

Terms of Reference (TOR) for a Short term assignment

Technical assistance requested: Two Senior Experts for Reforms Concerning Constitutional and Legal Framework of the Judicial Academy

The project

Title:	Support to the Judicial Academy, Serbia
Ref:	EuropeAid/135635/IH/SER/RS
Main beneficiary:	Ministry of Finance, Government of the Republic of Serbia, Department for Contracting and Financing of EU Funded Programs (CFCU)
Financing institution:	European Union
Budget Line / Expert Category:	Non-Key Short-Term Senior Expert
Team Leader:	Mr Juan Carlos da Silva

Project background and description (scope of the work):

The Republic of Serbia was granted a candidate status for EU membership and the accession negotiation process officially commenced in June 2013. As part of the Serbian EU integration process, Serbia is faced with a task to ensure full implementation of key reforms, with particular focus on judicial reforms and protection of fundamental rights and freedoms covered by the negotiating Chapter 23. Full compliance of national legislation with the EU *acquis* is essential for successful integration. In order to harmonize national legislation with the EU *acquis*, it is necessary to thoroughly perform comprehensive analysis of legislation compatibility, assessing levels of conformity and providing possible measures designed to overcome identified differences between the two legal systems. With an aim of achieving full and proper legislative harmonization with the EU *acquis*, national legislation alignment shall be approached in phases and in accordance with recommendations from the Screening Report on Ch. 23 and the priorities set forth by the NPAA 2014 - 2018. The next phase of legislation alignment specifically targets protection of fundamental rights.

The project should achieve three results:

Result 1: Ensured easier access to the case law of the European Court for Human Rights for the relevant target groups, aimed at the improvement and unification of the case law among Serbian courts as well as its harmonization with the EU standards.

Result 2: Educational activities of the JA enhanced in order to improve efficiency and effectiveness of trainings.

Result 3: Functioning of the new structures within new competences of the Judicial Academy (JA) improved.

The scope of this assignment is to assist the Project in its objective to enhance educational activities and functioning of new structures within new competences of the Judicial Academy and establishment of the

consistent judicial system of the Republic of Serbia. Further, the assignment will contribute to the improvement of the independence and efficiency of the judiciary through adequate measures regarding accountability, impartiality and competence of justice actors in order to achieve and strengthen the rule of law, legal certainty, and better access to justice as well as improvement of the protection of human rights and protection of minority. The sustainability of results, including ensuring the necessary capacities for implementation and follow-up, will be specifically in focus.

Description of the assignment

Title: Senior Expert for Reforms Concerning Constitutional and Legal Framework of the Judicial Academy

Brief description of the assignment:

In accordance with the Project's Extension Rationale, the model of recruitment and appointment of new judges and prosecutors in Serbia is largely considered as one of the current major problems of the Judicial Academy that affects its overall functioning. Furthermore, the issue of first time judge's appointment is one that is a very much present in the Constitutional debate. In addition, the process is burdened by a number of initiatives for assessing the constitutionality and legality of the relevant secondary legislation, on the one hand, and by relatively passive position of the High Judicial Council with regards to possible solutions of the existing deadlock between positions on far ends of the spectrum.

The Judicial Academy needs to position itself in this debate and facilitate the dialogue in order to explore options, find common grounds and reach an agreement on viable constitutional and regulatory solutions related to these burning issues.

The project would provide support to the Action Group established by the Judicial Academy, for the Judicial Academy future positioning in light of the envisaged Constitutional Changes and/or legislative changes through three scenarios (short term, medium term and long-term solutions) and, based on the Action Group recommendations, provide support to wide consultation process among all stakeholders. This will be done through facilitation of the work of the Action Group by providing best comparative examples, structuring debate and formulating recommendations and norms related to eventual changes to constitutional and/or legal framework based on the inputs of the consultative process. The selected experts will perform these tasks.

Number of required experts:	2 Non-Key Short Term Senior Experts
Duration of the assignment:	Up to a total of 10 working days each
Period of the assignment:	April 2018 – June 2018
Place of assignment:	Belgrade, Serbia
Working language:	English and Serbian

Expert Activities:

- hold consultations with stakeholders and beneficiary
- provide support to the Action Group established by the Judicial Academy for future positioning in light of the envisaged constitutional changes and /or legislative changes
- secure support to wider consultation process among all stakeholders by providing best comparative examples and structuring debate
- formulate recommendations and norms related to eventual changes to constitutional and/or legal framework based on the inputs of the consultative process

Related outputs:

- Support to beneficiary provided
- Best examples and practices shared with Action Group
- Report on recommendations and norms related to eventual changes to constitutional and/or legal framework based on the inputs of the consultative process delivered

Expert Profile

Qualifications and skills

- University degree (where a university degree has been awarded on completion of three years study in a university or equivalent institution) in Law;
- Excellent knowledge of English language (min 2 on a scale of 1 to 5; where 1 - excellent and 5 - basic);

General professional experience:

- Proven minimum 5 years, preferably 8 of working experience in constitutional law and/or administrative law
- Proven minimum 5 years, preferably 8 of working experience in a body governing judiciary and/or prosecution would be considered an advantage
- In similar professional circumstances, applicants with proven experience as judge or prosecutor will be preferred

Specific professional experience:

- Good knowledge of European standards applicable to judicial and/or prosecutorial recruitment and/or organization would be considered an advantage
- Excellent knowledge of the Serbian legal framework related to recruitment of judicial office holders and previous working experience in Serbia would be considered an advantage
- In similar circumstances, published scientific work in the field of the assignment will be considered an advantage

Applications (EU format CV and application letter, both in English) need to be submitted by e-mail to info@jap.rs not later than 16 April 2018, titled:

Application for the position: Senior Expert for Reforms Concerning Constitutional and Legal Framework of the Judicial Academy

References must be available on request. Only short-listed candidates will be contacted.

The Project is an equal opportunity employer that encourages applications from women and minorities.

All applications will be considered strictly confidential.

The advertised post is not available to civil servants or other officials of the public administration in the beneficiary country, Serbia. However, due to the nature of the assignment, in the case a Judge or a Prosecutor from the Republic of Serbia is selected, he/she will need to obtain leave of absence from the current employer to be approved as an expert by the Contracting Authority – Ministry of Finance Republic of Serbia.

