and Shkoder on 11-12 June. These trainings were organized by Council of Europe in close cooperation with the School Magistrate and State Advocate with the aim of improving training capacities within the judiciary as well as assisting interested legal professionals. The purpose of this evaluation is to:

- Assess the relevance of training activities for capacity-building of Albanian judiciary and legal professionals to apply the “Property Act” and to correctly invoke the relevant ECtHR case-law in their daily work and practice;
- Assess the relevance of training activities for the capacity building of the School of Magistrates to facilitate human rights trainings on property rights;
- Assess the quality of training materials, trainers’ capacity to facilitate qualitative trainings, trainee participation and feedback.

The assessment of the methodology draws from adult learning principle and relies on tailored made manuals developed following the HELP (Human Rights Education for Legal Professionals) methodology.

The trainings have as main theme the property rights, however in order to achieve learning objectives the theme was divided in a number of topics/modules. The program included the following six subjects (per modules as indicated below). The six modules were designed for judges and lawyer included: (1) The right to property in the ECtHR jurisprudence as reflected in the domestic legal practice; (2) Updates of the Law no. 133/2015, dated 05.12.2015 "On the Treatment of Property and the Completion of the Property Compensation Process". Problems encountered in judicial practice. (3) Review of Disputes concerning the implementation of the Law no. 133/2015, dated 05.12.2015. (4) Review of disputes concerning the decisions rendered by former Commissions for Restitution of Properties and former Agency for Restitution of Properties. (5) General principles of recognition and fair remedy of the sufferings caused by unlawful taking and holding of the property. (6) Evaluation methodology on property compensation.

In order to prepare this report, an evaluation questionnaire to assess the experiences of the training participants and to evaluate the performance of the trainers, was compiled and distributed. In addition, a 2-day training session held in Vlora and Shkoder was closely observed in view of improving future trainings.

Further, the data collected through questionnaires were examined and analyzed coupled with direct observation on open ended interviews with participants. Open interviews were conducted, on random basis, with trainers and the trainees about several aspects of the training program - to the extent that they concerned the goals of this monitoring project. Finally, the training modules and materials that the trainers used when delivering the training, were reviewed.

I. Examination of evaluation questionnaires

After the conclusion of the 2 training activities, questionnaires were distributed to the participants. The trainings sessions was attended by 47 judges from Appeal Court and District Court, lawyers and state advocates. The questionnaires were filled voluntarily and in person by the participants. They were anonymous and the participants were not required to write their names but only some personal data that will serve to a more tailored evaluation of the program and drawing of lessons learned. Given the average number of participants in each day, an average of 20 participants filled and returned the questionnaires in Vlora and 16 participants filled and returned the questionnaires in Shkoder.

The questionnaire was composed by 13 questions in total were divided into the following 2-thematic groups:

- 1) General information about the age, position and previous knowledge of the participants on the topics. This information is important to understand the composition of the target group and their level of the knowledge.
- 2) Evaluation of the training including the relevance of the training course and of particular training topics in daily work of the participants; evaluation of the capacities of School of Magistrate; the quality of the program and of the trainers; willingness of participants to attend similar training in the future and suggestions for improvements.

In the part B, the respondents were asked to rate their answers to the questions by using on a scale of 1 to 5 with 1 being the most negative and 5 being the most positive answer.

1) General information about the participants

General observations about the target-group: medium to senior level experts, judges, the results of the initial self assessment show that the participants evaluate their knowledge as very satisfactory.

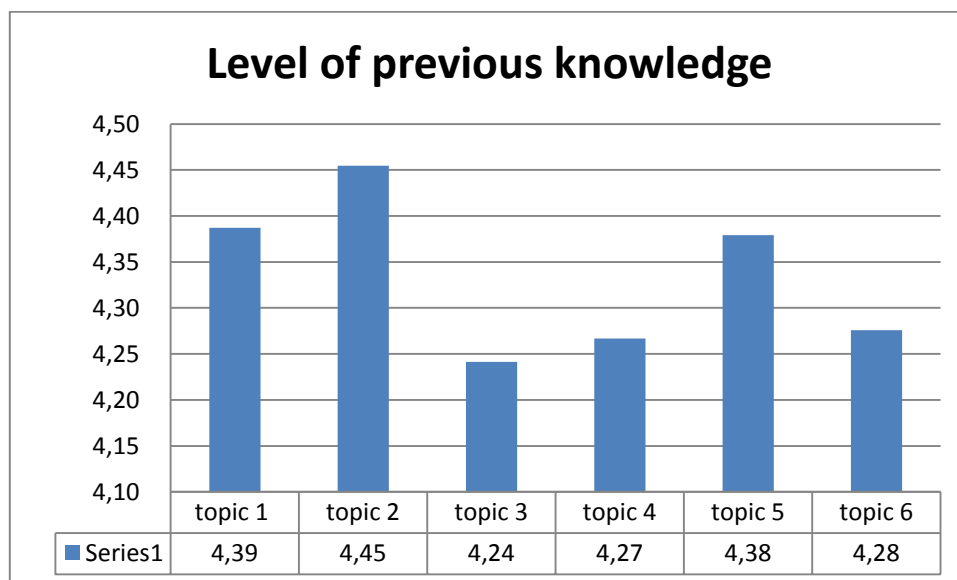
The majority of participants (58%) in the training courses belong to 35 to 50 years age group. There is a higher participation of women (21 out of 36). 29 out of 36 respondents were judges and only 7 participants were lawyers (including state advocates). F

With regard to the first set of the questions concerning the level of knowledge of the trainees, the participants have a high level of knowledge in their self assessment about all the topics (modules) that were evaluated at average over 4 (in a ranking score from 1 to 5). This assessment is understandable considering that the majority of the participants are judges with more than 5 years of work experience. According to the self-assessed the topic the participants feel more confident about is related to the application of the Law no. 133/2015, dated 05.12.2015 "On the Treatment of Property and the Completion of the Property Compensation Process" 4.45.

The topics they feel less knowledgeable are:

1. topic 3 (4.24),
2. topic 4 (4.27)
3. topic 6 (4.28).

Chart 1



Topic 1 - The right to property in the ECtHR jurisprudence as reflected in the domestic legal practice;

Topic 2- Updates of the Law no. 133/2015, dated 05.12.2015 "On the Treatment of Property and the Completion of the Property Compensation Process". Problems encountered in judicial practice.

Topic 3- Review of Disputes concerning the implementation of the Law no. 133/2015, dated 05.12.2015. Types of decisions taken by Property Treatment Agency and separation of competencies between civil and administrative courts.

Topic 4 - Review of disputes concerning the decisions rendered by former Commissions for Restitution of Properties and former Agency for Restitution of Properties.

Topic 5 - General principles of recognition and fair remedy of the sufferings caused by unlawful taking and holding of the property.

Topic 6- Evaluation methodology on property compensation

2) Evaluation of the training

i) Relevance of the training topics

Regarding the second set of question about the knowledge on the training topics, it results that more than 2/3 of the respondents (or 77%) have had similar cases in their daily work, average 5 cases. Only 4 respondents report to have had more than 5 similar cases. The overall number of reported cases is considered quite low compare to the average case-load of a judge. But since the new law on property rights in Albania has started its implementation only in February 2017, it is

assumed that the first decisions issued by ATP have been delivered by the end of 2017. However, this issue shall be investigated further in the conceptualization of the future trainings.

ii) Usefulness of the training materials and knowledge acquired through the training

The general opinion of the responders is that the knowledge acquired through the training and the materials used were useful to very useful to their daily work. The average score is 4.33. Only 2 out of 33 valid responses said that they were not useful and only less than 20% think that the materials and knowledge was somehow useful. About 80% of the responses were between 4 and 5. About 2/3 of the scores are 5.

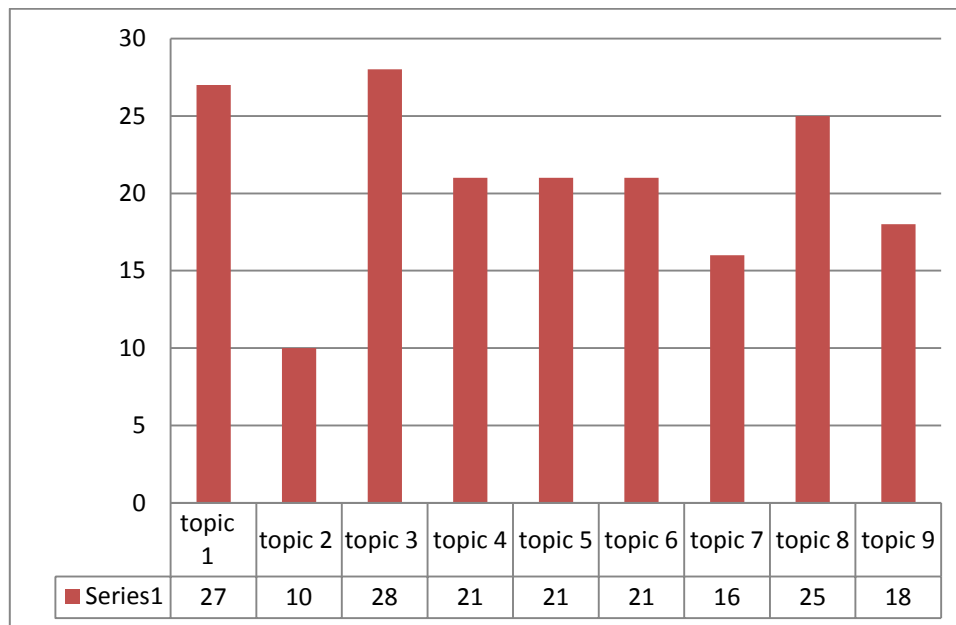
iii) The most important topics

One of the objectives of the monitoring was also to measure the interest of the participants to the topics offered. From 9 topics divided according to three main themes: (i) The right to property in the ECtHR jurisprudence; (ii) Updates of the Law no. 133/2015, dated 05.12.2015 "On the Treatment of Property and the Completion of the Property Compensation Process" and (iii) Judicial practice in national level on property rights, the respondents have chosen as the most relevant to their work the topics 3, 1 and 8, namely, the scope of the application of the law (topic 3), the Albania case law of ECHR (topic 1) and case law of the Albanian High Court (topic 8).

Other relevant topics are: types of compensation (topic 4), the methodology of property' compensation (topic 5) and types of decisions issued by ATP (topic 6).

The less relevant topics were considered: other jurisdictions property rights cases, ECtHR case law (topic 2) and first instance court cases in the Albanian jurisdictions (topic 9).

Chart 2



iv) Evaluation of the training materials and property rights handbook

Two indicators were used to assess the quality of the materials: level of comprehensiveness and usefulness. In both indicators the average score is higher than 4, namely 4.42 and 4.48. 73% of the respondents have evaluated with 5 the level of comprehensiveness of the materials and 88% have evaluated with 5 the level of usefulness.

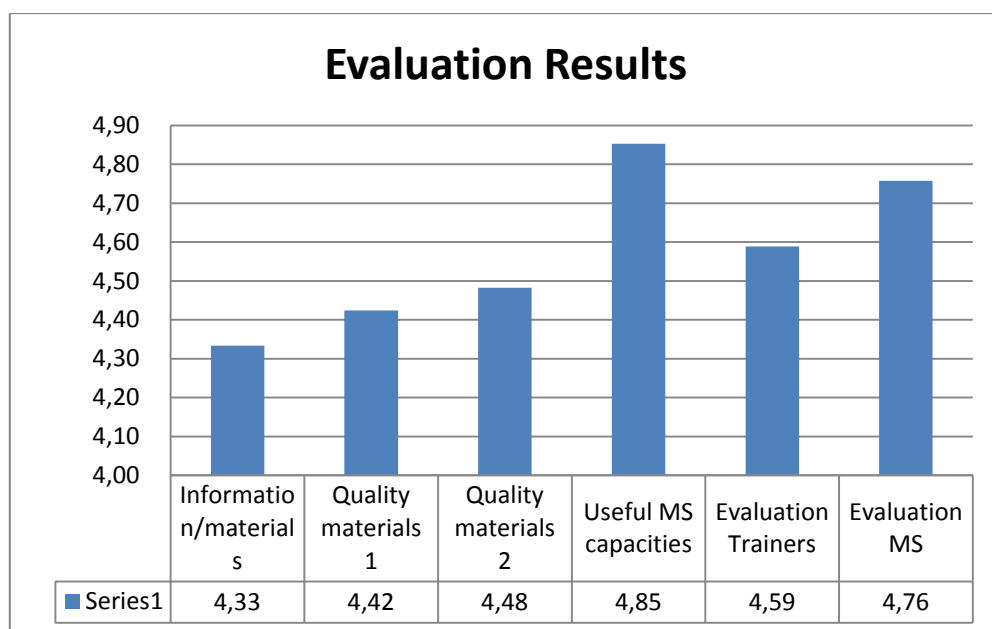
v) Capacities and preparedness of the Magistrate School

The evaluation of the usefulness of such training to increase the capacities of the Magistrate School receives the highest of scores assessed in this survey, 4.85. In addition, the School has been assessed as very helpful in organizing and facilitating such training, 4.76. It is important the School takes stock of such finding into the compilation of its training program for the next academic year.

vi) Evaluation of the trainers

Trainers have been evaluated very positively 4.59. 70% of the respondents have evaluated the preparedness of the trainers with 5. This is an outcome to be assessed further against the composition and the previous level of knowledge of training target group. Achieving such a high score with high a level group of medium and senior experts / judges speaks a lot about the level of the trainers.

Overall evaluation: Considering that the training targeted a highly experienced audience, the overall evaluation of the training was very positive ranking in all indicators above 4.3 (in a ranking scale from 1 to 5). The highest level of evaluation was given to the usefulness of such training for the capacities of the Magistrate School (4.85).



vii) Availability to similar trainings and suggestions

Participants were asked if they want to participate in trainings relating to the same topics (property rights). All respondents want to participate in similar training in the future. They have 4 suggestions about the future trainings:

1. Organize more training in the regions outside of Tirana;
2. Avoid training that praise the work of the current government or denigrate the work of the previous government;
3. Offer more case studies especially those adjudicated and solved;
4. Offer more cases from the practice especially about the appeals of the decisions from the first instance courts;

II. Observations and recommendations

In general, all the trainers showed considerable efforts and dedication to the training sessions. Compared with the time when the first ToT was held 6 months ago, the trainers clearly and undoubtedly achieved the objectives, turning the training seminar from the traditionally held lecture-based event into the one with participatory, interactive techniques.

The communication and presentation skills of the trainers also were improved. The trainers tended to be very interactive using such techniques as *guided discussions*, *brainstorming* sessions. They improved in developing self-confidence and self-control. The trainers improved also in regulating voice tone and strength, using pauses and regulating voice speed as well. The time and consistency helped to improve these communication skills.

There are certain areas where improvement is still recommended and for that purpose the following recommendations are provided:

- Considering that the majority of participants were judges, they wanted to know how European/international human rights standards may be invoked before domestic courts, what legal effects should be given to an interpretation of a Convention right given by the ECtHR (potentially also in a judgment against another State), and what may be done if application of domestic legislation is found to be in breach of Convention standards. Therefore, the trainers should refer and invoke more similar cases of ECtHR on property rights which are referred in the handbook.
- During the presentation, trainers were referring to case law of national courts, but the latter was not made available for the participants, creating difficulties of concentration and follow up the debate. Many of interviewed participants stated that will be very

helpful if they have all the material used by the trainers, in particular the recent decision of the High Court or ECtHR on property rights.

- The modules were not printed in paper form to be distributed to the participants. The trainers didn't use the PP presentation, which is considered a very effective tool in training. The structure of the training was satisfactory, but it must be developed more, to add more information regarding the case law of ECtHR and that of national court
- In general, the trainers should seek to give added value to the knowledge-skills based sessions by reinforcing appropriate attitudes and values, not just by teaching knowledge and skills. Referrals to concrete cases presented through an interactive conversational manner are encouraged when trainings of this sort are held amongst professionals.
- The trainers should improve in dealing more effectively with disruptive behavior of the trainees such as avoiding getting into polemics and keeping peer-to-peer attitude between trainer and trainees.
- During the conversations with the participants in the training, they reconfirmed the necessity that the new property law should be equally applied to all domestic courts in order to avoid different practices for the same cases. One of the issues highlighted by the participants were the lack of courts' capacities to adjudicate quickly the property cases, such as shortage of experts that can assess in proper way the financial and/or physical compensation. They all suggested that it is essential to organize more often similar in order to share practical concerns about the interpretation and implementation of the new law.
- Despite the high level of trainers which came from the Constitutional Court, the General State Advocate and the School of Magistrates the interest of participants to have a more practical approach became clear. Participants stressed the importance of assessing judicial practice and discuss how ATP decisions stand in the overall institutional set up with regard to property restitution /compensation. It has been repeatedly articulated even during ToTs and cascade trainings that judges, prosecutors and legal professionals would like to see the analysis and guidance for the application of Law 133/2015 through the case law of national courts and standards of ECtHR.
- Clearly, there is a need for further trainings. As an overall recommendation for future trainings it would be useful to take into consideration participants' needs not only in terms of substance (i.e the application of the law, the case law of ECtHR), but also the preferred form that is suitable for adult education and particularly taking into account previous knowledge of these professionals.