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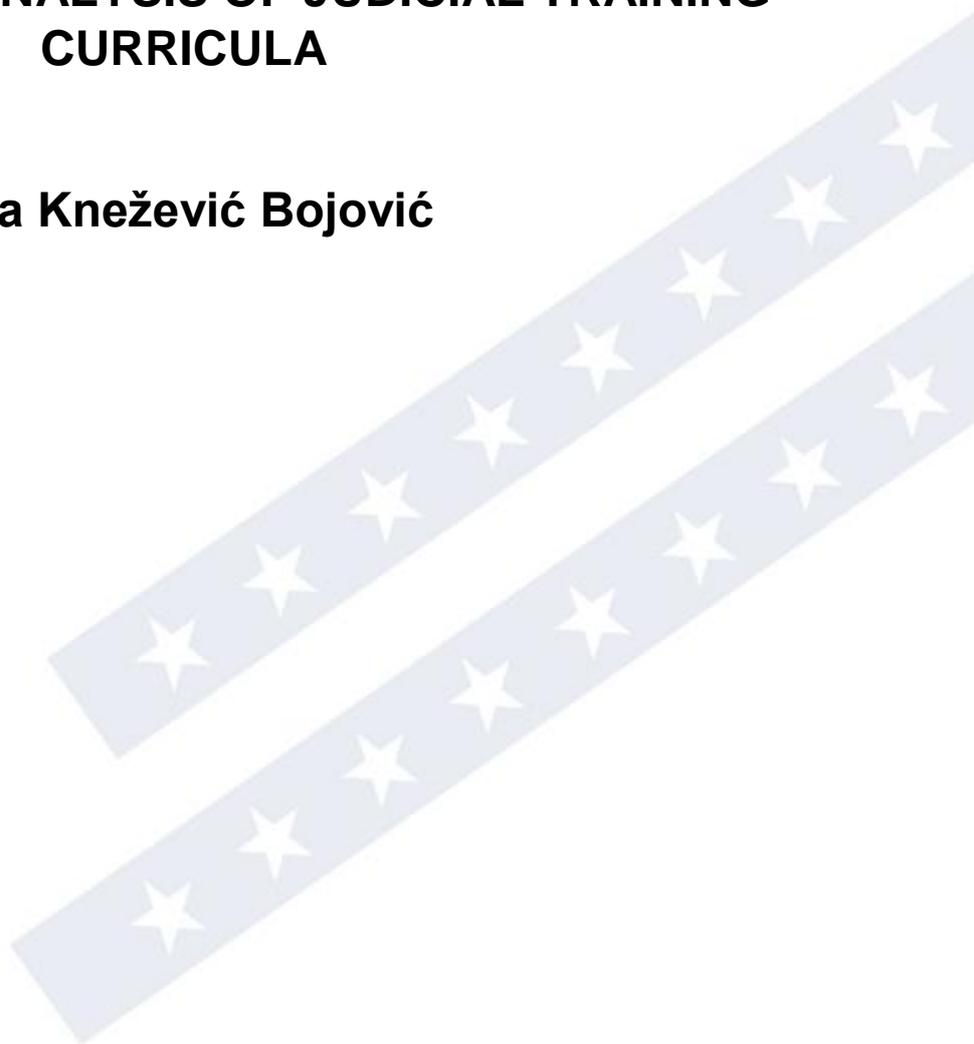
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# EUROPEAN UNION'S SUPPORT TO THE JUDICIAL ACADEMY



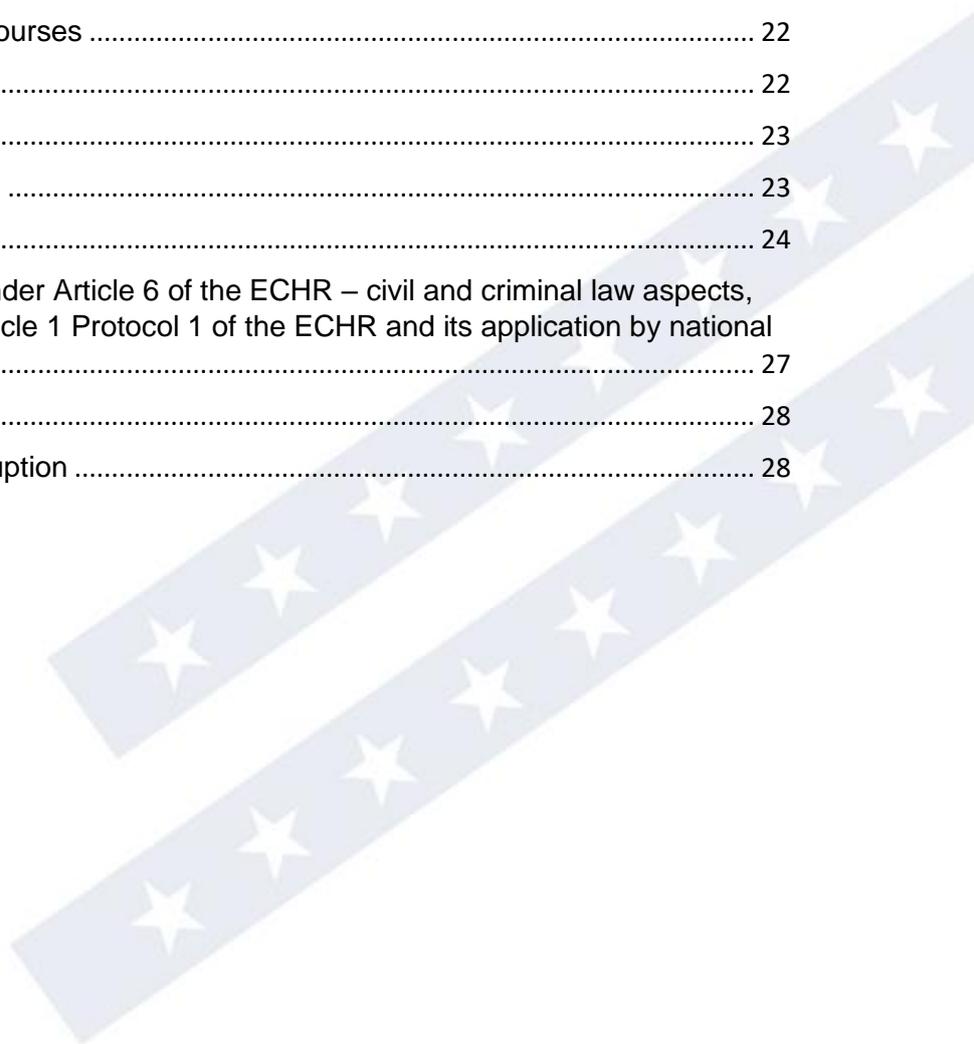
# **COMPARATIVE ANALYSIS OF JUDICIAL TRAINING CURRICULA**

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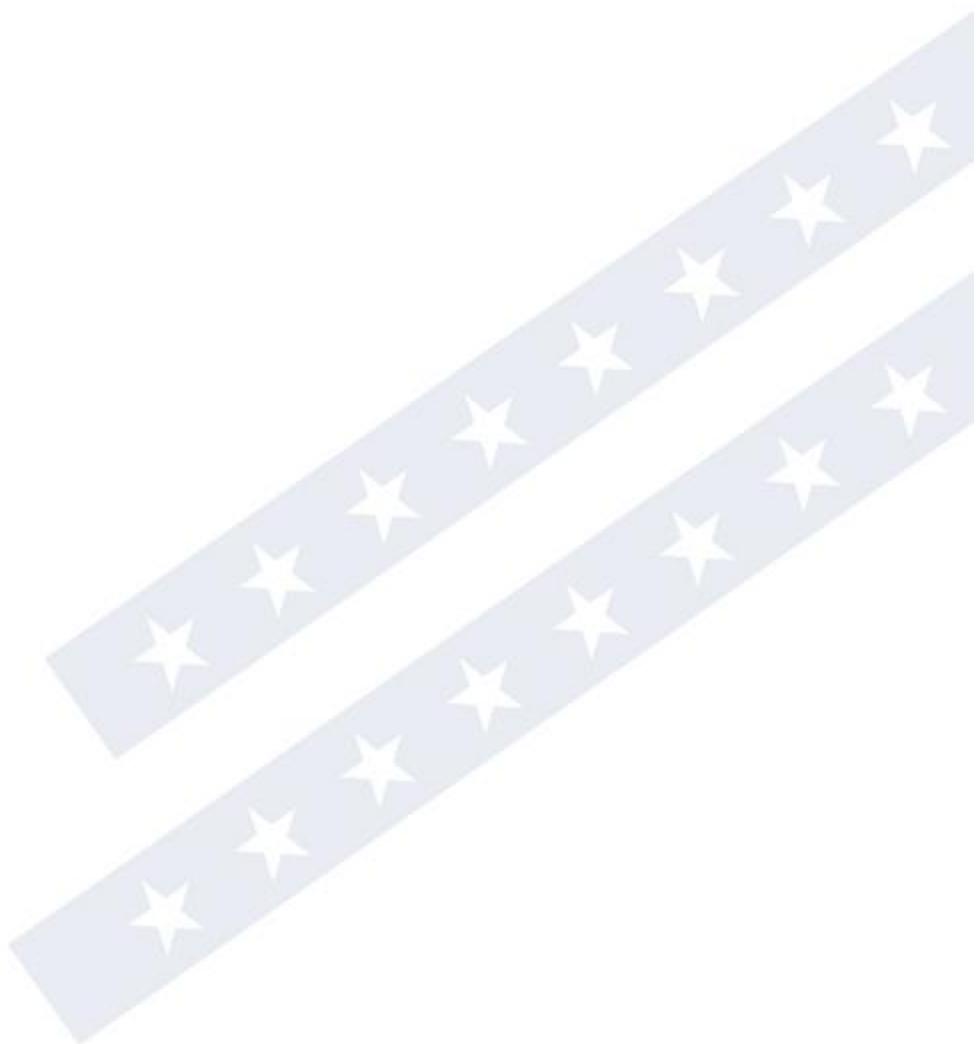
## Table of contents

1. Introduction.....	5
2. Summary comparative overview of curriculum development.....	6
3. Comparative overview of the contents of judicial training curricula.....	7
3.1. Initial training.....	7
3.2. Continuous training.....	11
4. Information provided in the curriculum.....	17
4.1. Initial training.....	17
4.2. Continuous training.....	18
5. Knowledge of law – specific courses .....	22
5.1. Cyber-crime .....	22
5.2. Illicit trafficking .....	23
5.3. Intellectual property rights .....	23
5.4. EU Law .....	24
5.5. Procedural guarantees under Article 6 of the ECHR – civil and criminal law aspects, Concept of property under Article 1 Protocol 1 of the ECHR and its application by national authorities .....	27
5.6. Minority rights .....	28
5.7 Organized crime and corruption .....	28



## List of acronyms and abbreviations

CFCU	Department for Contracting and Financing of EU Funded Programmes
ECHR	European Convention on Human Rights and Fundamental Freedoms
ECtHR	European Court of Human Rights
EIPA	European Institute for Public Administration
EJTN	European Judicial Training Network
ERA	Academy of European Law
EIPA	European Institute for Public Administration
EU	European Union
ICT	Information and Communication Technologies
JA	Judicial Academy
Republic of Serbia	



## 1. Introduction

This analysis was prepared within the project "Enhancing Educational Activities and Improvement of Organizational Capacities of the Judicial Academy", funded by the European Union, and managed by the Ministry of Finance of the Republic of Serbia - Department for Contracting and Financing of EU Funded Programs (CFCU) in Serbia and implemented by the British Council in consortium with the International Foundation of Administration and Public Policies of Spain (FIIAPP), Alternative Consulting and AlterFact. The analysis was conducted in the July - September 2016 period.

This research was conducted under project Component 2: Enhancing educational activities of the JA in order to improve efficiency and effectiveness of trainings, Activity 2.3: Conduct a comparative analysis of training curricula in other relevant judicial training institutions in EU countries as regards the above mentioned legal areas.

The comparative analysis takes the comprehensive curriculum analysis and gap analysis, conducted under project Component 2, Activity 2.2. as its starting point.

The aim of the comparative analysis was to assist the Serbian Judicial Academy in implementing best practices of other similar institutions, namely, judicial training institutions in EU countries in identifying best practices applicable to the Serbian JA, and in providing feasible recommendations for the improvement of the Serbian model based on them.

The comparative analysis included the initial and continuous training curricula for holders of judicial offices offered in three countries – Spain, Poland and Croatia. The countries analysed were selected based on similar judicial environment, training set up and institutional capacity; care was also taken to include:

- a relatively recent EU member-state with similar legal and economic background as Serbia and
- well-established judicial training institutions with sizeable experience in developing and delivering training for holders of judicial offices
- relatively new judicial training institutions with strong curriculum setup.

The analysis took into account the relevant regulatory framework governing the work of the judicial training institutions in each respective country and their 2015 and 2016 training curricula for initial and continuous training (where required, older training curricula were also analysed. Where feasible, good comparative practices from other countries were also identified.

The analysis was structured so as to investigate:

- the curriculum development process in the judicial training institutions
- information on knowledge, competences and skills included in initial and continuous training of holders of judicial offices
- the information presented in the curriculum for the training of holders of judicial offices
- the existence and contents of courses on topical issues

## 2. Summary comparative overview of curriculum development

The training curricula in all three observed countries are adopted by the relevant governing bodies of the judicial training institutions – these are usually the programme boards. As a rule, the curricula for continuous training are drafted annually, based on a training needs assessment conducted by that institution. The manner in which the training needs assessment is carried out varies from one country to another, but it necessarily includes some form of consultation with the end users – they are either asked to propose topics they think should be included in the training curriculum for the next year e.g in Croatia and Spain, courts and public prosecutor's offices are asked to provide such inputs. These inputs are then considered by the institutions' programme board, which then adopts the judicial training curriculum for the next year. In all three countries special care is taken to ensure that the judicial training curricula are developed in due time – December 1 of the current year for the following year is the latest date for publishing the developed curriculum and training calendar – in order to enable judges and public prosecutors to apply for training and plan their work in line with the dates set for the training. In addition to collecting inputs from end users, the judicial training institutions also collect inputs from their respective judicial councils, law faculties, and consider inputs from the wider community (for instance, in Spain, complaints against judges are used as a guideline to identify the competences and skills judges need to improve, and trainings addressing this need are then planned and delivered. In Croatia, the wider stakeholder community also includes the ombudspersons). When it comes to the initial training curricula, the rate by which they change is sometimes conditions by the particular circumstances in the country – for instance, in Croatia, the initial training curriculum for holders of judicial offices was last adopted in 2012, since this was when the last generation of trainees was enrolled in the Academy.

**The best lesson that the Serbian Judicial Academy can learn from the analysed practices is the observance of a more tight schedule when it comes to the development of the judicial training curriculum, which should be coupled with the development of an accompanying training calendar, within time limits that allow judges and prosecutors sufficient time to plan ahead.**

One of the major challenges that judicial training institutions face is how to respond to the urgent training needs, such as the adoption of a new law. Analysis has shown that catering to urgent training needs is a major obstacle that the Serbian Judicial Academy faces when trying to develop a training calendar. This is an issue related both to planning and to budgeting. The way in which judicial institutions in the countries observed deal with this issue is rather similar: either the urgent training needs are identified in advance, due to a *vacatio legis* prescribed in the relevant law, and are hence incorporated in the training curriculum in a timely manner, or the urgent training needs are catered to an ad hoc basis – in Croatia, for instance, the Programme Council adopts a relevant decision on planning and delivery of such trainings, whilst in Poland, it is the Minister of Justice who orders that such trainings be organised.

**The key recommendations are only partially within the competence of the Serbian Judicial Academy. Firstly, the Serbian Judicial Academy should make an additional effort to reserve sufficient funds, human resources, time slots and infrastructure capacity for urgent training needs, as recommended by the EJTN.<sup>1</sup> The Ministry of Justice, the Serbian High Judicial Council and the State Prosecutorial Council, on the other hand, may consider adopting the Polish regulatory solution, whereby the costs of**

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<sup>1</sup> EJTN Handbook on Judicial Training Methodology in Europe, p. 15. The handbook is available at [http://www.ejtn.eu/Documents/EJTN\\_JTM\\_Handbook\\_2016.pdf](http://www.ejtn.eu/Documents/EJTN_JTM_Handbook_2016.pdf)

**urgent training are provided from the state budget designated for courts, not the finances designated for the implementation of the already adopted training curriculum.<sup>2</sup>**

### 3. Comparative overview of the contents of judicial training curricula

#### 3.1. Initial training

##### 3.1.1. Spain - School for the Judiciary<sup>3</sup>

The initial training for judges in Spain lasts for two years, and can be divided into the following phases:

1. Theoretic and practical phase, which takes place at the seat of the Judicial academy and lasts for at least nine months. During this phase training is provided in the following three fundamental areas of law: Constitutional Law and EU Law, Civil Law and Civil Procedure, and Penal Law and Criminal Procedure. Training is also provided on other specialized and multidisciplinary topics – labour and social security law, administrative dispute, commercial law, minors, international cooperation, legal medicine, ethics, writing of judicial decisions, micro-economy, macro-economy, international cooperation, information society and others. In the 2016 -2017 training cycle, this phase will last for nine and half months.

2. Mentorship, where trainees work as interns in courts under direct mentorship of holders of judicial offices, which lasts for at least four months. In the 2016-2017 training cycle, this phase will last for approximately six and a half months

3. Substitute and support phase, where trainees act as substitute or support judges, exercising the judicial office alone or jointly with the holder of the judicial office. Preferably, the trainees are allocated to a judicial body similar to that in which they would be likely to be posted to in the future. In the 2016-2017 training cycle, this phase will last for four months.

In addition to the general mandatory programme, the 2016-2017 cycle also offers of a number of specialized seminars that enable each trainee to undergo more focused and specialized training in areas of his or her particular interest. Every trainee must take at least six seminars of his or her choice. The curriculum showcases topic such as: the judge and the social security network, penal aspects of environmental law, personality disorders: psychopathic personality; oratory techniques and process management; drugs....

Training methodologies differ so as to best respond to the specificities of each topic. The curriculum therefore showcases the following key training methods:

1. Case study
2. Use of Moodle platform
3. Simulations and Mock trials

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<sup>2</sup> Article 15a of the Polish Law on the Judicial Academy (Ustawa z dnia 23 stycznia 2009 r.o Krajowej Szkole Sądownictwa i Prokuratury, Dz.U.2016.150, 2016-03-04 zm. Dz.U.2016.178 art. 20, 2016-04-04 zm.Dz.U.2016.178 art. 20, 2016-05-07 zm. Dz.U.2016.633 art. 2

<sup>3</sup> Escuela Judicial Consejo General del Poder Judicial, [www.poderjudicial.es](http://www.poderjudicial.es)

### 3.1.2. Spain – Centre for Legal Studies<sup>4</sup>

The initial training of public prosecutors lasts for four months, and is divided into 2 phases:

- theoretical and practical phase, which lasts for approximately four months
- mentorship programme in public prosecutor's offices, which lasts for four months.

The training in the first phase focuses on the following issues:

1. The Public Prosecutor – status issues
2. Criminal procedure and penal law in practice
3. The public prosecutor in juvenile delinquency cases
4. The role of the public prosecutor in civil cases
5. Public prosecutor as a guarantee of citizens' rights

This part of the training also covers other issues, such as legal and forensic medicine, penitentiary law, international judicial cooperation, the rights of foreign nationals and mediation.

The curricula for initial training of public prosecutors is revised annually in order to ensure that the future public prosecutors gain the necessary competences and skills that will enable them to work efficiently.

### 3.1.3. Poland

In Poland, there are two stages of initial training: first, the so-called "general initial training" lasts for 12 months, after which the trainee can choose either to continue with specialised initial training for a judge or a prosecutor or to start working as a court referendary, prosecutor's assistant or judge's assistant. Those who choose to continue with specialisation training undergo an additional training lasting for 48 months (judges) or 30 months (prosecutors).

The initial legal training is conducted in accordance with the curricula adopted by the Programme Board, in cycles of 5-day classes in the headquarters of the National School and several-day apprenticeships, where the trainees deal with issues discussed during classes. At the end of each cycle, the trainees take an exam testing their knowledge of the issues covered and practical skills they have gained.

The training methodology includes case studies (judgments of the Supreme Court of Poland, ECtHR, EU Court of Justice and judgements of ordinary courts), workshops, simulations and mock trials.

Practice is a crucial element of professional training, taking about 80% of the time of the initial legal training. Each trainee is referred to an apprenticeship at a court, prosecution office or public administration institution. During this time, the trainees are supervised by individually assigned mentors: judges, prosecutors and court referendaries.

The general initial training covers the following topics:

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<sup>4</sup> Centro de Estudios Jurídicos, <http://www.cej-mjusticia.es>

Judicial organisation, penal law and criminal procedure and civil law, which also covers issues such as, legal reasoning, human rights, and the jurisprudence of the European Court of Human Rights.

The initial training for judges is also divided into two main areas – civil and criminal law, where both substantive and procedural topics are covered. The civil law covers the law of obligations, family law, commercial law, inheritance law, labour law and social security law and enforcement.

The initial training for prosecutors focuses on penal law and procedure and criminalistics, with some level of training on issues related to the status of public prosecutors.

The Polish system focuses on the practical aspect of initial legal training on the job, while offering focused trainings on theoretical and practical issues at the Judicial Academy. The fact that initial training differs on the type of judicial office the trainee plans to hold allows for streamlining of the development of the curriculum and focus on specific issues.

#### *3.1.4. Croatia*

In Croatia, the Judicial Academy offers initial training to both judges and prosecutors. The initial training lasts one year, and is a combination of training offered through lectures and workshops conducted at the School, and a practical part, which takes place in courts and public prosecutor's offices.

The training curriculum covers the main topics of civil, criminal and EU law, but also has a focus on improvement of skills e.g. how to manage different steps in a typical criminal or civil process, including trial simulations and court examination of minors, use of court registers, mutual legal assistance and the like.

The training curriculum is accompanied by a separate calendar of activities for the lectures and workshops delivered at the Croatian Judicial Academy.

The initial training curriculum, particularly the Spanish initial training curriculum, presents a well-balanced combination of theory and practice. The Serbian initial training curriculum shows a similar balance. However, there is room for improvement, based on the analysed comparative practices:

- The current initial training curriculum of the Serbian Judicial Academy could benefit from dedicating even more time to development of non-judicial skills of its trainees.
- The approach of focused nine-month trainings offered at the seat of the Judicial Academy, as featured by the Spanish School of the Judiciary, can be considered as an example of best practice with regards to initial training. However, such approach to training requires considerable and stable funding for both initial and continuous training. The establishment of such a system can therefore be set only as a mid-term goal for the Serbian Judicial Academy. In the meantime, the existing Serbian initial training curriculum would need to be accompanied by a more developed calendar of activities for the part of the training organised at the Judicial Academy (and not on the job)???
- The current initial training curriculum of the Serbian Judicial Academy could benefit from developing an additional set of optional courses that the trainees could attend in order to streamline their interests and training needs, where the Spanish model can be used as a good practice example.
- A uniform classification of the training methods used in initial training and also a brief explanation of each training method would advance the Serbian initial training curriculum, help set the trainees' expectations and facilitate planning for both trainees and the Academy.
- The Spanish and Polish approach to initial training of public prosecutors currently differ from that in Serbia, which trains both future judges and future public prosecutors under the same curriculum. In the future, the Serbian Judicial Academy may consider further streamlining or even separating the training curricula for future public prosecutors and future judges. If so, the Serbian Judicial Academy, it would need to strike a careful balance and avoid focusing on criminal law and criminal procedure alone – quite to the contrary, it would need to ensure that quality training is provided to public prosecutors on issues relating to various aspects of their work, including their status issues, their role in civil cases and knowledge and skills related to legal and forensic medicine, penitentiary law, judicial cooperation and human rights.

## 3.2. Continuous training

### 3.2.1. Spain – School for the Judiciary

Continuous training in Spain covers a variety of areas and is conducted in three different manners: as distance learning, as face-to-face learning and through study visits. Distance training and face-to-face training are singled out as two main training categories in the curriculum, within which the following general topics are covered: civil law, criminal law, administrative law, labour and social security law and interdisciplinary issues, which vary from topics like mechanisms for coping with stress, judicial ethics and judicial linguistics to economic crimes. Generally, courses in civil, criminal, administrative, labour and social security law are a part of what could be called a general programme. Some areas of law are additionally featured in the course, as a part of specialized training: environmental law, immigration law, EU law, gender equality, disability. Interdisciplinary topics are featured in both distance training and face to face training, and are also visible as a part of the curriculum in selected areas – e.g. the course entitled "The treatment of disability in new legislative reforms"<sup>5</sup> is a part of the sub-programme on disability, but is classified as an interdisciplinary course.

The topics covered in the curricula vary on annual basis. There is a number of topics that are included in the curricula for two or more consecutive years. These include topical issues such as regional civil law (the civil laws of Catalonia, Valencia, Basquia...) or protection of human rights and judicial control of immigration, but also include regular meetings between holders of judicial offices dealing with a given subject-matter e.g. family-law judges. This clearly shows that the curriculum responds to the needs of the attendees and is subject to considerable revision on annual basis.

The curriculum clearly distinguishes between six different training methods and uses this distinction consistently throughout the entire curriculum. The training methods include entire working days, courses, seminars, meetings with members of other professions, study visits and distance learning. This distinction is best reflected in the code assigned to each course, comprising two letters, which indicate the type of training method used, and a five-digit number, first two indicating the year in which the course is being held (e.g. 16 for courses held in 2016) and additional three numbers denominating the course:

CU16025	Protección de las personas con discapacidad a la luz de la Convención Internacional de los Derechos Humanos de las personas con discapacidad. La tutela. Control de patrimonios protegidos.
CU16027	El concurso de las personas físicas: segunda oportunidad
SE16033	Aspectos económicos de los litigios en materia de Propiedad Industrial
SE16039	Condiciones Generales de la Contratación y Protección de los Consumidores
SE16045	Enfoque positivo de los procesos de separación y divorcio. Consecuencias en la familia. Custodia compartida. Una guía para el informe pericial psicológico. La justicia terapéutica: Propuestas y experiencias.
JO16048	Mediación civil y mercantil
SE16056	Problemática de los Contratos Bancarios
EN16059	Encuentro de la Sala de lo Civil del Tribunal Supremo con Magistrados/as de lo Mercantil
CU16065	Ley de Jurisdicción Voluntaria
EN16068	Encuentro de la Sala de lo Civil del Tribunal Supremo con miembros de la Carrera Judicial con destino en Órganos de 1ª Instancia

<sup>5</sup> Tratamiento de la discapacidad en las nuevas reformas legislativas

The number of potential attendees in each separate course is limited in number. In order to attend the course, the judges must apply to the course coordinator

There are some restrictions on the number of courses each individual judge can apply for, in order to ensure optimum coverage of judges who undergo training. Each judge can apply for a maximum of four activities that require his or her presence and one study visit per year . In addition, a judge may also apply for a maximum of three distance learning activities included in the continuous training curriculum.

The Judicial Academy decides on judges who will be granted the study visits. This decision is based on the following criteria:

- judges who have attended fewer study visits in the past five years have preference. If the study visit in question is to an institution based abroad, the number of study visits abroad is taken into account. If the study visit in question is to an institution based within Spain, the number of study visits to institutions based in Spain is taken into account.
- judges of higher rank have preference.

The JA also decides which judges will attend the trainings that require their presence. The criteria for their selection are as follows:

- judges who have been selected to attend fewer trainings that require their presence in the past year shall have preference
- judges who have attended fewer trainings that require their presence in the past two years shall have preference
- judges of higher rank shall have preference

In the third phase, selection of judges who will undergo distance training shall be selected, based on the following criteria:

- judges who have participated in fewer distance trainings in the past year shall have preference
- judges of higher rank shall have preference

However, care should be taken to ensure a proportional representation of judges of all various instances. In addition, judges who are specialised in adjudicating on specific issues shall also have preference.

### *3.2.2. Spain – Centre for Legal Studies*

The Spanish Centre for legal studies provides training of public prosecutors, but also to judicial counsellors.

The project team has not been able to gain insight into the entire training curriculum for public prosecutors. However, the project team has been able to get some insight into the manner in which the training curriculum is developed and on the topics included in it.

Every year, the General Prosecutor's Office sends an open call to all the prosecutors asking them to propose training courses of interest. Those prosecutors interested in leading a course, sends a complete proposal of the course including the title of the course, contents, training methodology, target participants, number of training hours, etc. Once all the proposals have

been received, a commission composed by members of the General Prosecutor's Office and the CEJ, selects those training courses more important for the daily work of prosecutors taking into account public policies. Once selected, those prosecutors who proposed the courses are the coordinators of the course and they are free to choose all the trainers that will participate in the course, according to their knowledge and expertise in the subject.

This means that the Centre's continuous training curriculum is fully tuned with the capacities of the prosecutorial body to provide training and with their training needs. In practice, Spanish prosecutors can search for courses that interest them using the Centre's online platform,<sup>6</sup> which provides information on the courses well in advance

### 3.2.3. Poland

The Polish curriculum for continuous judicial training currently differentiates between various categories of trainees, and then offers courses in civil law, commercial law, criminal law, labour and social security law and family law and minors. Special programs are offered to prosecutors, probation judges and judicial administrative staff. European Union law and the jurisprudence of the ECHR are not visible in the structure of the curriculum, but detailed analysis of the curriculum shows that these issues are integrated in it, either as separate courses - e.g. "Consequences of the EU membership for judges' practical work – selected topics" – or within courses on other, more general topics.

The training curricula for 2015 and 2016 differ considerably in terms of the manner in which the subject-matter is presented. Namely, the 2015 curriculum was structured as to differentiate between training in civil law, criminal law, international relations and training for court staff. The 2016 curriculum is structured so as to differentiate between courses offered to various categories of trainees – judges and judicial associates, referendaries, judicial assistants, prosecutors and prosecutorial assistants, probation judges and judicial administrative staff. Even though nominally much more diversified than the 2015 curriculum, the 2016 curriculum, in essence, offers courses in a similar number of categories, while some courses offered to different categories of trainees are identical (e.g. the same course on civil procedure and civil law is offered to judges and judicial assistants working in departments adjudicating on family law matters and with regards to minors).

Analysis of the curriculum shows that some topics that were included in the 2015 curriculum are reiterated in the 2016 curriculum, but sometimes the course bears a different name or is structured somewhat differently. There are also new topics introduced and sometimes more advanced courses on the same topic are offered the next year. For instance, a course dealing with intellectual property issues was organized in 2015 with success; the attendees then expressed the need for organization of a more advanced course on these topics, which was done in 2016. This shows that the curriculum is carefully tuned so as to respond to the needs of the various categories of trainees and to the topical issues of judicial practice.

All the courses offered in the programme are designated by a code, comprising one letter, which indicates the general area of law – C for Civil, K for criminal etc., a one-digit or two-digit number and an indication of the year in which the training will be conducted.

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<sup>6</sup> The platform is available at [http://www.cej-mjusticia.es/cej\\_dode/servlet/CEJServlet?action=dmndCourse&type=JSPL](http://www.cej-mjusticia.es/cej_dode/servlet/CEJServlet?action=dmndCourse&type=JSPL) and requires prior registration of the user.

Judges and prosecutors apply for training using the learning platform – a learning management system which provides not only information on the courses but also course materials.<sup>7</sup>

#### 3.2.4. Croatia

The continuous training programme covers the three following sets:

- Training on specific legal topics
- Training on judicial ethics and deontology
- Training on specific skills (e.g. IT skills)

The training on specific legal topics covers civil, criminal, administrative, commercial law and international legal issues, which, as a rule, include EU law and ECHR-related issues.

The training on specific skills has, for the past two years, been focused on improvement of skills necessary for operating or using specific case software (e.g. research of court practice, case tracking system). In addition, courses were offered dealing with legal language, use of non-legal knowledge and skills, exchange of experiences aimed at improved protection of children in court proceedings and the like.

Courses on judicial ethics and deontology are also offered.

Unlike the 2015 curriculum, the 2016 curriculum singles out two specific target groups of trainees and offers specialised courses for them: the first group are advisors in judicial bodies, who are offered three specialised courses, and the second group is the judicial staff, who are offered training in three courses focusing on improvement of IT skills and technical skills (e.g. how to operate equipment for audio-visual recording).

The curricula for 2015 and 2016 differ considerably, and seem to address the topical issues of implementation of law in practice. There do not seem to be advanced courses on the same topic. The course seems to be in tune with the needs of the target groups.

The process of applying for the programme is regulated by The Rulebook on Access to Professional Training<sup>8</sup>. The Judicial Academy sends calls for attendance of each course to the court president/Chief public prosecutor of Croatia. This is done as early as possible, and 20 days before the course takes place at the latest. The call designates the total number of judges/public prosecutors who can take part in that course. The court president/Chief prosecutor then selects the judges and public prosecutors who have expressed interest to participate in that training course and informs the Academy thereof. In doing so, special care is taken of balanced representation.

The Academy keeps records of attendance of trainings organised by it for all holders of judicial offices. This information is taken into account in performance assessment.

Holders of judicial offices in Croatia must attend at least two training activities organised by the Judicial Academy per year.

The Rulebook on Access to Professional Training also prescribes the types of training and their possible durations.

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<sup>7</sup> The platform is available at <http://szkolenia.kssip.gov.pl/> and requires prior registration of the user.

<sup>8</sup> Pravilnik o pristupu stručnom usavršavanju ("Narodne novine", broj: 124/10 i 112/11.)

The types of training are the following:

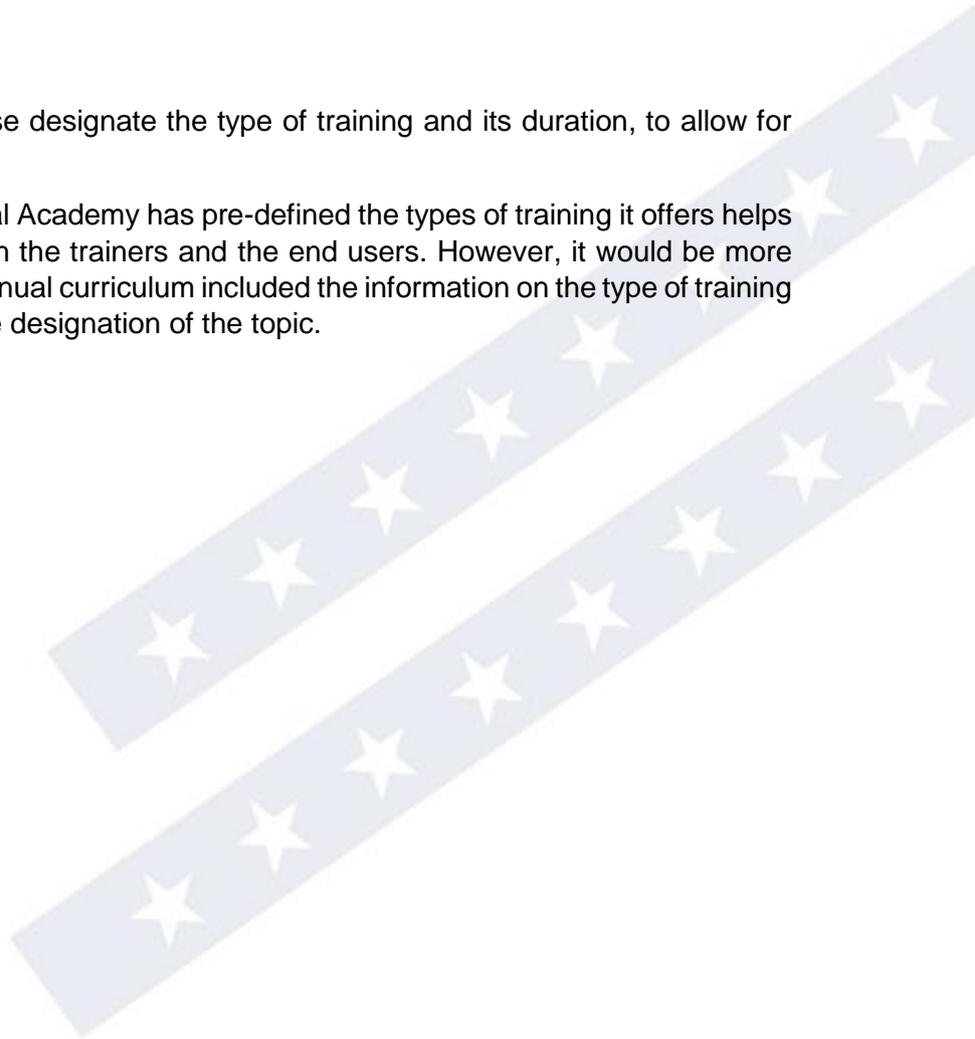
- workshops
- seminars
- round tables
- conferences
- study visits and exchanges.

The training activities can last for

- half a day
- one day
- two days
- several days.

The calls for each specific course designate the type of training and its duration, to allow for planning.

The fact that the Croatian Judicial Academy has pre-defined the types of training it offers helps manage the expectations of both the trainers and the end users. However, it would be more helpful if the publicly available annual curriculum included the information on the type of training and its duration in addition to the designation of the topic.



The contents of the judicial training curricula in the three analysed countries constitute good practices in as much as they provide training on knowledge of law, judicial and non-judicial skills. The training curricula also offer a variety of training methods, including distance learning and study visits, and changes on annual basis are visible. The best practices that the Serbian Judicial Academy can benefit from are the following:

- The current initial training curriculum of the Serbian Judicial Academy could benefit from dedicating more resources to development of judicial and non-judicial skills of judicial office holders
- The initial training curriculum should be accompanied by a calendar of activities, allowing the holders of judicial offices sufficient time for planning
- A uniform classification of the training methods used in continuous training and also a brief explanation of each training method would advance the Serbian continuous training curriculum, help set the trainees' expectations and facilitate planning for both trainees and the academy. This information would need to constitute an integral part of each annual continuous training curriculum.
- Serbian Judicial Academy would benefit from developing distance learning methods as pilot efforts and gradually introducing them as one of the regular training methods in the continuous training curriculum.
- Serbian Judicial Academy would benefit from introducing innovative training methods that are feasible in Serbian practice, learning from the experience of Spain in particular
- Serbian Judicial Academy should explore the possibility of organising study visits to relevant national and European institutions and including them in its regular offer of the training methods
- The continuous training curriculum needs to ensure that it is responsive to the trainee's needs and is up to speed with the fast-changing regulatory framework and overall social ambience in the country, as the case is with the examined curricula in the three observed countries. This responsiveness needs to be reflected in the curriculum through introduction of new courses and training methods and adjustments of the existing ones. In addition, the contents of the training courses could gradually shift towards offering functional knowledge
- Serbian Judicial Academy would benefit from prioritising a participatory approach to training, where training is offered to relatively small groups of targeted trainees, and repeating the training cycles where necessary – it would be particularly important for this to be clearly visible in the continuous training curriculum. The Polish continuous training curriculum could be used as a good practice example in this respect.
- Serbian Judicial Academy should clearly set out the procedure for applying for trainings and the selection of trainees. If a shift to a participatory approach to training and priority is given to training being delivered to relatively small groups, it is reasonable to expect that the demand for such training would exceed the offer. Ideally, the trainees would use a web-based platform to apply for trainings, which would facilitate the input of data on trainings in judges' personal training record sheets and the exchange of information on trainings attended between the JA and the Serbian High Judicial Council and the State Prosecutorial Council. However, given that the development of such a platform requires additional funding, it can only be set as a mid-term goal (2-3 years). However, regardless of the introduction of such a platform, there would still be a need for developing clear criteria for participation in e.g. study visits. It would be important for the basic information on these issues to constitute an integral part of each annual continuous training curriculum.

## 4. Information provided in the curriculum

The information provided in the publicly available curriculum is an important feature of the transparency and availability of information on judicial training for its end users. The manner in which information is presented may facilitate or complicate the process of applying to attend trainings. In Spain and Poland there is a clear distinction between the curricula for initial training and the curricula for continuous training – they are published separately. This helps avoid any confusion as to the envisaged participants in the training and is a good practice, which is also implemented in Serbia.

### 4.1. Initial training

The models of initial training differ and hence the information provided in the curriculum varies across countries.

The training curriculum in Poland are structured as two sets of information – firstly, a general program outlining the topics of seminars and their contents and secondly, a detailed timetable of lectures, simulations and case studies, indicating date, place and duration of the training. The training curriculum also sets out the type of training method used for each nominated topic and references to it in the timetable. In this way, the trainees are informed about the training methods that will be used, which increases transparency and facilitates planning.

In Spain, the information on initial judicial training is more general in as much as it does not include specific dates on which theoretic part of the training will be held, but it does provide detailed information on topics, sources of law (reference to laws and sometimes even jurisprudence that will be covered in the training), the objectives of training (sometimes including learning outcomes) and key training methods. The curriculum sets out precise dates of commencement and end of each training phase and of the overall training.

In Croatia, the initial training curriculum outlines the topics that will be covered within the initial training and their duration. In addition, the webpage of the Croatian judicial academy features a lecture plan, outlining the weeks in which trainings at the Academy will be held.

Serbian Judicial Academy would benefit from adopting the good comparative practices in terms of timely planning and publication of information on dates and locations of seminars and modules that are not a part of practical on-the-job training. This would facilitate planning for the Academy, the trainers and also for trainees.

## 4.2. Continuous training

In Spain, the curriculum outlines two main sets of trainings offered: face to face trainings and distance trainings. Within these two sets, seminars are grouped by main area – civil law, criminal law, administrative law, interdisciplinary topics, etc. Additional distinction is made to increase the visibility of seminars on specialised topics such as EU law, immigration law, environmental law etc. Training programmes organised in cooperation with other institutions are also singled out as a separate category in the training curriculum.

At the very beginning, the Spanish curriculum outlines the teaching methods that will be used in trainings and explains their meaning and typical duration. This is a very useful practice, as it avoids confusion as to what is meant under a specific term or training method and also helps set trainees' expectations from the training. Each seminar has its own code, comprising two letters indicating the type of training method and a number, which facilitates its tracking and identification in the curriculum. In the curriculum, the seminars are first listed pursuant to the differentiation explained above (face to face, distance learning, seminars on special topics) whilst at the end the curriculum provides a list of courses per topic and a training calendar on a monthly basis, as summary information. There are some seminars for which the times on which they are to be held are still to be confirmed.

Figure 1. An example of information on seminars by month. Source: Programa de formación continua de la Carrera Judicial, Plan Estatal 20016, p. 99



Noviembre	
<b>CU16129</b>	La prueba del ADN en la investigación criminal y en la identificación de desaparecidos
<b>SE16135</b>	Perspectivas de futuro de la Función Pública española y sus implicaciones con el derecho de la Unión Europea
<b>SE16132</b>	El nuevo Reglamento Europeo sobre Sucesiones
<b>SE16131</b>	Tutela judicial efectiva y derechos fundamentales
<b>SE16130</b>	La prueba en el proceso civil
<b>EN16133</b>	Encuentro de la Sala de lo Social del Tribunal Supremo con Magistrados/as de lo Social
<b>EN16134</b>	Encuentro con el Servicio de Estudios del Banco de España

The Spanish continuous learning calendar provides the following information with regards to every seminar:

1. Course code and title
2. Name of course coordinator
3. Time at which the course will be held
4. Exact planned number of attendees (15 or 30 as opposed to "up to 30")
5. Type of judicial office holders for which the course is intended
6. If the activity is organised outside of the central premises of the judicial training institution, the location

This level of detail enables end users to plan the training activities they wish to attend well in advance and hence avoid rescheduling of hearings or overlapping of courses, and is a best practice example that should be followed. However, it should be borne in mind that a prerequisite for this level of planning on annual level is for the judicial training institution to have stable financing and cash flow. In absence of such stability, there is still room to plan the holding of trainings on a shorter basis (3-month plans or 6-month plans).

Poland provides similar information in its continuous training curriculum. However, the curriculum is structured in a different manner, as it primarily differentiates between various groups of attendees – judges, judicial assistants, prosecutors, probation judges, administrative staff...The specific seminars for a given group of attendees are then explained in detail.

<p><b>1. Nr szkolenia C3/16</b></p> <p><b>2. Temat: Postępowanie nieprocesowe: zniesienie współwłasności, podział majątku wspólnego, dział spadku - wybrane zagadnienia</b></p> <p>Propozycje szkoleniowe dotyczące powyższej problematyki nadal cieszą się bardzo dużym zainteresowaniem. Celem tego szkolenia jest omówienie aktualnego orzecznictwa w tym zakresie i wprowadzonych w ostatnim okresie zmian.</p> <p><b>3. Zagadnienia szczegółowe:</b></p> <ul style="list-style-type: none"> <li>■ przedmiot postępowania o dział spadku, podział majątku wspólnego i zniesienie współwłasności:             <ul style="list-style-type: none"> <li>• jednostki uczestnictwa w otwartych funduszach emerytalnych i funduszach inwestycyjnych;</li> <li>• prawa członkowskie w spółce cywilnej i spółkach handlowych;</li> </ul> </li> <li>■ przedmiot postępowania obciążony ograniczonym prawem rzeczowym;</li> <li>■ sposoby ustalenia wartości składników.</li> </ul> <p><b>4. Adresaci szkolenia:</b> sędziowie i asesory sądowi orzekający w wydziałach cywilnych oraz asystenci wykonujący czynności w wydziałach cywilnych, a także prokuratorzy i asesory zajmujący się sprawami z zakresu prawa cywilnego.</p>	<p style="text-align: center;">Krajowa Szkoła Sądownictwa i Prokuratury</p> <hr/> <p><b>6. Liczba uczestników:</b> 825 (po 75 w każdej edycji, w tym po 5 miejsc dla prokuratorów w każdej edycji)</p> <p><b>7. Edycja, termin, miejsce i limity:</b></p> <p><b>Edycja A – C3/A/16;</b> apelacja białostocka</p> <p><b>Edycja B – C3/B/16;</b> apelacja gdańska</p> <p><b>Edycja C – C3/C/16;</b> apelacja katowicka</p> <p><b>Edycja D – C3/D/16;</b> apelacja krakowska</p> <p><b>Edycja E – C3/E/16;</b> apelacja lubelska</p> <p><b>Edycja F – C3/F/16;</b> apelacja łódzka</p> <p><b>Edycja G – C3/G/16;</b> apelacja poznańska</p> <p><b>Edycja H – C3/H/16;</b> apelacja rzeszowska</p> <p><b>Edycja I – C3/I/16;</b> apelacja szczecińska</p> <p><b>Edycja J – C3/J/16;</b> apelacja warszawska</p> <p><b>Edycja K – C3/K/16;</b> apelacja wrocławska</p> <p>w siedzibach sądów okręgowych lub apelacyjnych na obszarze danej apelacji, terminy edycji zostaną podane po ich uzgodnieniu z poszczególnymi apelacjami.</p> <p><b>7. Czas trwania szkolenia:</b> 7 - 8 godz.</p> <p><b>8. Forma szkolenia:</b> seminarium.</p>
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The curriculum includes the following information:

1. Seminar code and title
2. Detailed explanation of the topic of the seminar
3. Specific issues that will be included in the training (which may differ within the same seminar depending on whether the trainees are civil or criminal law judges)
4. Type of judicial office holders for which the course is intended
5. Information on e-learning tools and methods, where available
6. Number of training cycles
7. Planned number of attendees
8. Date and location and, where applicable maximum number of attendees per type of court (territorial or functional differentiation)

## 9. Type of training method used

10. Information on duration of training is also provided (e.g. 7-8 hours, 16 hours)

Again, this level of detail enables efficient planning on the part of trainees and should be used as a good practice example in Serbia, where it would be particularly important to precisely indicate the location of trainings that are to be held outside Belgrade, at least on three-month basis.

In Croatia, the continuous training curriculum is published on the judicial academy webpage in two separate documents – one is the main curriculum, presented as a table, including information on:

- the field of law in which the course is held
- the topic of the course – this information sometimes includes only the topic of the course, and sometimes is very informative in terms of listing in detail the issues the course will cover
- the target group of trainees for the course.

The second document is the calendar of activities, an excel file with separate sheets for each month of the year, which provides the following information:

- the date on which the course will be held
- the name of the course
- the location on which the course will be held
- the names of the trainers
- the target group.

In addition, the webpage of the Croatian judicial academy features an online calendar of activities, which includes the same information as the above-mentioned Excel document.

Vijesti	- Zakon o Pravosudnoj akademiji („Narodne novine“, broj: 153/09, 127/10 i 82/15.)	KALENDAR DOGAĐANJA « Rujan 2016 » Po Ut Sr Če Pe Su Ne 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 Kalendar događanja Pravosudne akademije Download Ulica grada Vukovara 49 Zagreb
Programi stručnog usavršavanja	- Zakon o sudovima („Narodne novine“, broj: 28/13, 33/15 i 82/15.) - Zakon o državnom odvjetništvu („Narodne novine“, broj: 76/09,153/09, 116/10, 145/10, 57/11, 130/11, 72/13, 148/13, 33/15 i 82/15.)	
Evaluacija i obuka voditeља i mentora	- Statut Pravosudne akademije - Izmjena Statuta Pravosudne akademije	
Međunarodna suradnja	- Uredba o nazivima radnih mjesta i koeficijentima složenosti poslova u javnim službama od 28. veljače 2013.	
HELP program	- Pravilnik o pristupu stručnom usavršavanju („Narodne novine“, broj: 124/10 i 112/11.) - Pravilnik o provođenju i ocjenjivanju pisanog i usmenog ispita za upis kandidata u Državnu školu za pravosudne dužnosnike od 18. studenog 2010.	
Projekti	- Pravilnik o sadržaju i metodama provođenja psihološkoga testa kandidata za prijem u Državnu školu od 23. studenog 2010.	
Učenje na daljinu	- Pravilnik o načinu ocjenjivanja mentora i polaznika u Državnoj školi za pravosudne dužnosnike od 07. veljače 2011	
Obrazovni materijali	- Pravilnik o načinu rada Povjerenstva za polaganje završnog ispita u Državnoj školi za pravosudne dužnosnike od 6. svibnja 2016.	

- Serbian Judicial Academy would benefit from adopting best comparative practices of developing both the curriculum and the training delivery calendar for both initial and continuous training. Having in mind the fact that the budgetary allocations for delivery of continuous training are uncertain and that urgent training needs have to be catered for frequently, the planning of delivery of trainings on annual level is complicated or next to impossible. However, the development of a training calendar on at least three-month basis is possible and recommendable – such a calendar would take feature the high priority trainings, as identified by the TNA, as necessary fixtures, and allow for catering for urgent needs by reserving certain percentages of time for such purposes.
- The existence of an online calendar of activities would also be a useful tool for the Serbian Judicial Academy, as it provides an easy-to-understand overview of activities. Even if the entire calendar of activities is not developed for the given year, the existing calendar and confirmed fixtures could be featured on the Judicial Academy webpage.
- Serbian Judicial Academy should adopt the good comparative practice of pre-defining the training methods, as this would help manage expectations of trainees and also of trainers, who would have to adapt their course curricula to the training method set. The training method for each individual course offered in the curriculum should also be defined.
- As an additional step, the Serbian Judicial Academy should develop a coding system for the courses it offers in its continuous training curriculum – this would help:
  - make the curriculum and the calendar of activities more easy to follow and cross-compare
  - input of data on the trainings attended for holders of judicial offices into the relevant database
  - facilitate the exchange of data between the Judicial Academy and the High Judicial Council and State Prosecutors Council, on trainings attended by each holder of judicial office
  - facilitate the creation of a repository of the Judicial Academy institutional memory of trainings developed and delivered.
- Serbian Judicial Academy could benefit from improved presentation of the contents of its curriculum, particularly the continuous training curriculum, which would enable it to better showcase its activities. The information provided in this curriculum should be presented in a uniform and structured manner, and include general information on continuous training: its objectives, the training methods utilized, the process of applying for training, the selection criteria and certification process, and also course-specific information.
  - Course code and name
  - Training location (Belgrade or regional offices) and where possible, training venue
  - Training objectives
  - Training method
  - Duration
  - Target group
  - Maximum number of attendees.

It should be noted that the majority of this information is either already included in the Serbian training curriculum or is well-established in practice. Adoption of this recommendation would, for the most part, imply only just a more structured approach and presentation of the curriculum, along with the above-mentioned improvements.

## 5. Knowledge of law – specific courses

The courses that were specifically analysed at in this comparative analysis are the ones identified in the comprehensive curriculum analysis and also the ones singled out in the Project Inception Report.

### 5.1. Cyber-crime

In Spain, the issues off cyber-crime and cybersecurity are covered in two separate courses in 2016, both envisaged as distance-learning seminars. The first seminar deals specifically with cybersecurity and cybercrime and is organised jointly with Spanish National Cybersecurity Institute (a subsidiary of the Secretary of State for Telecommunications and the Information Society). The course lasts for around 5 months. The other course is dedicated to the responsibilities of a judge and the High Judicial Council in the matters of data protection, and it offers practical guidance and protocols. There is no more detailed information on either of courses. In Poland, a course in computer crime is intended for judges, judicial assistants and prosecutors and prosecutorial assistants. It is a rather comprehensive course in terms of the topics it covers - cybercrime issues and directions of its development; securing relevant information evidence related to banking crime, sexual offenses online and cyber-attacks ; the possibility of using evidence contained on media information in criminal proceedings, the admissibility of electronic evidence (e - evidence ); methodology for prosecuting cases of Internet fraud and computer fraud, including offences committed with the help of computer viruses. The seminar is planned for a total of 140 attendees.

In Croatia, the 2016 continuous training programme features one course on cybercrime, with particular focus on the work of court experts and their role in ascertaining whether a criminal offence has been committed and if so, how was it committed.

Given the centralised competence related to high-tech crime within the Serbian judicial system, the base of potential trainees is much smaller than in other countries, the holders of judicial offices who prosecute or adjudicate in cases of cybercrime have already undergone some training, and their fluctuation rate is relatively low. Therefore, it is very difficult to single out any course as a feasible best practice model that could be utilised in Serbia.

**However, it would still be necessary to regularly update the curriculum offered with regards to cyber-crime in Serbia in order to keep up with the current challenges and development of both hardware and software. The Serbian curriculum should also be expanded so as to cover the issue of securing of evidence and cooperation with court experts and their in ascertaining the existence of a criminal offence and the manner in which it was committed.**

**The topic of the treatment of admissibility and service of electronic evidence could be incorporated in other seminars conducted by the Serbian Judicial Academy not only the ones focusing on cyber-crime, particularly given the increasing scope of use of electronic archives and communication tools that can be used not only to commit high-tech crimes but also to keep archives, company books and the like.**

**In addition, as the planned improvements in ICT systems used by courts and prosecutors in Serbia develop and allow for exchange of information between various courts and courts and prosecutors' offices, it will be necessary to train both judges and prosecutors on key issues of data protection.**

## 5.2. Illicit trafficking

Spanish continuous training curriculum for 2016 dedicates only one course to the issue of illicit trafficking, which is organised in cooperation with the Spanish Tobacco Industry Association. The issue of illicit trafficking is covered in the initial training as a part of training on penal law and criminal procedure.

In Poland, the continuous training offers one courses on the methodology of proceedings in cases of economic crime and tax.

In Croatia, the 2015 and 2016 continuous training curricula do not feature courses on illicit trafficking, nor is this topic featured in the initial training curriculum.

The lack of extensive comparative examples of courses on illicit trafficking should be understood as a clear response to the training needs of the holders of judicial offices in the countries analysed in the past two years. Spain, for example, has organised courses dealing with illegal crossing of borders, human trafficking and the protection of human rights of persons illegally crossing the state border and the cooperation with border police.

**The issues of illicit trafficking and economic crimes are on the Serbian Judicial Academy training agenda due to the specific current regulatory environment and practice.**

**In developing the curriculum for training on illicit trafficking, Serbian Judicial Academy could learn from best comparative practices and organise multi-professional trainings with members of other professions e.g. customs office, police and the public prosecutors. The courses could be organised so as to allow for fine-tuning of contents depending on geographic incidence of certain types of offences.**

## 5.3. Intellectual property rights

In Spain, there are 3 seminars planned on intellectual property issues in 2016 – one is planned as a distance learning course dealing with recent judicial practice in the field, whilst the remaining two focus on the importance of industrial property and economic aspects of litigation in the field of industrial property. The Polish continuous judicial training curriculum envisages specialized training for intellectual property law, covering both authorship and industrial property issues. In 2016, the course is planned as a continuation of the last-years course and covers a number of complex issues such as hosting, cloud computing, applicable EU legislation.

In Croatia, training on intellectual property rights is offered in 2016 as an entry-level course, organised jointly with the State Intellectual Property Office and their Academy.

**The curricula from both Spain and Poland can be used as good practice models for the advancement of the existing Serbian Judicial Academy curricula related to intellectual property law in terms of introduction of topics related to use of ICT, such as hosting, cloud computing and the like. In addition, the economic aspects of litigation in intellectual property should become an integral part of the course rather than be limited only to the course dedicated to advancement of economic knowledge seminar intended for commercial court judges, as the case is in Serbia now. Moreover, the seminar on intellectual property law should include both judges of the competent commercial court**

but also administrative court judges, given their competences in administrative disputes related to intellectual property rights. The idea of providing basic training one year and advanced training the next, as the case is in Poland, could specifically be pursued given the limited number of potential trainees in Serbia, the centralized competence for adjudicating in intellectual property related disputes in Serbia, and relatively low fluctuation rates among judges adjudicating in these matters. Cooperation with the Serbian Intellectual Property Office in organising these trainings is a practice that should be continued. Even though the target group for training in Serbia is nominally a small one, given the economic importance of intellectual property rights, training on this topic should become a permanent fixture of the Serbian Judicial Academy continuous training curriculum, where due attention should be given to determining the training method best suited to deliver the necessary knowledge and skills to end users every given year (this would be particularly taken into account in the annual TNA).

#### 5.4. EU Law

EU law is a pivotal issue in modern-day judicial education in Europe. Given that all three countries analysed are EU member states, training for judicial office holders EU law is organised both in the form of special seminars dedicated to specific areas of EU law, e.g. the European judicial space in the field of social security, or harmonisation of labour and social security national laws with the *acquis*, or as an integral part of training on given issues, e.g. intellectual property law, where the relevant sources of EU are also covered. In Poland, for instance, EU law is an integral part of trainings on other topics, but there are also separate seminars dealing with EU law issues, such as mutual legal assistance in civil matters, a seminar on consequences of EU membership for judges. Similarly, the Spanish curriculum offers a set of trainings on the application of EU law and seminars focusing on legal linguistics of EU law. The Croatian continuous training curriculum offers specialised courses on various aspects of EU law, including EU civil procedure, EU bankruptcy and enforcement procedure, judicial cooperation in civil and criminal cases, and the like. The Croatian initial training curriculum covers the fundamentals of EU law, such as its relation with national law, the role of the national judge, and the law of the EU internal market.

It is evident that the approach to judicial training on EU law is twofold, and there is no right or wrong way to incorporate EU in judicial training, although some good and best practice examples have been identified.<sup>9</sup> These best practices feature multi-faceted approaches to training in EU law, which sometimes combine face-to-face and distance learning methods.

Firstly, when it comes to countries that have joined the EU relatively recently, the focus of training on EU law has shifted from raising awareness on EU law and providing access, to information to integrating EU law in courses on domestic substantive law and enabling judges and prosecutors to apply EU law and its instruments in their daily practice. In Bulgaria and the Netherlands, training activities on EU law and international judicial co-operation are complemented by provision of access to resource and up-to-date information through a digital platform. This approach was also followed in Romania. Similar practices are present in the Czech Republic and Portugal. In addition, a network of "judge coordinators" on EU law was established in Bulgaria – these judges act as key reference points for their colleagues with

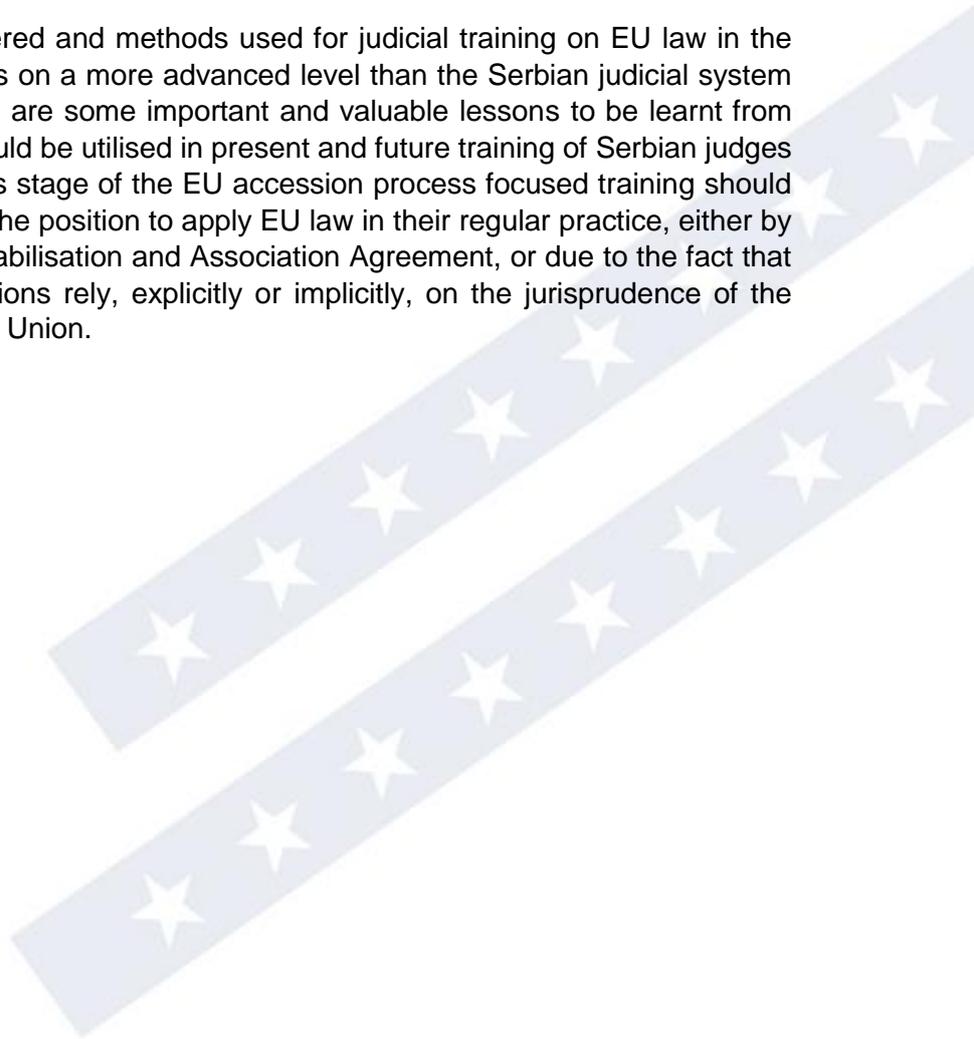
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<sup>9</sup> Lot 1 "Study on best practices in training of judges and prosecutors", available at [http://www.ejtn.eu/Documents/Resources/Lot1\\_final\\_Jan2015.pdf](http://www.ejtn.eu/Documents/Resources/Lot1_final_Jan2015.pdf)

regard to finding specific information or applying EU law. This practice was also developed in Belgium, Czech Republic, Poland, Spain and Denmark. In Italy, a network of local trainers who are competent to address training needs in EU and ECHR law is formed. In the Netherlands, all training materials that incorporate information on EU law are clearly marked with an EU flag, so as to increase the visibility of EU law in judicial training. Four countries of the Visegrad group (Hungary, Czech Republic, Poland and Slovakia) have organised joint trainings for judges and prosecutors from neighbouring countries/regions in EU law. In addition, blended e-Learning and face-to-face methods are used in training judges and prosecutors on EU law. Also, both Poland and Spain refer the holders of judicial offices to training on specific EU law topics organised by EJTN or ERA, thus ensuring that judges and prosecutors can attend quality trainings on specialised issues without having to utilize national resources.

Another useful resource are the existing course materials on selected EU law topics developed by European-level judicial training institutions, which can be translated into a local language and used to develop and deliver courses on this issue.

It is evident that the topics covered and methods used for judicial training on EU law in the countries included in the study is on a more advanced level than the Serbian judicial system currently needs. However, there are some important and valuable lessons to be learnt from comparative experience, that could be utilised in present and future training of Serbian judges in EU law. However, even at this stage of the EU accession process focused training should be offered to judges who are in the position to apply EU law in their regular practice, either by virtue of the provisions of the Stabilisation and Association Agreement, or due to the fact that independent bodies and institutions rely, explicitly or implicitly, on the jurisprudence of the Court of Justice of the European Union.



- In the years preceding the EU accession, the Serbian Judicial academy should ensure that training on the fundamentals of EU law, such as the sources of EU law, the relationship between national law and EU law, the role of the national judge in implementing EU law, the preliminary reference and the principle of direct effect has as wide as coverage as possible of judges and prosecutors of all levels.
- Training on judicial cooperation in civil and criminal matters in EU law should also have wide coverage
- At this stage of Serbia's EU accession process, specialised and focused training on certain topics of EU law should be primarily offered to judges of commercial and administrative courts
- The years preceding the EU accession should also be used for training of trainers on EU law among holders of judicial offices.
- In the two years directly preceding the EU accession of Serbia and after the accession, EU law topics should constitute an integral part of judicial training, as this approach provides good results
- A network of judges and prosecutors who would be appointed as focal points on EU law should be developed in time and put in place when Serbia becomes an EU member state
- Development of platform enabling access to up-to-date materials on EU law for judges and prosecutors should be considered as a useful complementary tool for judicial training on EU law. Since the development of such a platform requires additional funding, this could be set as a mid-term goal for the Serbian Judicial Academy
- Training courses on EU law organised by ERA and EJTN should be offered to Serbian judges, where economically feasible.
- Training in EU law could be organised through a combination of face-to-face and e-Learning approach
- Training in EU law should be coupled with specialised linguistic training
- Existing EU law curricula on general or specialised topics developed by European judicial training institutions could be utilised to deliver training on specific issues on EU law e.g. the training modules on European Legislative instruments on cross-border cooperation in civil matters (available at [https://www.era-comm.eu/EU\\_Civil\\_Justice\\_Training\\_Modules/index\\_.html](https://www.era-comm.eu/EU_Civil_Justice_Training_Modules/index_.html)) or on environmental law (available at [http://ec.europa.eu/environment/legal/law/training\\_package.htm](http://ec.europa.eu/environment/legal/law/training_package.htm))
- Regional approach to training on EU law, similar to that adopted by the Visegrad group judicial training institutions (e.g. joint trainings on could be considered as an innovative training method

## 5.5. Procedural guarantees under Article 6 of the ECHR – civil and criminal law aspects, Concept of property under Article 1 Protocol 1 of the ECHR and its application by national authorities

In Poland, procedural guarantees under Article 6. of the ECHR are a part of the continuous training in the field of penal law, and are covered within the topic of Protection of Human Rights and Prohibition of Discrimination. The Polish continuous training programme also offers study visits to the European Court of Human Rights.

The Polish initial training programme envisages special courses in human rights, which cover the general topics of human rights, the jurisprudence of the European Court of Human Rights in both civil and criminal matters. Special attention is given to the decisions of the European Court of Human Rights against Poland. However, the focus of course in criminal-law aspects of human rights is mostly dedicated to discrimination, racism, intolerance and xenophobia.

In Spain, both the initial and the continuous training programme offers study visits to the European Court of Human Rights. There are specialized courses dealing with human rights as their primary topic as a part of the continuous training, but these are mainly dedicated to the issues of protection of human rights in cases of immigration and on the border and are a part of the specialised course on the issues of disability.

Similar to the established method of teaching of EU law, it seems that the study of human rights and the jurisprudence of the European Court of Human Rights in Spain is incorporated in the regular initial and continuous training curriculum

In Croatia, the 2016 curriculum offers course on ECHR issues, including:

- procedural guarantees under Article 6 of the Convention, both civil and criminal law aspects, with special focus on cases where the Court has found that Croatia has violated procedural guarantees in criminal proceedings
- respect of private and family life under Article 8 of the ECHR and peaceful enjoyment of property under Article 1 Protocol 1.

**The Serbian Judicial Academy should gradually shift towards integrating training on ECHR into the courses on other topics within the continuous training curriculum. However, it should be borne in mind that training on human rights is not a standard mandatory part of the curricula in law schools, nor are human rights visible in the Bar exam as a separate topic – it is therefore still necessary for the Serbian continuous training curriculum to include courses focusing on the concepts featured in the ECHR and the jurisprudence of the ECtHR, to cater to the needs of those judges and prosecutors who have not undergone entry-level trainings on the ECHR as a part of their education at the faculty, initial training for future holders of judicial offices or extensive continuous training on the ECHR that had already been delivered by the Serbian Judicial Academy.**

**The Serbian Judicial Academy should continue to offer training courses in human rights' issues that are topical in judicial practice in Serbia so as to advance judicial practice.**

**The introduction of courses on the protection of human rights in cases of immigration, like in Spain, could be a good practice model for Serbia in the short term, given the fact it faces a continuous influx of refugees, who cross its borders, and of asylum-seekers.**

**The Spanish curriculum could be used as a good practice guide in responding to the current social and legal environment and the consequent needs to train judges on topical issues. For example, the 2015 continuous training curriculum has expressly identified the Report of the Human Rights' Council Working Group on Enforced or Involuntary Disappearances as the reason behind the organisation of this course.**

## 5.6. Minority rights

Minority rights are not a prominent issue in the training curricula of Spain and Poland. The reason for this should be sought in their constitutional organisation and demography.

The Croatian continuous education programme does not feature minority rights either. There are grounds to assume that these issues are covered in trainings intended for holders of judicial offices that are not organised by the Judicial Academy.

**It is therefore very difficult to find a best practice model that could be used by Serbia. In addition, the Serbian Judicial Academy initial and continuous training curricula have integrated the issue of protection of minority rights through training on human rights and non-discrimination and hate crime, and this issue is to an extent covered by both initial and continuous training curricula. However, there is perhaps need to draw more attention to the fact that minorities are a particularly sensitive group and make the issues on protection of minority rights more prominent and visible in both curricula, also by integrating these issues in the case studies used as a training method.**

## 5.7 Organized crime and corruption

The 2016 Spanish continuous training programme offers one course dedicated to Macro-processes and corruption, whilst the issue of corruption cases is also covered in the initial training curriculum, as a part of the course dealing with penal law and criminal procedure. It is interesting to note that the course on macro-processes and corruption is planned for 70 judges, which is a high number of potential attendees in the Spanish curriculum. Moreover, new instruments in combat against corruption are a part of a course dedicated mostly to the criminal-law aspects of EU law.

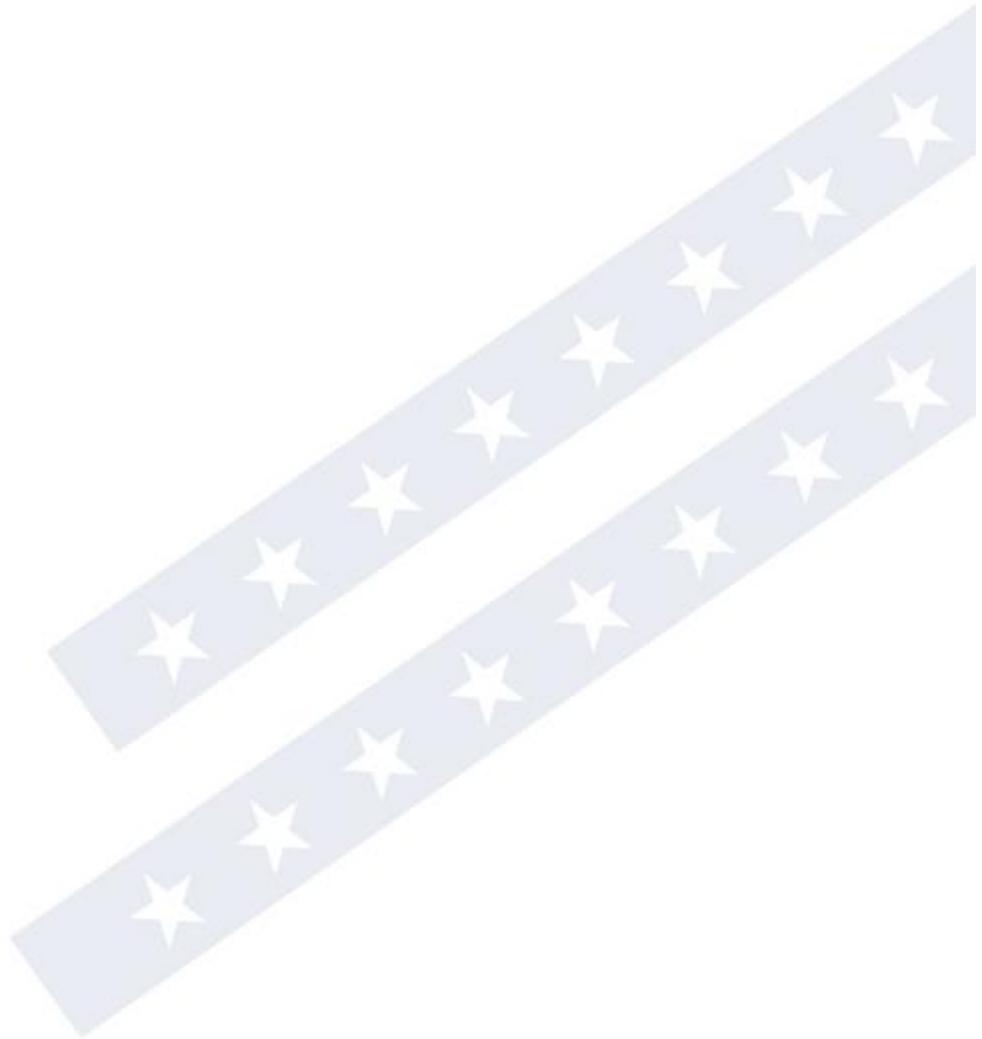
In Poland, the topic of corruption is covered as a part of ethics courses intended for judges and prosecutors in the continuous training curriculum for 2016. There is no specific reference to corruption in the initial training programme.

In Croatia, there are no courses offered dealing with organised crime and corruption in 2015 and 2016 as a part of the continuous training curriculum.

Romanian National Institute for Magistracy, for instance, has organised trainings dealing with the issue of corruption in 2015 as a part of its continuous training curriculum, but has not followed up on that activity in 2016.

**Once again, additional training on organised crime and corruption is set as an objective in the Serbian Action Plan for Chapter 23, as a result of its specific environment and practice. In that respect, it is very difficult to identify best comparative practices in this respect. However, the Spanish integrative approach to improved competences in the field of organised crime and corruption and EU law can be used as good practice**

**example in developing innovative and up-to-date courses on this topic. Training on organised crime and corruption in Serbia is visible only in the continuous training curriculum, due to the current organisational setup of judicial bodies dealing with it. However, it could be possible to offer a limited specialised course on organised crime and corruption in the initial training curriculum, if the approach recommended herein – to offer specialised optional training modules in the initial training curriculum – is adopted.**



## EUROPEAN UNION'S SUPPORT TO THE JUDICIAL ACADEMY

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