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PROFESSIONAL TRAINING IN BOSNIA AND HERZEGOVINA'S JUDICIARY IN THE LIGHT OF THE PRINCIPLE OF EFFECTIVENESS

Summary

Overall judicial reforms in Bosnia and Herzegovina between 2002 and 2004 resulted in two judicial and prosecutorial training centres (one in Federation of BiH and other in Republika Srpska) established in 2003 with the major objective of improving the professionalism of the judicial office holders through ongoing (initial and specialised) professional training. However, despite the harmonised performance of the training centres and professional training being a work requirement on which the professional performance of the judicial holders is assessed, there are sound critiques of the BiH judiciary related to the absence of implementation of the principle of effectiveness. Our paper aims to provide a critical assessment of the „improving professionalism" objective concerning the impact of the training centres in the last five years on one side and the principle of effectiveness on the other. The Paper will focus on the trends in the programme-making of the training centres that are aimed to raise the level of effectiveness and thus the professionalism of the judicial office holders, especially programmes organised in cooperation with universities and NGO's, focused on the issues that go beyond pure formalism and textual positivism. The Paper will also present and comment on empirical findings related to the importance of professional training for career advancements of judicial office holders, the judicial community in BiH trust in the training centres and feedbacks of the judicial office holders who underwent selected programmes designed to improve the effectiveness of the judiciary in BiH.

Keywords: *judiciary, training, effectiveness*

I. INTRODUCTION

In socialist Yugoslavia, the principle of unity of power[1] was applied, from which the authoritarian version of the parliamentary system of government emerged. The courts did not

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[1] jedinstvo vlasti. *Hrvatska enciklopedija, mrežno izdanje.* Leksikografski zavod Miroslav Krleža: http://www.enciklopedija.hr/Natuknica.aspx?ID=28893 (accessed 31/07/2020).

have much room for manoeuvre to make decisions without some influence from political elites. This was probably the reason why there was no organized education of judicial office holders in this system of government. They began to appear only after the independence of the Yugoslav federal units. Some of them have accepted the American, some of them the European education system. In this paper, we will present the implementation of the principle of efficiency in the work of centres for education of judicial office holders (originating from the American system) / judicial academies (originating from the European system). The issue of measuring the effectiveness of training is insufficiently researched and creates a problem for all stakeholders in the education of judicial officeholders. This is no wonder since this segment of public administration oversight has always been problematic for theorists, as well as professionals. The paper uses the views of legal theory, normative solutions, but also the empirical results of the centres for education of judges and prosecutors in BiH. To the necessary extent, the general characteristics of the American educational system are presented, as the BiH system has withdrawn the tradition of that system. Comparisons with the European system are drawn.

II. JUDICIAL EDUCATION IN MODERN WORLD: FROM NATIONAL EXCLUSIVITY TO GLOBALIZATION

The statement that the rule of law highly depends on the knowledge of the holders of judicial office is hardly arguable. Even the most sophisticated judicial systems, procedural and substantive laws, as well as material conditions for the work of the judiciary, including the most advanced information systems, cannot make up for any lack of knowledge of the judicial office holder. Moreover, even the independence and fairness and fairness of a judge largely depends on his or her education[2].

Until the beginning of this century Judicial education has been considered as a solemnly internal issue of every state, which is a result of understanding that each country has a different legal system and organization of the judiciary. Therefore, the most important international networks have been established relatively late, e.g. International Organization for Judicial Training (IOJT) in 2002 and The European Judicial Training Network (EJTN) in 2000.

The differences between the two dominant legal systems: continental (civil) law and precedent (Anglo-American) are also strongly reflected in education systems. In civil law countries, in general, the emphasis is on the training of personnel who have yet to become judges and prosecutors while continuous training is traditionally in the background. Certainly, in recent decades, for the above reasons, the education of those already appointed has gained prominence, but formalized training of future candidates for judicial office remains a priority for institutions in civil law countries.

On the other hand, in the countries that are the most prominent representatives of the precedent system (the United States, the United Kingdom), the institute of special education for future judges and prosecutors does not exist. Hence, it is not necessary to take short briefing programs into account (so-called orientation programs), which are also common in other state institutions and private companies.

The key reason for such a different approach lies not in the differences that we usually cite when talking about these systems, but in the different approach and selection of judges. Namely, it is typical for U.S. judges that they have, practically, a second career that they begin after 10-20 years of experience in other jobs, most often as attorneys and prosecutors. Therefore, they are about the age of 40 to 50 when they take office years when they take function. In contrast, in countries with a continental system, judges are, as a rule, elected far younger, and in some

[2] Mahoney, K. E. The myth of judicial neutrality: the role of judicial education in the fair administration of justice. Willamette L. Rev., 32 (1996), p. 785.

countries, there is an age limit for accession to the institutions where training for judges is performed.
It is interesting to note that differences in systems are often explained by reasons other than practical or pragmatic ones. Namely, in the Anglo-Saxon system, the role of a judge, and even the personality of a judge, is in some way mystified and significantly different from the perceived role of a judge in continental countries. Of course, this function is always considered to be extremely honourable and important everywhere, but in the continental system, it is ultimately just one of the professional paths that a young lawyer can choose and in this direction focus his efforts, and in which the judicial academies play a key role. However, in the United States and the United Kingdom, you cannot choose to be a judge, but it is rather a kind of reward for a long-standing, successful, legal profession[3].
The simplified understanding that a good lawyer will also be a good judge, is reflected in the approach that training for a judge is unnecessary, as it is understood that already on the way to the election, the candidate, through his long successful career, has learned everything that is needed.
In this way, we come to the situation that in the countries of the continental system, education for judicial office holders is formalized and transparent. On the other hand, in the United States, Judges, especially the Supreme Court Judges, enjoy the fame and reputation that far outweighs other branches of government, and their memoirs and books about their lives are part of the program at law schools. However, experts who have studied these significant sources claim that they contain extremely little information about what education they went through to become Judges and that it even gives the impression that *"the judge took the oath, stepped onto the bench, and proceeded to fill the judicial role as if born in the robe"*[4].
However, while the above differences still exist, we are witnessing that procedures and institutes that for centuries were typical only for common law are finding their place in the continental system and vice versa. Also, while globalization is the main feature of the common world, it is clear that judiciaries have to keep up with those they are supposed to adjudicate. Moreover, the universality of human rights, constant increase of international trade, cross-border crime, development of ICT technologies that are diminishing importance of terrestrial borders are *inter alia* factors that are making the need for internationalization i.e. the globalization of judicial education a necessity. Besides, the constant quest for higher efficiency of the judiciary and decrease of the backlog is a priority for a majority of countries. Therefore, education about case management and methods that enable prompt processing of the cases is getting much more attention. Consequently, despite differences regarding the substantive law, education in this increasingly important aspect becomes more and more similar[5].

III. PRINCIPLE OF EFFECTIVENESS

Principle of effectiveness in the judiciary can be defined as the *„Ability of a judge to make sound judgements, to be equipped with professional erudition, and to have the skill to prosecute or render judgements effectively in accordance with the law"*[6].
It is closely linked with the efficacy and quality of the judiciary. It represents the balance between competence and productivity. The principle is understood as something opposing the

[3] Li, P. M., How Our Judicial Schools Compare to the Rest of the World, Judges J., 34 (1995), p. 17.
[4] Kadens, E., The puzzle of judicial education: The case of chief justice William de Grey, Brook. L. Rev., 75 (2009.), p. 143.
[5] Wallace, J. C., Globalization of Judicial education, Yale J. Int'l L. (2003).

[6] Kmezić, M., *EU Rule of Law Promotion: Judiciary Reform in the. Western Balkans*, London, Routledge, 2017, p. 105.

„traditional ways“ in the Western Balkans, namely opposing the understanding of judicial independence as a shield to hide the lack of professional competence and accountability.
The lack of competence pertains to the quality of written judicial decisions that reflect poor analytical, research and writing skills that can be found on most court instances apart from supreme and constitutional courts. In this sense, effectiveness is a principle that goes against pure formalism and a simplified version of textual positivism in the process of judicial decision-making and perceives them as a lack of professional competence that is a legacy of socialist legal culture.
Upholding the principle of effectiveness is especially important for aspiring EU candidates since the judicial work will not only be limited to follow the only letter of the law and consider the mere „limited law" of the texts of harmonizing legislation but also to consider the text of the European directives, their reasoning and rationale, jurisprudence of the European Court of Justice and case law of the EU member states.
The link between effectiveness and efficacy manifests in the problems relating to the lack of IT qualified staff, especially if the staff is promoted from the administrative staff of the judicial institutions. Also, it manifests in the problems relating to lack of management training for Court Presidents and Chief Prosecutors. This is why effectiveness is promoted in terms of training of judicial staff on administration (courts and prosecution offices) issues and by employing *„trained junior legal and professional administrative staff for specific quasi-judicial tasks, such as maintaining records and case management"*[7].
Lack of effective and efficient judges and prosecutors in the Western Balkans is due to the lack of practical orientation of legal education, an examination of technical legal knowledge through judicial and bar exams, low judicial capacities and cultural predispositions about the exclusiveness of judges, and formalistic judicial decision-making that favours simplified textual positivism. This also *„cripples the Western Balkans' judicial reform"*[8].
Initial and Continuous Judicial and Prosecutorial Training Mid-Term Strategic Plan for 2012-15 states that the goal of the JPTCs in BiH *„is to provide training that contributes to a more professional judiciary, capable of responding to challenges of a rapidly developing legal environment and possessing the ability to adjust to evolving European requirements in the legal/judicial field"*[9]. Mid-Term Strategic Plan for 2017-2020 states the same[10].
Judicial education and training are an essential element of judicial independence, as they help to ensure the competency of the judiciary. In the justice system of BiH, namely the judicial system, JPTC's in BiH play an important role because their objective is to raise the competency of the judiciary via training, namely – initial training programme for those aspiring to assume the position of judicial office holders (before service)[11], those who have just assumed those positions and programmes of continuous training for judicial office holders (in-service).
Competence represents a linking factor between judicial education and judicial independence. The ideal model of a judge or public prosecutor implies a competent, impartial and professional judge or prosecutor. However, this 'ideal' is shaped by the context of local culture on one side and by the ideal inherent in European legal-cultural space on the other. This translates to the idea of judge and prosecutor who is competent in the application of both domestic and European law – since, having in mind the context of legal reforms that pertain to the process of EU accession, domestic judicial office holders should also operate as norm agents – agents who

[7] *Ibid*, pp. 106.
[8] *Ibid.*
[9] *Ibid*, pp. 108.
[10] Initial and Continuous Judicial and Prosecutorial Training Mid-Term Strategic Plan for 2017-20, p. 18.
[11] Law on Judicial and Prosecutorial Training Center of F BiH (Official Gazzette of F BiH, Nos. 24/02, 40/02, 52/02 and 21/03), article 3., 8., and 17; Law on Judicial and Prosecutorial Training Center of RS (Official Gazette of RS, Nos. 49/02 and 77/02). Law on High Judicial and Prosecutorial Council of Bosnia and Herzegovina (Official Gazette of BiH, Nos. 25/04, 93/05, 48/07 and 15/08), article 17., par. 9.

actively contribute to the Europeanisation process by the means of EU law and standards application. Professional training is the way by which domestic judicial office holders are not only trained to do this but to accept norms, values, standards and best practices of EU related to judicial issues and EU law in particular.

Now, what role does the principle of effectiveness plays in this process? We can think of it as the guiding principle in the realisation of the aforementioned ideal, which means that is related to professional training since that is the 'arena' where one acquires knowledge, skills and values important a competent judicial work. But the principle of effectiveness would best be considered in two senses of the terms: broader and narrower. In the latter sense, the principle relates to the professional development of knowledge, skills and values in applying EU law to those matters where it is applicable – namely taking into consideration the text of EU directives, their reasoning and rationale, the jurisprudence of ECJ and case law of EU member states. In the broader sense, it related to a more general idea of what constitutes a competent judge – namely, being proficient in judicial institution management, case management, IT, judgecraft, professional ethics, anti-discrimination, ECHR law and EU Law.

However, in both of these senses – the principle of effectiveness projects the image of an ideal judicial officeholder who is highly competent and equipped to deal with both legal complexity and high demands of professionalism – and in this way, it makes judicial independence and judicial education *„intrinsically related"*[12].

Bosnia and Herzegovina, as well as other Central and Eastern European countries, does not have a long-standing tradition of institutionalised initial and continuous education and training[13]. Countries that joined the EU recently have begun to integrate EU law „in courses on substantive law and enable judges and prosecutors to apply EU law and its instruments in their daily practice"[14]. In Croatia, continuous training programme incorporates *„specialised courses on various aspects of EU law, including EU civil procedure, EU bankruptcy and enforcement procedure, judicial cooperation in civil and criminal cases, among others"*[15]. For ascending countries such as Bosnia, rule of law and fundamental rights have been identified as the most pressing issues that impact the understanding of rule of law as not just an institutional issue but a requirement for social transformation as stipulated by the strategy „A credible enlargement perspective for enhanced EU engagement with the Western Balkans"[16]. This strategy underlines judicial independence as essential for ensuring fairness and public accountability of legislative and executive branches of government. Under this framework, „the relevance of EU law and the EU accession process for judges is threefold:

- Judges need to demonstrate competence and knowledge that will qualify them as future judges of a single EU judicial system,
- Judges need to be adequately prepared to implement relevant principles of EU law, be acquainted with the preliminary reference procedure and substantive EU law in their respective areas of professional interest, to correctly apply the principles related to EU acquis once the country becomes a member state,
- Judges may find themselves in the position to apply a provision of EU law even in the course of the accession process (either by the provision of the Stabilisation and Association Agreement that call for the implementation of EU acquis or the provisions

[12] Knežević-Bojović, A., Purić O., Judicial Training And EU Law: A View On Comparative And Serbian Practice, Strani pravni život, br. 4 (2018), p. 74.

[13] *Ibid*, pp. 76.
[14] *Ibid*, pp. 79.
[15] *Ibid*, pp. 80.
[16] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A credible enlargement perspective for and enhanced EU engagement with the Western Balkans. COM/2018/065 final.

calling for proper implementation and enforcement of legislation that is compatible with EU acquis[17].

Bosnia is implementing compulsory in-service training for judicial officeholders and the pre-service one. Some programmes conducted by JPTC's are financed from donor funds. „EU law is a subject that is particularly well-suited for such an exercise, combining different topics and methodologies" – a multifaceted approach[18]. *„In this vein, in the years preceding the EU accession, the judicial training institutions in accession countries should ensure that training on fundamentals of EU law, such as the sources of EU law, the relationship between national law and EU law, the preliminary reference and the principle of direct effect has a wide coverage as possible, including judges and prosecutors on all levels"*[19]. Specialised and focused training should be available. Training of trainers should also be used. Networks of judges and prosecutors as a peer-to-peer support mechanism should also be used; development of a platform enabling access to up-to-date materials on EU law should take place. A regional approach, like the one used by V4 countries, could also be used.

Uzelac claims that *„most of the socialist judiciary has developed, over time, numerous methods aimed at avoiding responsibility in decision-making"*[20]. Delivering anonymous decisions, delivering no decisions whatsoever or directing the case to another, in most cases, higher judicial instance. Now, all of this developed judicial formalism, namely in the civil law area. This formalism stipulates that cases should be, whenever possible, decided on the formal grounds, without entering into merits. Formalism brought formal objections and trivial procedural issues to the centre of the judicial process. In many cases, this formalism brought cases either to be dismissed on formal grounds, or their transfer to other authority[21]. Postponements and prostrations were frequent, both because of the non-appearance of parties and for the quest for the material truth. Anyway, formalism impacted the decision-making process to be more time-consuming and this eventually created backlog of cases.

Judgecraft was reduced to the judgment-writing job and after the decision (non-final) was made it was mostly perceived as provisional due to the extended appeal practice that allowed some judges to remove themselves from the responsibility of delivering the final decision. Even so, higher judicial instances involved in the appeal process could and did use remittals of the cases to lower courts for retrials[22]. The slow pace of the process was beneficial to legal representatives of the parties[23].

Uzelac treats judicial formalism as a feature of the instrumentalist approach to law and the practice of not delivering the final decision as a mean of eluding responsibility. These survived as salient features of the tradition and affected judicial work in the transition context. *„What changed was the social context in which the legal infrastructure operated"* and in this new social context court backlogs and judicial delays impeded the efficiency of the judiciary[24]. Inefficiency did not arise from the length of procedures alone, but from the context of new political associations and subsequent right of a trial in a reasonable time. In the context of the judiciary, a transition took too long and is still an active process. Also, the effect of reform strategies in the judicial system of former Yugoslavia was considered to be moderate[25].

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[17] Knežević-Bojović, A., Purić O., Judicial Training And EU Law: A View On Comparative And Serbian Practice, Strani pravni život, br. 4 (2018), p. 81-2.
[18] *Ibid*, pp. 84.
[19] *Ibid*, pp. 86.
[20] Uzelac, A. Survival of the Third Legal Tradition? Supreme Court Law Review, 49 (2010), p. 383.
[21] *Ibid*, pp. 384.
[22] *Ibid*, pp. 385.
[23] *Ibid*, pp. 387.
[24] *Ibid*, pp. 388.
[25] *Ibid*, pp. 389.

Uzelac writes: *„Additionally, it seems that the salient features of the socialist legal traditions were even better at continuing to hold strong within the more developed ex-socialist jurisdictions, where the Communist regime had been softer and legal professionals were more influential and more numerous"*, like Slovenia and Croatia[26]. Some of the features of judicial work that we tend to relate to „burdens of the past", namely in the area of civil procedure, include: „(1) deconcentrated proceedings and a lack of trial in the proper sense; (2) orality as pure formality; (3) excessive formalism; (4) the pursuit of material truth; (5) lack of planning and procedural discipline; (6) appellate control as an impersonal and anonymous process; (7) multiplicity of legal remedies that delay enforceability; (8) endless cycles of remittals; and (9) disproportionate efforts for reaching ephemeral and socially insignificant results"[27]. Uzelac also claims that the style of proceedings we have today continue to live and develop despite changes to the procedural legislation. The style of proceedings that Uzelac refers to does not adhere to oral hearings but prefers the exchange of documents and new evidentiary proposals. Hearings tend to be adjourned regularly due to the „well-established habits of the (previously) socialist judiciaries: excessive formalism, a lack of procedural discipline and adherence to material truth doctrine to play the most important roles"[28]. Judicial activism in these conditions is considered an element that contributes to procedural delays.

Uzelac also notes that the work of higher courts did not alter in postsocialist times. Appellate courts *„have continued to decide such appeals with the same bureaucratic passion for slow process and excessive formalism. As the courts and their actions became more exposed to public criticism, the instinctive response was to strengthen the anonymity and impersonal nature of the decision-making"* [29]. This is why the appellate judges concentrated mainly on the technical details of cases and in many instances were remitted to lower courts for re-examination and with the recommendation for the lower court to find the 'material truth', causing the „endless cycle of remittals" that was identified as a serious deficiency in the judicial systems of CEE countries[30]. Notable paradox: *„... the fact that the very attempts to bring the justice system closer to the Western rule of law standards have strengthened the status quo"*[31]. Standard of judicial independence (namely, the organizational autonomy and self-management of the judicial branch was compatible with the tradition of the past and used as a *„magic wand that could assist in the continuation of the old attitudes and practices by creating a protective veil of against any public criticisms (even legitimate ones)"*[32]. This helped to form *„impenetrable barriers to substantial changes"*[33]. Old judicial elites found their way into the new system of the institutionalized principle of judicial independence by moving to high ranks of judicial councils thus ensuring control over professional recruitment. Judicial professional associations, by invoking the standard of judicial independence, only affirm this control to secure that ongoing reforms do not hurt their status. Since the influence of prominent lawyers, namely those belonging to the judicial sector, also means a role in the legislative process – these elites could also impact new legislation to secure their status. The field of professional education is also impacted – since *„it is almost exclusively for representatives of old judicial elites who educate (or socialize) the prospective candidates for judicial functions"*[34]. In this way, the option of hearing different voices from younger lawyers or members of the legal academia was reduced.

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[26] *Ibid*, pp. 390.
[27] *Ibid.*
[28] *Ibid*, pp. 392.
[29] *Ibid*, pp. 393.
[30] *Ibid.*
[31] *Ibid*, pp. 394.
[32] *Ibid*.
[33] *Ibid*, pp. 395.
[34] *Ibid.*

IV. EDUCATION OF JUDGES AND PROSECUTORS IN BiH – NORM AND PRACTICE

JPTC's – competences, status, perspectives

Contemporary democratic countries in Europe have either a judicial academy or centre for the education of judges and prosecutors. In some countries, institutions that train human resources of courts and those that train prosecutors are separated. The general model does not exist. Every judicial system is unique and requires a special system of education. Judicial and prosecutorial training centres in BiH – Judicial and prosecutorial training Center in F BiH, and Judicial and prosecutorial training centre in RS, as public institutions, was formed, based on entity laws on JPTC's[35]. With these institutions, the process of organized training has practically begun in Bosnia and Herzegovina. The content of laws on JPTC's is the same.

Two basic competencies are especially important for securing the independent, impartial and professional obtaining of judicial/prosecutorial function: continuous training of judges and prosecutors and classes for initial training of persons who tend to obtain the profession of judge and prosecutor. These types of education are implemented based on Annual Curriculum for initial training and professional development, which is adopted by a Steering Board of JPTC's and approved by a High judicial and prosecutorial council of BiH. The curriculum is constructed based on proposals of the judicial community, international organizations (USAID, IRZ, OPDAT, OSCE. Council of Europe…), and strategic documents (for example Report on the progress of European Commission, Strategy of development of the sector of justice, etc.). In the last several years' number of training has increased, and it is approximately from 180 to 200 trainings per year[36].

The Government of the Federation of Bosnia and Herzegovina and the Government of the Republic of Srpska, provide appropriate premises, equipment and a very limited annual budget for the work of the Centers. Most of the financial means in the Annual budget goes to initial education and JPTC's in continuous training heavily rely upon the financial help of international donors.

Center also implement the joint Mid-Term Strategy of initial training and professional development from 2017 to 2020. The strategic activities of JPTC's are directed towards:

1. Institution building of the JPTC's;
2. Creating and developing local training capacity;
3. Creating and developing systematic training programmes in different areas relevant to the work of judges and prosecutors; and
4. Establishing partnerships with domestic and international organisations[37].

In the Strategy, narrower cooperation with universities, similar institutions in other countries and other relevant institutions in BiH, is provided. Therefore, JPTC's signed many agreements on cooperation with these institutions.

Examples of good practice

In the European judiciary, training has become a part of professional life. Lifelong learning is an objective pursued within the European Union. Training includes courses and training sessions led by a trainer. Training is more specific than education, and its goals are easier to define. Training as such must include the following elements:

- the process of assessing training needs;
- establishing the training objective;
- planning training programs;

[35] Law on Judicial and prosecutorial training Center of F BiH ("Official Gazette of F BiH", Nos. 24/02, 40/02, 59/02 and 21/03) and Law on Judicial and prosecutorial training of RS ("Official Gazette of RS", Nos. 49/02 and 77/02).

[36] According to the information from the database of JPTC of F BiH, in 2014 117 educational activities/training were held; in 2015 131; in 2016 187; in 2017 179; in 2018 179; in 2019 208. In total, through all these years 1001 trainings were held.

[37] In the Strategy, narrower cooperation with universities, similar institutions in other countries and other relevant institutions in BiH, is provided. Therefore, JPTC's signed many agreements on cooperation with these institutions.

- consideration and selection of possible resources and methods;
- realization of training and
- assessments and analysis of training results

The EU Reports state that the JPTC's in Bosnia and Herzegovina has not yet undertaken a regular, comprehensive and analytical TNA (training needs assessment), but the survey made for the elaboration of the present study demonstrates the willingness of the relevant staff to work on this issue and continue to upgrade the knowledge and tools for raising the quality and efficiency of TNA training itself[38].

Education of grown-ups is a very complex process and requests the qualitative realization of each phase. It has to be an investment, not a cost. With the evaluation of a training JPTC's determine were the knowledge, skills and techniques, applied in the workplace, and also were court/prosecutorial office gained positive results, in the long-term. For the JPTC's this means a way to found out if the training was an investment or a cost.

Measuring the impact of a judicial training program involves assessing how the training improved the participants' knowledge, skills, attitudes and overall professional competence to administer justice[39].

When it comes to measuring the effectiveness of the training, JPTC 's have several instruments:

1. evaluation forms, filled anonymously by participants[40].
2. JPTC in cooperation with some international organizations began to do long-term evaluations-6 months after the training (with OPDAT).
3. test made immediately before and immediately after the training, done sometimes with equipment donated by the US Embassy in BiH[41];
4. measuring of impact of training in practice, concerning the number of correct legal and other acts (for example, after several trainings in the field of international legal help, the trainer from the Ministry of justice saw that number of wrong requests for international legal help and assistance was lesser than before the training; also trainer from Supreme court of F BiH noticed that number of incorrect activities is smaller after she explained what was wrongful in those activities);
5. analyse of judicial and prosecutorial practice (for example, analyse that JPTC 's done in the field of criminal law aspects of hate speech, made by a professor from the Law faculty of Sarajevo, and one of the experts for education In JPTC, showed that since the beginning of the "Jufrex" project of Council of Europe (2017), there were more convictions and indictments than before the projects.

This means that JPTC's can assess the results of the training in more than one way. Primarily, that are significant changes in learning outcomes-amount of information learned, evidenced by improved work processes. Improvement of quantity and quality of judicial/ prosecutorial acts, but also, sometimes, a higher level of motivation can be supporting outcomes of the training.

According to Opinion No. 4 of the Consultative Council of European Judges[42], the quality of trainees' results should still be assessed, if such an assessment is necessary because in some systems initial training is one phase of the recruitment process. This is not the case in BiH, so only evaluation of training by participants-professional associates/advisors is performed, and in the initial training for newly appointed judges/prosecutors, "entry" and "exit" tests are used, immediately before and immediately after the training (same knowledge quiz presented to the participants).

There are also, instruments for assessment of judicial training in courts/prosecutorial offices, by Chief prosecutors and presidents of courts. This type of assessment is basic, it is primary in post-conflict societies. On the other hand, it is extremely low, because the absence of external evaluators can be a limitation for objective evaluation or even for collecting data.

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[38] *Study of the existing systems of judicial training in the Western Balkans*, Brussels, 06/12/1997, Regional Cooperation Council, p. 24.

[39] *Measuring the Impact of Judicial Training*, INPROL Consolidated Response (07-005), July 14, 2007, p. 1.

[40] In evaluation forms, we ask these questions: "Please evaluate the success of the training" (expectations from the training, the realization of the training, and technical organization of the training), "did the training contributed to the professional knowledge that is needed to you in doing your work?", "additional objections, proposals, suggestions and comments" (where participants can write what other benefits did the program achieved).

[41] Tests given to participants to measure knowledge is mostly used on initial training because this can be a sensitive matter when dealing with "carrier" (long-term) judges or prosecutors, especially those who are considered to be experts in their fields. It is important to emphasize that judicial promotion in Bosnia and Herzegovina does not depend on taking an examination.

[42] *CCJE (2003) Op. N° 4*, Strasbourg, 27/11/2003, https://rm.coe.int/1680747d37 (accessed 31/07/2020).

V. CONCLUSION

In every European society today, there are institutions for the education of judicial officeholders. Even outside Europe, they are not taken for granted. They are important to prevent the erosion of the rule of law and the independence of the judiciary. In theory, there is nothing disputable between the principle of efficiency and its grounding in the training of judges and prosecutors. It also tests the legitimacy of the educational process itself. The development of training centres for judges and prosecutors has been marked by certain paradoxes. For a long time, these young institutions did not have mechanisms to monitor how judges and prosecutors make decisions and how they judge in certain cases. This has changed over time, and certain methods have been used to monitor the effect of the training while respecting the institutional independence of the judiciary and the assumption that legitimacy would not be given to the judiciary by greater social control. It is now possible to monitor the efficiency of training in several ways, and in addition to social development and the increased demands of the European Union, new trends in testing the effects of education will certainly appear. This applies both to judicial institutions and judges/prosecutors individually, to justify their commitment to the rule of law, and to strengthen both their own and the legitimacy of the judiciary as a whole.

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