

EU-projekt: Podrška Pravosudnoj akademiji: Razvoj sustava obuke za buduće suce i državne odvjetnike
EU-project: Support to the Judicial Academy: Developing a training system for future judges and prosecutors

Pravosudna akademija, Judicial Academy
Heinzelova 4a, 10 000 Zagreb, Hrvatska, Croatia
Tel: + 385 (1) 4600 818

TERMS OF REFERENCE

1.	BACKGROUND INFORMATION	3
1.1.	Beneficiary country	3
1.2.	Contracting Authority	3
1.3.	Relevant country background	3
1.4.	Current state of affairs in the relevant sector.....	4
1.5.	Related programmes and other donor activities:.....	6
2.	OBJECTIVE, PURPOSE & EXPECTED RESULTS	7
2.1.	Overall objective	7
2.2.	Purpose	7
2.3.	Results to be achieved by the Consultant.....	8
3.	ASSUMPTIONS & RISKS	8
3.1.	Assumptions underlying the project intervention	8
3.2.	Risks	8
4.	SCOPE OF THE WORK.....	9
4.1.	General	9
4.2.	Specific activities	11
4.3.	Project management	14
5.	LOGISTICS AND TIMING	15
5.1.	Location	15
5.2.	Commencement date & Period of execution	15

Terms of reference

6. REQUIREMENTS	15
6.1. Personnel.....	15
6.2. Office accommodation.....	18
6.3. Facilities to be provided by the Consultant.....	18
6.4. Equipment.....	18
6.5. Incidental expenditure.....	18
6.6. Expenditure verification.....	19
7. REPORTS	19
7.1. Reporting requirements.....	19
7.2. Submission & approval of progress reports	20
8. MONITORING AND EVALUATION	20
8.1. Definition of indicators	20
8.2. Special requirements.....	20

1. BACKGROUND INFORMATION

1.1. Beneficiary country

Republic of Croatia

1.2. Contracting Authority

Ministry of Finance of the Republic of Croatia, Central Finance and Contracting Unit

1.3. Relevant country background

The reform of the judicial system in Croatia is in an initial phase. The Croatian Government adopted the national Strategy for the Justice System Reform on 22 September 2005 and it is in the phase of implementation. The Strategy encompasses, *inter alia*, the measures that will be undertaken in order to enhance professional competences in the justice system.

One of the main problems that the Croatian judiciary is facing is the widespread inefficiency of the judicial system and the amount of time needed to hand down and enforce judgments. Croatian judges, public prosecutors, court advisers and other judicial officials are with frequent amendments to laws, the lack of case law, inadequate work conditions (the lack of official journals and professional literature), and the application of new technologies and requirements that will follow from the accession of the Republic of Croatia to the European Union. The Croatian judicial officials will need to have education in the different fields of the *acquis communautaire*, which is, at the moment, one of the priorities. There are also weaknesses related to the selection and training of judges. Moreover, too many issues are brought before courts that, in principle, could be decided by other means. All these factors combine to cause a very large backlog of cases. An additional problem is that the courts and parts of the state administration do not always respect or execute in a timely way the decisions of higher courts. Citizens' rights are therefore not yet fully protected by the judiciary in accordance with the provisions of the Constitution.

The structural reform of the Croatian judicial system started with the adoption by the Government in November 2002 of a strategic document on the "Reform of the Judicial System" and an Operational Plan adopted in July 2003. This initial strategy identified a set of measures addressing a number of structural weaknesses. It included proposals for the establishment of a professional training system, alleviation of the work load in courts and simplification of court proceedings. Working group for preparing the draft amendments to the law on apprentices will be nominated during the project inception phase.

The judicial system is still recovering from a period of high staff turn-over and shortages. Vacancies are gradually being filled with young judges, attorneys and clerical staff, but a further overall increase in the number of staff has been planned in principle.

The overall budget for JA in 2004 was 2, 5 million kuna, in 2005 3, 1 million kuna and in 2006 3, 5 million kuna.

According to the Law on Courts, the judges are nominated for 5 years after which they are evaluated and become irremovable. In the Peer review of July 2005 and the Screening CH 23 it was highlighted that "initial training programme and improvement of selection procedure would allow all judges to be nominated permanently and not the 5 probation years as it is the case now."

In 2005, upon the request of the Municipal court in Zagreb, the JA organized 5 workshops for advisors and apprentices and 3 workshops during 2006.

1.4. Current state of affairs in the relevant sector

According to the Stabilization and Association Agreement, the Ministry of Justice has the responsibility to implement a Strategy for the Reform of the Judiciary to enable the judiciary for cooperation with the EU institutions. In addition, the Ministry of Justice has to implement the EU policies, legal instruments and decisions in the field of Justice and Home Affairs.

The Judicial Academy (the former Centre for Professional Training of Judges and other Judicial Officials) has been established now as an institute within the Ministry of Justice that performs permanent training of judges, state prosecutors, court and prosecutor advisors and apprentices in legal bodies, as well as civil servants in the judicial system. According to the Regulation on the Internal Structure, the Judicial Academy is divided into two sectors: the Sector for Research and Development of Professional Training and the Sector for the Implementation and Delivery of Professional Training. Within the Sector for Research and Development, there is a Department for Court and Prosecutor Apprentices, whose tasks will be to create and implement training curricula for apprentices. The Head of this Department has been appointed in April 2007.

MoJ gives full support to the Judicial Academy as the only official institution in the Republic of Croatia responsible for permanent education and professional development of judges, state prosecutors, court advisers, court apprentices and other court officials. Furthermore the training of judges/prosecutors is compulsory and taken into account in their career development and evaluation.

MoJ gives financial support to the JA to carry out its activities and pay its tutors, and foresees the attribution of permanent premises to the JA.

The clear intention, according to the Ministry of Justice of the Republic of Croatia, is to work on further development of the Judicial Academy (JA) and its educational activities involving the target group of court and state prosecutor's office apprentices that has not been involved in the Judicial Academy's programmes yet. In order to perform this task, the Ministry intends to draft a new Law on Apprenticeship, as well as other necessary bylaws using the experience collected during the implementation of this project. The JA recruits additional staff that would be in charge of the curricula of apprentices.

Considerable efforts have been made since 2004 in order to strengthen the role of the Academy to build its capacities. By increasing the budget for 2005 by almost 100%, financial conditions have been created for its optimal functioning. The whole budget is intended for further development of educational activities within the Academy. Employment of additional legal staff is in progress.

The current law which regulates the system of apprenticeship in Croatia (Judicial Bodies Apprentices and Bar Exam Act) is taken over from the former Yugoslav legislation and it is considered not to correspond to the actual needs. There are currently 364 court apprentices and 88 public prosecution trainees.

Among its employees, up to now, the JA has recruited a senior judge and a senior state prosecutor as Heads of Research and Development Department and experts in certain fields of law, to develop, carry out and supervise educational activities, mainly interactive workshops, seminars and round tables. JA recruits senior judges and prosecutors from all regions for trainers and they work on a work contract. During 2004 and 2005, 133 experts went through the programme "Training of Trainers". Most of them have already participated as trainers in the JA's activities.

During 2006, the JA delivered professional trainings in the following fields of law: Tort Law, War crimes proceeding, Human rights protection through the court practice of the ECHR, Family Law, Enforcement Law, Mutual Assistance in the U in Criminal and Civil matters, Property Rights Enforcement in the EU, Liability for damage and the new Civil Obligations Act, Protection of the right to fair trial, Pronouncement and execution of criminal sanctions – community service sentences and suspended sentences with protective supervision, The judiciary and the media: the role of spokespersons, Transfer of ownership on the ground of law and contract, Psychological and legal aspects of interrogating witnesses, Psychological examination of a child victim of violence, Technique of writing judgments in the civil procedure, The suppression of trafficking in human beings, Basic principles of EU law and the proceedings before the ECJ (in cooperation with TAIEX)

According to the short-term priorities of the European Partnership, Croatia needs to develop and implement a comprehensive strategy for the judiciary reform in consultation with interested bodies, including the adoption of necessary new legislation and the establishment of a career management system which also includes an open, fair and transparent system for recruitment, evaluation and mobility; enhance professionalism in the judiciary by ensuring adequate state funding for the training institutions for judges and other judicial officials, allowing it to develop high quality training for judges, prosecutors and administrative staff; provide for adequate initial and vocational training schemes; address the problem of backlog in courts; take measures to ensure proper and full execution of court rulings (European Partnership, page 6).

1.4.1. According to the Croatia 2005 Progress Report, in relation to the efficiency and quality of the judiciary, the Judicial Academy was established in March 2004 with the task of providing continuous professional training for the judges, state prosecutors, judicial advisors and trainees; however it is still in the process of becoming fully operational. There are currently 14 staff members including the Director (a significant increase since the Opinion). In addition to the central administration in Zagreb, 4 fully equipped regional centres were established and the Regional centre in Split is to be equipped. The workshop-based curriculum is in place, but undergoing further development. Standard and specialised programmes have been created with EU assistance and by mid-2005, 1,054 participants had attended the former and 715 the latter.

A “train the trainers” programme has been carried out, covering 40 judges from Zagreb and Rijeka. A coordinated professional training system comprising both theoretical and on-the-job training needs to be introduced for trainee judges and prosecutors, with the close involvement of the Judicial Academy. Currently, traineeships are organised by individual courts and prosecutors’ offices; there is no common framework for the supervision of training, so that clearer guidance and support needs to be given to both trainees and mentors. In 2005, upon the request of the Municipal court in Zagreb, JA organized 5 workshops for advisors and apprentices and 3 workshops during 2006.

Hence, adequate support needs to be given to the Judicial Academy, including developing the system of pre-service training, and further investments are needed in court premises and IT. Consideration should also be given to developing an objective, uniform system of ongoing professional evaluation, which covers not only efficiency, but also competence, and links career advancement with professional achievement.

According to the short-time priorities of the Council decision on the Principles, Priorities, and Conditions contained in the Accession Partnership with Croatia (2005), the judicial system should establish an open, fair and transparent system recruitment, evaluation and

promotion and enhance professionalism in the judiciary by ensuring adequate state funding for high quality training for judges, prosecutors and administrative staff.

As, according to the National Programme for the Integration of the Republic of Croatia into the EU - 2005, the success of the judicial reform also depends on the quality, professionalism and advancement opportunities of judicial employees in line with clearly defined criteria, and proceeding from the already existing practice in EU states, it had been planned that the Ministry of Justice would begin implementing a special training programme for court and prosecutor apprentices at the Judicial Academy in 2005, based on the new Law on Apprenticeship to be adopted in 2005, with a view to ensuring an objective, fair and transparent method in their employment and promotion. (NPJEU, page 45).

According to the National Programme for the Integration of the Republic of Croatia into the EU - 2006, during 2005 Judicial Academy has successfully delivered programmes for education and training of judges, public prosecutors and court advisors (standard and specialised training and initial training for court advisors) on the following subjects: Introduction to EU Law, War Crimes, Intellectual Property Rights, Croatian Competition Policy in line with EU standards and practice, Family etc. In 2005, 793 judges, public prosecutors and advisors have passed standard training, while 559 judges, public prosecutors and advisors have passed specialised training. 28 judges have passed initial training of trainers and 25 judges have passed "follow up" to the train-the-trainers programme.

From 30 June 2005 to November 2006, 839 participants attended standard training programme workshops and 2,558 participants attended specialized training programme workshops. During the above-mentioned period, 172 judges and prosecutors were trained in modern teaching methodology (training of trainers), as well as in IT skills.

By the end of 2006, the staff of the Judicial Academy grew up to 15 members. Coaching and training of the management and staff in basic human resources management, budget and finance, accounting, event planning, general management techniques, and other relevant fields helped to enhance the Judicial Academy's specific needs.

The Ministry of Justice intends to use the experience lected during the implementation of this project in order to draft a new Law on Apprenticeship and to develop a training system and selection of future judges and prosecutors.

1.5. Related programmes and other donor activities:

The previous EU project CARDS 2001 "Reform of the Judiciary – Support to the Judicial Academy of Croatia" has contributed to the process of of an independent and professional justice system in Croatia. In order to meet the basic training needs of Croatia's judges and prosecutors, a Court-Integrated Training System was introduced. This System is built on 2 pillars, the Judicial Academy in Zagreb and a network of Regional Training Centres at county courts. The Court-Integrated Training System is now being tested through a pilot training programme, for which 2 pilot Regional Training Centres were set up, one at the County Court of Zagreb and the other at the County Court of Rijeka. The institutional building part of the project aimed at the strengthening of the Judicial Academy. The new organisational structure proposed by the project team the new training system and the Academy's role within the system. The beneficiary institution was the Judicial Academy.

Through the programme CARDS 2003 "Training and Education of Prosecutors", the Judicial Academy is developing a training system for prosecutors and raise their ability to deal with community law. The final Recipients of the Action are the Judicial Academy and the Public Prosecutor's Office. The Action's implementation period is 18 months. Components in this project are:

Terms of reference

Institution Building - Reinforcement of the Judicial Academy capacity, Study visits to France and Spain, Visibility/media events.

Training of Prosecutors - Training Needs Analysis, Development of courses and preparation of teaching materials, Training of trainers, Delivery of courses.

Nine legal subjects have been selected and 24 modules/ materials should be prepared. Forty-one public prosecutors were trained (ToT). The Regional centres in Osijek and Split are set up (Municipal Courts), The Regional centre in Split is being equipped at the present moment.

The programme of the American Bar Association's Central European and Eurasian Law Initiative ("CEELI"), with the support of the U.S. Department of State proposes, started in January 2005. The main aim of the programme is to increase the capacity of the Croatian justice system to investigate, prosecute, and adjudicate war crimes cases domestically. The program would also enhance Croatia's ability to handle other complex criminal law matters. The main program activity is to develop, pilot, and implement a continuing professional education curriculum for each of the program's main constituencies: police, prosecutors, defence attorneys, judges, and other judicial officials. The program is focusing on enhancing the professional expertise and skills required to fair investigate, prosecute, and adjudicate war crimes and other complex criminal matters. All course curricula, materials, and educational resources developed through the program would remain at the disposal of the relevant Croatian educational institutions for continued use after the CEELI's support ends. The project is finished in June 2006.

United Kingdom financed the project "Capacity Building Support to the Judicial Academy" whose implementation started in July 2005 (only short-term expertise). The aim of the project is to support the MoJ in the implementation of its Judicial Reform Strategy through assistance in the capacity building of the JA and directly improve the effectiveness of inter-agency coordination between the judiciary and prosecution and training within each institution. The project should be completed by the end of June.

The Faculty of Law in Zagreb implements TEMPUS project "Reform of Croatian Legal Education". The Ministry of Justice is fully supporting this project. The main aim of the project is to develop a national strategy and a detailed action plan for the reform of the Croatian higher legal education in accordance with the Bologna Process.

There should not be any overlapping risk between the PHARE and TEMPUS projects, because the TEMPUS project is targeting university education and not lawyers with a degree. It is an advantage that the Law Faculty will develop its programme in conjunction with the PHARE project.

The Judicial Academy is one of the consortium members of the TEMPUS project "Foreign Languages in the Field of Law" for which the application form was sent in January 2006. The main beneficiaries of this project will be Croatian Law Faculties.

The proposed PHARE 2005 project represents a logical continuation of the above-mentioned CARDS projects.

2. OBJECTIVE, PURPOSE & EXPECTED RESULTS

2.1. Overall objective

The overall objective of the project of which this contract will be a part is as follows:
Strengthening the effectiveness and proficiency of the Croatian judiciary.

2.2. Purpose

The purpose of this contract is as follows:

To develop a training system and selection of future judges and prosecutors.

2.3. Results to be achieved by the Consultant

1. Amendments to the Law on Apprentices and the content of the Bar Exam, as well as the laws regulating the selection and appointment of judges
2. Strategy for the selection criteria and recruitment procedure of future judges and prosecutors being improved
3. Strategy for the training of future judges and prosecutors designed and relevant training curricula/modules developed
4. Access to legal information for apprentices and court advisers improved, as well as the training networks strengthened.

3. ASSUMPTIONS & RISKS

3.1. Assumptions underlying the project intervention

- (1) Trained apprentices and advisors, as well as trainers trained through project, remain in service.
- (2) The training structure set up under the previous CARDS projects will be further developed and the existing pool of trainers/tutors will be used for the current project.
- (3) All stakeholders give support to the established system for the training of judges and prosecutors.
- (4) CARDS 2001 project Reform of the Judiciary - Support to the Judicial Academy of Croatia successfully implemented, CARDS 2003 project Training and Education of Prosecutors well underway.
- (5) Continued staffing within the Department for apprentices of the JA and other relevant departments within the JA.
- (6) The JA will continue to develop its other training activities and training programmes in addition to the above mentioned activities developed within the CARDS project 2001 "Reform of the Judiciary" and the CARDS project 2003 "Education and Training of State Prosecutors.
- (7) The Ministry of Justice and the Government are committed to improve legal framework for a more objective selection and recruitment procedure of future judges and prosecutors.

3.2. Risks

- (1) Difficulties in recruiting additional staff to be in charge of the curricula for apprentices.
- (2) Lack of co-operation and common understanding among relevant parties in the Judicial sector (Judicial academy, Supreme Court, Association of Judges, State Judicial Council, and General State Attorneys Office etc.).
- (3) Resignation of trained trainers from the Judicial Academy.

4. SCOPE OF THE WORK

4.1. General

4.1.1. Project description

The current law which regulates the system of apprenticeship in Croatia (Judicial Bodies Apprentices and Bar Exam Act) is taken over from the former Yugoslav legislation and it is considered not to correspond to the actual needs. There are currently 364 court apprentices and 88 public prosecution trainees.

Judicial trainees and public prosecution trainees are hired by courts and public prosecution services for traineeship, in accordance with the Act on Trainees in Judicial Bodies and the Bar Examination and the Regulation on the composition and modes of work of Appointment Boards responsible for filling trainee vacancies in judicial bodies. The court president or the head of the public prosecution service informs the Ministry of Justice about their needs for filling trainee vacancies. The Minister of Justice publishes an announcement and interested candidates file their applications in response to this announcement. On the basis of the information on candidates that have been collected (academic performance, the length of study and dean's or chancellor's awards received) and the opinion of the court president and the public prosecutor, who conduct interviews with the candidates, the Appointment Board of the Ministry of Justice makes a proposal for assignment of trainees. The Appointment Board proposes the same numbers of candidates as there are vacancies to be filled. Decisions on the selection of trainees are rendered by the Minister of Justice.

The current system of apprenticeship is organised in a way that apprentices are trained at municipal, commercial and county courts, as well as municipal and county prosecutor offices. Each court/prosecutor office is responsible for the organisation and content of its apprentices' preparation for judicial practice. There is no institutionalized co-ordination among courts/prosecutor offices of one city, or institutionalised co-operation between smaller courts/prosecutor offices of different (neighbouring) or centralised supervision and control. Almost each court/prosecutor office runs a different approach, even the overall duration of an apprenticeship varies from court to court/prosecutor office to prosecutor office between 18 months and two years.

Within the courts/prosecutor offices it is in principle the President's Office that is in charge of the apprenticeship. However, the Presidents' Offices discharge their responsibility in different ways. At some courts/prosecutor offices the President's Office organises every step of the apprentice, e.g. looks for an appropriate judge/prosecutor ("mentor") to train the young colleague or arranges for a practical stage at another court or at a prosecutor's office. At other courts/prosecutor offices, apprentices have to fend for themselves. Sometimes apprentices are lucky to find an experienced judge/prosecutor, who volunteers to coach them supportively. Quite often apprentices do not succeed and do not receive the appropriate practical training and support.

Besides the practical work at the court/prosecutor office, apprentices are not provided with any complementary education through courses or seminars, which would widen and deepen their knowledge in practice-related legal or non-legal fields.

The large diversity of ways shows serious efforts of both sides, courts/prosecutor offices and apprentices, to cope with the problem of organising an appropriate apprenticeship, respectively benefiting from it. However, both groups leave themselves as left alone, and complain rightly about the lack of any concept or guideline for the whole country.

Court/Judicial Advisers and Prosecutor Advisers can also become judges or prosecutors after a certain period of time spent in the office/court. To be recruited as an adviser, it is necessary to pass the Bar exam. Currently, there are 544 judicial advisers and 119 prosecutor

advisers. They are eligible to become judges/prosecutors depending on the selection procedure of the State Judicial Council and State Prosecutor Council. However the selection procedure is based on eligibility criteria rather than technical requirements. Therefore, the project is expected to give recommendation on how to improve the selection procedure.

Croatia, therefore, needs a nationwide standardised system of apprenticeship, since the current system suffers from the lack of uniformity. Due to that, it is impossible to ensure an equal quality standard, which requires one uniform programme and curriculum, effective supervision and control, and evaluation of performance.

This project will focus on setting up such a nationwide standardised system ensuring both practical and theoretical training. The system should be developed by the project and piloted before the completion of the project. The project should ensure that the suggested system will be sustainable and based on national consensus for the future training of young lawyers. The Judicial Academy will have to play an important role in ensuring that the new system will be implemented nationwide. It is, furthermore, important that a transparent selection procedure as well as remuneration rules are put in place. Questions concerning employment and job security should also be addressed.

Inspiration for what system should be used could be sought from different EU countries, in particular some of the younger Member States which have gone through a similar reform process in their training of young lawyers. In particular this could be relevant when suggesting the necessary legal framework.

Through the project, a new system (strategy) of analysing future staffing needs and recruitment of apprentices, advisors, judges and prosecutors should be designed, enabling the establishment of an efficient mechanism of assessing the needs for new judges/prosecutors, recruitment of candidates for future judges/prosecutors and finally their comprehensive education, as well as enhancing communication and coordination among all stakeholders in the process (different departments of the MoJ, courts, state prosecutor offices).

In parallel with the development of a new system apprenticeship the competence of the Judicial Academy (JA) needs to be improved. This is vital in order to ensure that the JA will become the strong national training body as intended by the Ministry of Justice. Therefore the project needs to work, *inter alia*, with educational skills, give further training to the trainers of the JA, introduce interactive teaching techniques to newly recruited internal and external trainers of the JA, as well as develop and deliver targeted training for court advisors. In addition, communication, co-ordination and co-operation between the different actors in the judicial system need to be improved and the project should find suitable means for this. In this context study visits to other similar training institutions in the EU could be a source of inspiration. In December 2006 an Advisory Board and the Programming Committee were established. The Judicial Academy, through the Advisory Board, should have clear training policy and guidelines for implementing its future activities. Through the Programming Committee, short, mid and long term programmes should be designed. In that context training interests of prosecutors and judges should be guaranteed.

4.1.2. Geographical area to be covered

Most activities will take place in Zagreb at the Judicial Academy and the regional training centres of the Judicial Academy at the County Courts in Zagreb and Rijeka. Activities could also take place in other places in the country such as Valbandon (Ministry of the Interior training accommodation nearby Pula) and other county courts (Split, Osijek, Varaždin).

4.1.3. Target groups

Court and prosecutor apprentices, court and prosecutor advisors, future judges and prosecutors.

4.2. Specific activities

Within this project the Consultant will implement the following activities:

Inception phase

During the first eight weeks of the project, the consultants' team will carry out the following activities:

- Ø Establishment of the project's head office in Zagreb.
- Ø Recruitment of local support staff.
- Ø Decisions concerning the effective deployment of the members of the team of consultants.
- Ø Review of all relevant researches, data, reports and documentation.
- Ø Establishment of contact with regional bodies and field visits.
- Ø Project presentation for a wider community.
- Ø Meetings with all relevant stakeholders to ensure their awareness of the project, and to confirm their participation in the project.
- Ø Additional reporting as follows:

Inception report:

An inception report must be submitted within eight weeks after the start of the project. The inception report will:

- Ø Define clearly the objectives of the technical assistance,
- Ø Detail any changes agreed with the main Project Partner that were not specified in the Terms of Reference,
- Ø Set out a detailed work plan and time schedule for the project duration,
- Ø Contain an overall plan of action for whole project duration,
- Ø Provide a detailed description of the content of the individual components of the project.

The Consultant will submit the inception report to the addresses listed under point 7.2. The Consultant is expected to have obtained the support of the relevant beneficiary institutions for the Inception Report prior to its submission to the Contracting Authority.

Monthly progress reports

In addition to the interim reports, the Consultant should produce on a monthly basis and one week before each project meeting a short report (maximum two pages) highlighting the progress made (milestones, outputs) during the previous month, the work plan for the

Terms of reference

following months, information on problems encountered recommendations for remedial actions. The structure of the report will be agreed with the CFCU Project Manager and the Project Partner.

Besides any formal reports otherwise mentioned in these Terms of Reference, the Consultant will provide information on project progress as it is reasonably required by the principal partner or Contracting Authority, and will inform the principal partner or Contracting Authority of any political, economic or institutional developments which are of concern to the project.

The Consultant shall in particular provide the MoJ with electronic and hard copies of:

- Ø Evaluation outcomes;
- Ø Recommendations of development of the software;
- Ø Training material prepared under this project;
- Ø Information material;
- Ø Technical reports prepared by the short-term experts
- Ø All other technical reports foreseen in the activities

Component 1: Amendments to the Law on Apprentices and Exam (or drafting a new Law on Apprentices and Bar Exam) and improvement of selection procedures of judges and prosecutors

Make recommendations for development of laws/by-laws regulating the access to the judge/prosecutor profession through appropriate training and judicial exam.

The **recommendations** should be related to the following issues:

- 1.1. Drafting of the Law on Apprentices, requirement of the Bar exam and setting up of objective criteria for the selection of future judges and prosecutors. Project should also cover the change of the relevant articles of the Law on Courts and the Law on State Judicial Council (selection procedure);
- 1.2. The selection procedure to become judge and prosecutor, including the general requirements for the Bar exam;
- 1.3. To allow the permanent nomination of judges and abolish the 5 years “probation period” though a structured initial training, selection and evaluation system;

Component 2: Design of a strategy for the recruitment, career management and training of

future judges and prosecutors

- 2.1. Analyse the future staffing needs, career development and recruitment of apprentices, advisers, judges, prosecutors;
- 2.2. Conduct a general training needs analysis for future judges/prosecutors with a special focus on Apprentices. Topics that trainers will be trained in will be defined according to the training needs analysis;

Terms of reference

- 2.3. Structure and duration of the court apprenticeship, recruitment procedure, supervision and monitoring of the training system whereby the overall responsibility for the training system remains under the Judicial Academy, with coordination mechanisms for the training programme and curricula design, as well as the implementation of the training sessions;
- 2.4. Design a general strategy for the training of future judges/prosecutors and draft a 3 years multi annual training strategy plan

Component 3: Development of a sustainable training system for apprenticeship, as well as piloting of training modules in selected regions under the responsibility of the Judicial Academy

The Judicial Academy of the Ministry of Justice is in charge of training judges and other justice officials, advisors, as well as court and public prosecution service trainees in justice bodies. The Department for Court and Public Prosecution Service Trainees has been established at the Judicial Academy and is in charge of developing an integrated training system at courts for court and public prosecution service trainees. Educational materials for each new topic are prepared by the Judicial Academy, and they consist of a manual for workshop leaders, a manual for participants and a CD. These materials are a combination of theory and practice with the emphasis on examples from case-law and hypothetical cases. They are prepared jointly by judges and/or public prosecutors and scholars. They are employed by the JA and paid on the basis of a work contract.

The JA ensures the following:

1. Integrated system of professional development at courts, with decentralized implementation of activities.
 2. Interactive workshops for 15-25 participants, multidisciplinary approach, connecting theory and practice, acquiring knowledge and improving skills.
 3. Trainers are mostly experienced practitioners who have undergone “Training of Trainers” (ToT).
- 3.1. Creating at the Judicial Academy a proper structure and the means to handle training of future judges/prosecutors;
 - 3.2. Train the trainer programme; A minimum of 25 judges/state prosecutors will be taught to train apprentices. Each tutor will be trained for a particular topic or several topics which will be defined according to the training needs analysis;
 - 3.3. Develop a dual system of apprenticeship consisting of:
 - (1) A practical programme focusing on the daily work at the court and providing opportunities for contacts with all relevant fields of the legal profession,
 - (2) Regular seminars and workshops on practice-related topics. Number and topics for seminars/workshops will be developed through TNA.

Terms of reference

- 3.4. Run a pilot of the developed system on a regional basis for approximately 60 court apprentices and advisers;

Component 4: Improvement of access to legal information for apprentices, court advisers

as well as strengthening of the training networks

- 4.1. Develop methodology on how to improve the flow of information and communication between the judiciary, law faculties, Bar Association, professional organisations, civil society and the JA in terms of training of the judiciary;
- 4.2. Develop methodology on how to improve the accessibility of information for decision by the judicial staff, as well as IT tools for the proper access to legal documentation (legal databases in Croatia, case law of the Supreme court as well as the European Court of Human Rights);
- 4.3. Create a cooperation network with the EU Member states training institutes through study visits and other means of cooperation, e.g. exchange of experts. The study visits should take place in EU Member states (2 study visits for 4-6 participants, members of the Advisory Board of the JA and JA staff); duration of each study visit will be 4 working days). At the end of the two study visits, participants should have acquired a good knowledge of the functioning of the visited training institutions. They will submit a report including the information that the participants have acquired about the visited training institutions that could be included in the Judicial Academy training strategy.

4.3. Project management

4.3.1. Responsible body

Ministry of Finance of the Republic of Croatia, Central Finance and Contracting Unit (CFCU) will act as Contracting Authority.

The Contracting Authority for project implementation is the CFCU (Central Finance and Contracting Unit) that has been established as part of the structure of the Ministry of Finance of the Republic of Croatia. A project manager will be appointed among the staff of the Tendering and Contract Implementation Division of the CFCU (Central Finance and Contracting Unit). The Project Manager may decide on all issues related to the technical elements of this project (mainly the deliverables as outlined in section 4.2. of these Terms of Reference), as identified in Article 8 of the Special Contract. He/she will however always do this in consultation with the PIU at the beneficiary institution.

4.3.2. Management structure

The project partner institution is the Judicial Academy, where a project implementation unit (PIU) will be located.

The Judicial Academy is organised as an Institute within the Ministry of Justice of the Republic of Croatia. It performs permanent training of judges, state prosecutors, court and prosecutor advisers and apprentices in legal bodies, cooperates with courts, law faculties, judicial organizations and bodies in the Republic of Croatia on the delivery and

implementation of professional training. The JA also cooperates with international institutions and bodies in the field of permanent professional training.

Project Steering Committee (PSC)

A PSC should be created with the aim to constantly orient and supervise the overall implementation of the Project and indicate possible changes to be introduced. Members of the PSC should be: a) Consultant's Team Leader / Project Director; b) Director of the Judicial Academy; c) President of the Supreme Court of Croatia or his representative; d) Prosecutor General or his representative; e) Heads of the JA's Regional Training Centres; f) Sector Manager in the EC Delegation in Zagreb; g) Representatives from the Contracting Authority, h) Representatives of the Central Office for Development Strategy and Co-ordination of EU Funds. The PSC will be meeting every six months.

Project Implementation Unit (PIU)

A Project Implementation Unit should be established within the JA in charge of the daily management of the Project.

It will consist of the JA (and possibly Ministry of Justice) staff and headed by the Director of the JA or his representative.

4.3.3. Facilities to be provided by the Contracting Authority and/or other parties

The Ministry of Justice, the Judicial Academy will also provide access to communication facilities (fixed telephone, telefax, Internet, photocopier) for all experts. The costs of telephone calls, Internet connection, etc. will be paid from the incidental expenditure of the project.

5. LOGISTICS AND TIMING

5.1. Location

Project activities should be carried out within the premises of the Judicial Academy in Zagreb as well as at its Regional Training Centres at the County Court in Zagreb and Rijeka. Activities eventually can be carried out in other parts of the Republic of Croatia (e.g. other County Courts, etc.).

5.2. Commencement date & Period of execution

The intended commencement date is December 2007 and the period of execution of the contract will be 23 months from this date. Please refer to Articles 4 and 5 of the Special Conditions for the actual commencement date and period of execution.

6. REQUIREMENTS

6.1. Personnel

6.1.1. Key experts

All experts who have a crucial role in implementing the contract are referred to as key experts. The profiles of the key experts for this contract are as follows:

Key expert 1: Team Leader (minimum 420 working days)

Terms of reference

Qualifications and skills

- University degree in law or equivalent
- Proven organisational and leadership skills, experience on this jobs has to be proven in the written form with the list of the jobs and projects in which he participated.
- Good command of the English language, both written and spoken;
- knowledge of Croatian is an asset

General professional experience

- Preferable 10 but at least 5 years of professional teaching experience in the field of legal education
- Minimum 2 years experience in managing international institutional capacity building projects.

Specific professional experience

- Practical experience in drafting legislation
- At least 5 years practical experience in the development or management of an organisation involved in the direct delivery of judicial training in an EU member state and/or transition country
- Familiarity with the existing judicial education and training system in Croatia would be an asset

Key expert 2: Legal Expert (minimum of 80 working days)

Qualifications and skills

- University degree in law
- Good command of the English language, both written and spoken; knowledge of Croatian is an asset

General professional experience

- Preferable 5 but at least 3 years of experience in law and by-law drafting in the filed of judicial reform

Specific professional experience

- Experience in the development of an organization invol in the initial training of judicial staff.

Key expert 3: Expert in Judicial Training (minimum 140 working days)

Qualifications and skills

- University degree in law or public administration
- Good command of the English language, both written and spoken; knowledge of Croatian is an asset

General professional experience

- Preferable 5 but at least 3 years of experience in the development of an organization involved in the direct delivery of initial training and training curricula design

Specific professional experience

Terms of reference

- Practical experience in drafting strategies based on training needs analysis
- Familiarity with the existing education and training system in Croatia would be an asset

6.1.2. Other experts

There should be a minimum of **330 working days** for the short-term experts. CVs for experts other than the key experts are not examined prior to the signature of the contract. They should not have been included in tenders.

The Consultant shall select and hire other experts as required according to the profiles identified in the Organisation & Methodology. These profiles must indicate whether they are to be regarded as long-term/short-term and senior/junior so that it is clear which fee rate in the budget breakdown will apply to each profile. All experts must be independent and free from conflicts of interest in the responsibilities accorded to them.

The selection procedures used by the Consultant to select these other experts shall be transparent, and shall be based on pre-defined criteria, including professional qualifications, language skills and work experience. The findings of the selection panel shall be recorded. The selection of experts shall be subject to approval of the Contracting Authority and the European Commission Delegation.

Note that civil servants and other staff of the public administration of the beneficiary country cannot be recruited as experts, unless prior written approval has been obtained from the European Commission.

6.1.3. Support staff & backstopping

The Consultant is expected to provide a sound backstop to be provided and to put down in the technical offer the mechanisms of backstopping.

The backstopping team (headed by an experienced Project Director) shall have the overall responsibility for the smooth and timely implementation of the project and the efficient use of project funds. The Backstopping Team will coordinate the overall project activities from the Consultant's headquarters, ensure proper reporting to the Contracting Authority according to EC reporting guidelines and requirements, ensure coordination between the project office, the Consultant's headquarters and the Judicial Academy and finally ensure proper administrative control of the project's expenses, preparation of invoices with supporting documentation, and the timely delivery of reports.

A Project Assistant (23 months) shall support the Team Leader in the day-to-day administrative and logistical management and organization of the project, so as to ensure that the latter can fully concentrate on his/her technical tasks. The final selection of the Project Assistant shall be subject to approval by the beneficiary institution.

He/she will have the following responsibilities:

- Ensure coordination between the project office and the Project Partner
- Manage (under supervision of the Team Leader) and support project staff if required (key-experts, short-term experts, translators, interpreters, etc.)
- Organize logistics for project activities (rooms, projectors, etc)
- Ensure first level administrative control of the project's expenses, and the timely delivery of reports

Terms of reference

The costs of backstopping and support staff must be included in the fee rates of the experts.

6.2. Office accommodation

Office accommodation of a reasonable standard and of approximately 10 square metres for each expert working on the contract is to be provided by the beneficiary country.

6.3. Facilities to be provided by the Consultant

The Consultant shall ensure that experts are adequately supported and equipped. In particular it shall ensure that there is sufficient administrative, secretarial and interpreting provision to enable experts to concentrate on their primary responsibilities. It must also transfer funds as necessary to support its activities under the contract and to ensure that its employees are paid regularly and in a timely fashion. The consultants shall bring their own computers/lap tops. If the Consultant is a consortium, the arrangements should allow for the maximum flexibility in project implementation. Arrangements offering each consortium member a fixed percentage of the work to be undertaken under the contract should be avoided.

6.4. Equipment

No equipment is to be purchased on behalf of the Contracting Authority / beneficiary country as part of this service contract or transferred to the Contracting Authority / beneficiary country at the end of this contract. Any equipment related to this contract which is to be acquired by the beneficiary country must be purchased by means of a separate supply tender procedure.

6.5. Incidental expenditure

The Provision for incidental expenditure covers the ancillary and exceptional eligible expenditure incurred under this contract. It cannot be used for costs which should be covered by the Consultant as part of its fee rates, as defined above. Its use is governed by the provisions in the General Conditions and the notes in Annex V of the contract. It covers:

- Travel costs and subsistence allowances for missions to be undertaken as part of this contract from the base of operations in the beneficiary country. The above applies to the Key experts and other experts.
- Costs of training activities, visibility events, rental of premises, catering, interpretation, translation, access to legal databases and IT tools.
- Costs of printed materials, web site design, questionnaire for training needs analysis.
- Training events in Croatia will be co – financed by the JA in the way that it covers the subsistence and accommodation costs of local participants to these events.
- The costs of telephone calls and Internet connection.

The Provision for incidental expenditure for this contract is EUR 200.500. This amount must be included without modification in the Budget breakdown.

Any subsistence allowances to be paid for missions undertaken as part of this contract from the base of operations in the beneficiary country must not exceed the per diem rates published on the Web site http://ec.europa.eu/europeaid/work/procedures/index_en.htm at the start of each such mission.

6.6. Expenditure verification

The Provision for expenditure verification relates to the fees of the auditor who has been charged with the expenditure verification of this contract in order to proceed with the payment of pre-financing instalments if any and/or interim payments if any.

The Provision for expenditure verification for this contract is EUR 30.000. This amount must be included without modification in the Budget breakdown.

This provision cannot be decreased but can be increased.

7. REPORTS

7.1. Reporting requirements

Please refer to Article 26 of the General Conditions. Interim reports must be every six months during the period of execution of the contract. They must be provided along with the corresponding invoice, the financial report and an expenditure verification report defined in Article 28 of the General Conditions. There must be a final report, a final invoice and the financial report accompanied by an expenditure verification report at the end of the period of execution. The draft final report must be submitted at least one month before the end of the period of execution of the contract. Note that these interim and final reports are additional to any required in Section 4.2 of these Terms of Reference.

Each report shall consist of a narrative section and a financial section. The financial section must contain details of the time inputs of the experts, of the incidental expenditure and of the provision for expenditure verification.

Interim progress reports:

The Consultant will submit first interim report six months after the submission of inception report and each other interim report will be submitted in six-month intervals to the addresses listed under the point 7.2. These reports should include:

- Ø A comparison of achievements against planned activities and overall progress against the initial timetable;
- Ø A summary of the financial status of the implementation of the project, including a detailed description of resources utilised against activities undertaken;
- Ø A review of problems encountered during the implementation of the project activities and the corrective measures taken;
- Ø A detailed work plan for the following period and any findings or preliminary conclusions.

Final report:

The final report should include:

- Ø A complete overview of all activities implemented during the project;
- Ø A summary of outputs, and the identification of any major problems, which may have arisen during the performance of the Contract;
- Ø An assessment of the outcomes of the project measured the stated project objectives and the indicators of achievement included in the log-frame matrix.

7.2. Submission & approval of progress reports

Two copies of the progress reports referred to above must be submitted to the Project Manager identified in the contract. The progress reports must be written in English. The Project Manager is responsible for approving the progress reports.

The Consultant will also submit 1 copy of the project reports in English language in electronic format and hard copies to the following recipients:

- Ø Head of the PIU – Judicial Academy, Ministry of Justice;
- Ø Sector Manager at the EC Delegation in Zagreb;
- Ø Central Office for Development Strategy and Co-ordination of EU Funds (CODEF).

8. MONITORING AND EVALUATION

8.1. Definition of indicators

See the log frame for indicators

In addition suitable objectively verifiable indicators will be agreed between the Beneficiary Institution and the Consultant during inception phase. Herein it should provide for both quantitative (measures of quantity, including statistical statements) and qualitative (judgements and perception derived from subjective analysis) indicators.

8.2. Special requirements

None.