

HIGH JUDICIAL COUNCIL – JOINT LIST OF RECOMMENDATIONS

№	Recommendation	Explanation of the Twinning Project regarding the recommendations (guideline to overcome the shortcomings in the existing system)	Connected Legal act
Result 1 – ADMINISTRATIVE CAPACITIES OF THE HJC AND SPC IMPROVED			
Component A - IMPROVE INTERNAL ORGANIZATION OF THE HJC AND SPC ADMINISTRATIVE OFFICES			
PROPOSALS AND RECOMMENDATIONS FOR FURTHER DEVELOPMENT OF THE STRATEGIC AND CAPACITY BUILDING PLANNING FOR THE HIGH JUDICIAL COUNCIL			
1	The structure of the employees is not entirely aligned with the needs of the HJC as a consequence of unfilled vacancies in positions of great relevance for the performance of the HJC. The RJCSJDC may be a constraint to upgrade job positions in the HJC and, hence, for recruitment of high-skilled and medium-skilled personnel and promotion of the employees of the HJC.	Upgrade the status of the staff of all levels of the HJC Administrative Office similarly to institutions such as the Constitutional Court or Anti-corruption agency. Modify legal restrictions to provide the HJC with the necessary ability and funds for filling of vacancies.	LHJC/RJCSJDCS /RJOSP
2	Lack of professionalization of carrier for working posts in the HJC Administrative office and promotion procedures.	Establish a career path for positions within the HJC Administrative office and strengthen promotion processes of the most qualified personnel within the HJC Administrative Office with the aim of enhancing quality performance and ensuring staff stability.	LHJC
3	Existing forecasting to cover temporary vacancies arising from workload peaks or specific short-term activities, staff members on leave or extended sick leave, etc., should be improved	Implement advanced planning for temporary engagement of persons when workload or specific short-term vacancies require it.	
4	Insufficient number of courses devoted to strategic planning and managerial capacities within the "Professional Development Plan for Employees of the HJC for period 2015-2018"	To increase the number of implemented training programmes for the staff of the HJC Administrative Office on strategic planning and analytics and managerial capacities and to reinforce the communication channels and coordination with the Judicial Academy in this regard.	PPPEAO

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5	The "Professional Development Plan for Employees of the HJC for period 2015-2018" envisages an assessment procedure of its fulfilment, but data on this issue was not available.	To enhance the monitoring on a regular basis executed trainings and their impact on the improvement of the staff capacities.	PDPEAO
6	The lines of communication and coordination between the HJC and the Ministry of Justice may be improved.	To establish a complementary institutional relationship between the Ministry of Justice and the HJC for issues regarding constitutional amendments and legal changes. Put mechanisms in place to coordinate the relationship between the Ministry of Justice and the HJC that in particular covers topics like annual budget, court infrastructure and services, court support staff, public and international relations, ICT.	
7	No fluent communication channels between the HJC and other institutions.	To institutionalize cooperation with legal operators and to enhance cooperation and coordination with legal schools and civil society organizations.	
Component A - IMPROVE INTERNAL ORGANIZATION OF THE HJC AND SPC ADMINISTRATIVE OFFICES			
PROPOSALS AND RECOMMENDATIONS FOR FURTHER DEVELOPMENT OF THE BUDGET PLANNING AND INTERNAL AUDIT FOR THE HIGH JUDICIAL COUNCIL			
1	Budgetary competencies of MoJ, HJC and SPC are prescribed by the Law on Courts and the Law on Public Prosecution, as part of the judicial administration. Even if the competences are prescribed by the Law there is a lack of effective division of budgeting responsibilities between the five Institutions involved: HJC, Courts, MJ, SPC and PPOs.	Current division of responsibilities has to be simplified with the transfer of competences from MoJ to HJC and Courts regarding judges and with the transfer of competences from MoJ to SPC regarding prosecutors. The competences that should be transferred to the HJC are remuneration of judges and the staff employed in the administration of justice as well as the expenditures for the operation of the courts. A solution for centralizing responsibilities could be through creating of a Centralized national department (e.g. judicial office) servicing Courts and Public Prosecution Offices in issues such as elaboration and administration of budget and human resources, housekeeping, tendering, common services, judicial security etc.	LoC

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2	Budget planning in HJC and the Courts is performed based on the figures from previous years and in large part on personnel issues and salaries.	Objectives and detailed knowledge of the activities, especially the number of cases and the working charges should be the most relevant input in budget planning in HJC and in Courts.	
3	The Law on Court Fees prescribes that a part of judges' salaries are dependant on fees collected by courts.	Salaries of Judges should not be dependant in any part on court fees incomes. The remuneration of judges must remain related with their relevant responsibilities, be guaranteed in law to preserve judicial independence and impartiality.	LoCF (Article 51)
4	There system of internal control (audit) of the implementation of the budget in the HJC is not set up. There is a post of internal auditor on staff, with responsibilities of internal control that is not currently named.	Fill the vacancy of the internal control position and establish an updated internal control system that guarantees the correct implementation of the budget in the HJC. There is a need to perform an independent control following international standards in addition to different electronic controls on payments by the MoF.	
5	Instructions to prepare the Budget in Courts are given by three different institutions, MoF, HJC and MoJ. Too many people give opinion on Courts budgeting demands. This represents a weakness in the budgeting process.	The transfer of competence from the MoJ should be performed as listed above in the recommendation No1.	
6	The MoF is not leaving reasonable deadline for preparation of the budget.	Insist on establishing efficient and timely communication regarding budget planning between all involved institutions.	
7	Courts do not receive complete information about final Budget to start the financial year. Courts have debts with suppliers, such as post and others. Money transferences do not arrive to Courts on time.	More autonomy to execute the Budget in Courts is needed.	

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Component C - IMPROVE ADMINISTRATIVE CONTROL OVER COURTS			
PROPOSALS AND RECOMMENDATIONS FOR APPROPRIATE DEVELOPMENT OF ADMINISTRATIVE SUPERVISION OVER THE WORK OF COURTS			
1	LONG TERM RECOMMENDATIONS Overlapping of the competences for administrative control.	<p>All competences to be transferred to the HJC without prejudice to supervision carried out by the court presidents</p> <p>The HJC should establish a permanent working body that will be in charge of carrying out regular and efficient monitoring of the administrative work of courts. The working body should be made of judges, administrative staff and persons skilled in statistics. The head of this body should be a judge with more than 15 years of experience. The head of the body and the judges should be appointed by HJC. The administrative staff supporting the body are civil servants of HJC.</p>	LOM LOC CRP
2	Lack of coherent strategy for the control over the performance of courts (lack of uniform standards to measure workload, backlog and delay).	<p>Clear standards about input and output should be set in advance by the HJC, which take into account the type of court, the applied procedure to the dispute, the complexity of the dispute e.g. number of parties, factual and legal issues. Based on these the number of hours needed in order to process each case should be calculated in order to set the standards by which the capacity of each court will be measure on an annual basis. A general frame of criteria about backlog, delay, rendered and pending decisions per court should be also set in advance by the HJC.</p>	LOC LHJC RPHJC CRP
3	Shortcomings in the random allocation of cases should be cleared.	<p>One of the aims of the administrative control should be to ensure that all cases are randomly allocated and that the exceptions to this rule are implemented in accordance with the Law. (Law on Judges, Articles 24 and forward). This has to be one of the tasks of the new permanent working body in charge of administrative control over courts.</p> <p>In this respect, the members of the permanent working body (or court presidents, where appropriate) should provide information in their visit reports, after checking enough number of cases, if allocation has been done randomly or not, and in the latter case, if this corresponds to one of the legal provisions regarding exceptions.</p>	LOC LHJC RPHJC CRP

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4	Insufficient staff, insufficient training and lack of material resources (especially IT) in the HJC in regards to administrative control over courts.	The permanent working body in HJC should be provided with specific training for all persons involved in its work. Sufficient material resources should be provided. If necessary, additional administrative staff should be foreseen by the systematisation of the working posts in the Administrative office of the HJC.	LOC LHJC RPHJC CRP
5	Possible interference of the administrative control executed by judges working in immediate superior courts, with judicial independence.	The current practice of establishment of the commissions of judges to conduct supervision visits in the lower courts, including those from the SCC, should end. Competences foreseen in Article 54 of the LoC may remain in the hands of the presidents of immediate superior courts, who will carry them out as extraordinary controls where appropriate, and always in coordination with the HJC. Reports of their supervision activities should be sent only to the HJC. The HJC and court presidents shall continuously coordinate their activities.	LOC LHJC RPHJC CRP
6	SHORTTERM RECOMMENDATIONS Financial and organization difficulties for implementing the long-term establishment of the permanent working body to perform administrative supervision over courts.	A transitional period (no longer than 2 years) during which one or more elected members of the HJC from the ranks of judges shall be in charge of setting up the working body for administrative control with the assistance of the court presidents with the following tasks: A. Analyse information submitted by court presidents in order to obtain accurate insight into the state of play in courts in all Serbia and subsequently draft biannual reports. B. Identify the needs of the working body in human and material resources and elaborate a complete plan for the structure and functioning of the working body. C. Promote the new competences of the HJC permanent working body to judges and encourage them to apply for positions in the administrative control working body. D. Set clear standards about input and output as mentioned above in number 2.	LOC LHJC RPHJC CRP
COMPONENT D - ESTABLISHMENT PRO ACTIVE RELATIONSHIPS WITH STAKEHOLDERS AND CIVIL SOCIETY PROPOSALS AND RECOMMENDATIONS FOR FURTHER DEVELOPMENT OF THE ACCESS OF NATIONAL MINORITIES TO JUSTICE			

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1	The representatives of some national minorities – especially the Albanian and the Macedonian – claim to have difficulties in accessing justice due to the suppression of many local Courts by the reform made in 2010, only partially solved by the reform made in 2014.	A thorough study should be made in order to assess if there are significant difficulties for national minorities to access justice due to the reforms made on the Court's network, where have these “significant difficulties” been detected, and which would be the possible ways to mitigate such difficulties. This study might be done together with the study on the representation of national minorities within Judiciary.	
2	The procedure slows down when carried out in an official minority language. This is actually leading to the lack of use of these languages in Court, even to its misuse just to slow the proceedings.	It should be considered to take legal reforms so there is no automatic and immediate obligation to translate all records and documents into Serbian language when a proceeding is conducted in a minority language, unless the translation is needed for appeal, enforcement or other official purposes. Judges should have adequate legal tools to prevent and/or correct any misuse or abuse of the possibilities given to parties regarding the use of minority languages.	
3	There is a general lack of trained Court interpreters, as well as a very limited budget for Court translation and interpretation.	The State should continue to make efforts to improve the budgetary resources destined to translation and interpretation services in Courts in order to ensure quick quality translations.	
4	The representatives of some National Minority Councils complain that the knowledge of minority languages is not taken into account sufficiently in the nomination and election of Judges.	Article 4 of the Rulebook on criteria and standards for the evaluation of expertise, competence and worthiness of candidates for Judges who are being elected for the first time; and article 3 of the Rulebook for the election of Judges with permanent tenure to another or higher Court, and criteria for the proposing of candidates for Court Presidents should be amended in order to incorporate the specific “preferential criteria” that should be applied, as complementary criteria, within the procedure for the nomination and election of Judges for those territories in which minority languages are in co-official use, to persons that prove to have an adequate knowledge of such minority languages. - Until the amendments are done, there should be a close monitoring of the implementation of these two articles in order to ensure their effectiveness within the procedure for the nomination and election of Judges.	

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5	There are no established mechanisms to test and certify Judges' knowledge of national minority languages. Therefore, many Judges that claim to know a certain minority language can't conduct proceedings in that language, due to the lack of knowledge of the legal terminology.	It is necessary to establish, in cooperation with the competent scientific and educational institutions, standard and effective mechanisms to evaluate and legally certify the knowledge of national minority languages for all the different professional groups working in Courts, including judges, prosecutors, clerks, civil servants and administrative staff.	
6	The previous shortcoming (numbered 5) is also applicable to other professionals working in Courts (prosecutors, clerks, public servants and administrative staff).	Within budgetary possibilities it would be highly advisable to arrange trainings on legal terminology of minority languages for the different professional groups working within Court, including judges, prosecutors, clerks, civil servants and administrative staff.	
7	It's generally advisable to promote the use of National Minority languages in those Courts where they have a co-official status	The software tool - which is being currently developed in the Courts of Subotica, with the funding of the Council of Europe - that allows all the Court staff to use the judicial computer system in any of the languages in official use in Subotica, and to count the proceedings that are being carried out in any of those languages, is considered to be of great interest. It would be desirable that, as budgetary possibilities allow it, the use of such a software tool could be extended to all Courts with minority languages in official use	
8	Lack of legal texts translated into national minorities' languages.	Within budgetary possibilities, the competent ministerial authorities should take care that all Courts settled in locations where a minority language is in official use are duly provided with translations of all legal texts into the minority co-official languages.	
9	Misrepresentation of national minorities in the composition of the Courts of certain parts of the territory of the Republic of Serbia, with a significant percentage of population belonging to a national minority.	It is necessary to closely monitor the implementation of Article 4 of the Rulebook on criteria and standards for the evaluation of expertise, competence and worthiness of candidates for Judges who are being elected for the first time, and article 3 of the Rulebook for the election of Judges with permanent tenure to another or higher Court, and criteria for the proposing of candidates for Court Presidents, in order to ensure their effectiveness within the procedure for the nomination and election of Judges.	

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10	The latest recollection of data on the ethnical composition of the Courts of Justice in the Republic of Serbia is not conclusive due to various factors that interfered in the implementation of the survey used to collect those data in 2015.	A new recollection of data concerning the representation of National Minorities within Judiciary should be made within a period of three years in order to assess the tendency on this field.	
11	Misrepresentation of national minorities in the composition of the Courts of certain parts of the territory of the Republic of Serbia, with a significant percentage of population belonging to a national minority.	If the new recollection of data shows that the procedures for the election of Judges carried out under the two new Rulebooks don't succeed in providing national minorities with adequate representation within Judiciary, the two aforementioned articles should be amended in order to incorporate the specific “preferential criteria” that should be applied, as complementary criteria, within the procedure for the nomination and election of Judges for those territories with a significant population belonging to a certain national minority, to persons that declare to belong to such a national minority.	
COMPONENT D - ESTABLISHMENT PRO ACTIVE RELATIONSHIPS WITH STAKEHOLDERS AND CIVIL SOCIETY			
PROPOSALS AND RECOMMENDATIONS FOR FURTHER DEVELOPMENT OF COMMUNICATION BETWEEN THE HIGH JUDICIAL COUNCIL AND THE MEDIA, CIVIL SOCIETY, OTHER INSTITUTIONS AND STAKEHOLDERS			
	HJC RELATION WITH MEDIA		
1	Press guidelines: A common press guideline for Journalists and Courts has not been adopted. It is not known what kind of information, why and when the Judges have to make public, according to the legal provisions. The spokespersons: meeting do not count on any assistance or support of communication advisers or press officers. They do not meet anytime of the year to share their experiences. Training: During the interviews we detected a lack of knowledge in spokesperson's communication techniques as well as in journalist's knowledge of legal concepts, terms and procedural rules. The web site: the information provided is not updated regularly. This lack of	The press guidelines should be part of a national strategy plan containing a planning and reporting cycle regarding communication with the media and society. They should be also implemented on a national level, so that the judges are aware what and when they can do, and media and public what kind of information they can expect. Spokespersons: Maintain a regular coordination in this field between HJC and the Courts spokespersons and their presidents. Meetings: It is advisable that HJC and all Courts meet once or twice a year to discuss their experience with the media. The HJC should organize training to aid the spokespersons in their work. The web site: All Supreme Courts and Higher Courts decisions should be accessible on the internet, and the rest of the Courts should publish a selection of the decisions.	

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	updating prevents the website from performing its main task, which is to provide a quick and timely information to journalists and citizens as the Communication Strategy requires.		
	HJC RELATION WITH PUBLIC INSTITUTIONS		
2	<p>Bar Association: Currently there is not a representative of the Bar Association in the composition of the HJC, as foreseen in the Law of HJC. Official Relation Ship: There is not enough relationship with other Public Institutions. Transfer the competence: The envisaged competence of the HJC in budgeting and supervision over courts are still in the hands of the MJO. Political influence: Adoption (25.10.2016) of the Modus operandi and decision-making procedure of the High Judicial Council in case of exertion of political pressure on the judiciary, (Art. 27 a - c of the Rules of Procedure of the HJC, The Official Gazette of the RS, No. 29/13 and 4/16) .</p> <p>Visibility: There is not enough visibility of the actions taken by the HJC in order to enhance its image.</p>	<p>Bar Association: In order to overcome this situation, it would be advisable to set a working group comprising representatives of the three sides to find a solution for this situation. Official Relations Ship: It is necessary to set up regular meetings or permanent working groups with Notaries and Bailiffs and to adopt common rules in order to get over the current overlapping of certain competencies brought about by recent legal reform in this area, as foreseen in the provisions of Communication strategy for HJC. Transfer of the Competence: In order to fulfil provisions of AP 23 and improve the power of HJC is desirable to set a working group to analyse the state of play of the transfer foreseen for January 2018. Political Influence: Recent decisions have been adopted. They allow judges to address the Council in writing to request that the HJC defend their independence. The conclusions of the Council regarding these instances are published in a press conference, press statements and in the website of the Council Visibility : It would be advisable to include in the annual report presented and debated before National Assembly the actions taken in view of enhancing the image of the institution in that period</p>	
	HJC RELATION WITH CIVIL SOCIETY and NGOs		
3	<p>Citizens: Weak trust and misunderstanding of the citizen in the Judiciary. NGOs: Few contacts of the Judiciary with the civil organizations.</p>	<p>Citizen: Implementation of the HJC competences (art. 13 of Law on Judicial Council) and the Communication Strategy in order to avoid the lacks of policy in the public image field. . - More education and trainings, courses, seminars or legal studies together with Lawyers and Judges, organized by HJC .- implement the Communication strategy and to develop more meetings or even regular meetings with mass-media. A full time spokesman should be appointed to be accurate and timely information to citizens. . - Develop in Higher Courts to publish a report explaining the meaning</p>	

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		of their decisions, adding information of the judgments or resolutions and explaining them in a common language. - Increase the budgetary provision to implement the recommendations. ONGs: Organize regular meetings, events and contacts with NGOs in order to improve an ongoing relationship with them.	
Result II - PROCESS OF EVALUATION AND PROMOTION OF JUDGES AND PUBLIC PROSECUTORS IMPROVED			
Component A - IMPROVING THE JUDGES AND PUBLIC PROSECUTORS RECRUITMENT, EVALUATION AND PROMOTION PROCEDURES			
PROPOSALS AND RECOMMENDATIONS FOR FURTHER DEVELOPMENT OF THE PROCESS OF RECRUITMENT, EVALUATION AND PROMOTION OF JUDGES			
FIRST TIME ELECTION / ELECTION			
<p>In accordance with Serbian legal framework, any citizen of the Republic of Serbia fulfilling general requirements for employment in state bodies, who is also a law school graduate, who has passed the bar exam and who is deserving of judgeship can apply for the position of a judge having proved the required number of years of professional experience foreseen in Article 44 of the Law on Judges.</p> <p>This means that first-time judges in Serbia do not share the same professional background nor is there a unique training period before the appointment.</p> <p>In the Republic of Serbia there is a Judicial Academy which has among its activities the organization of the entrance exam for initial training as well as the conduct of the initial training itself. However, the beneficiaries of the initial training (as they are called in the Law on Judicial Academy), successfully completing the initial training are not automatically appointed judges or prosecutors. They must apply for this post with the rest of the citizens that fulfil aforementioned requirements. In addition, ever since the Decision of the Constitutional Court on the Law on Judicial Academy was adopted on the session held on 6th February 2014, beneficiaries of the initial training lost their preference in relation to other candidates who have not taken part in this initial training (in particular judicial assistants).</p> <p>The described situation has created an awkward position for both groups of candidates, i.e., Judicial Academy beneficiaries and judicial assistants, each group truly believing that their background and education better entitle them to these posts. Of course other eligible professionals may apply, but figures explain that the vast majority of newly elected judges come from the ranks of judicial assistants as well as from Judicial Academy.</p> <p>Public competitions for the first time elected DPP are at present announced randomly when vacancies are reported. Also, the number of graduates from the JA in one year is not aligned with the number of vacancies that will be announced in that year.</p> <p>Before the new system based on the JA being the single entry point to the judicial function holders can be completely adopted, a transitional solution needs to be agreed. Otherwise, the legitimate expectations and acquired rights of the current judicial and prosecutorial assistants and other professionals would be infringed. Prosecutorial (and judicial) assistants represent an important part of the administration of justice, and at present the whole system would not function without them: they carry out much of the work, but with a lower payment. These professionals are currently being recruited with expectations that eventually they will be appointed as PP / judges.</p>			

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1	JA as a single entry point to judicial functions - Graduation from JA guarantees appointment as first time elected judicial function holder - LONG TERM RECOMMENDED SYSTEM	The Law on Judges/ Public Prosecution/Judicial Academy and related legal framework should be amended in order to define the Judicial Academy as the future single entry point to the judiciary under the management of the HJC and SPC. Successful completion of the state/entry test, training in the JA and passing the final JA exam guarantees appointment as the judge/prosecutor function holder without any additional interviews or selection procedures.	LJ, LJA, LOPP
2	Strategic planning of the number of JA students and number of first time elected judicial function holders - LONG TERM RECOMMENDED SYSTEM	The number of vacancies for the Judicial Academy should be announced annually by HJC/SPC according to the number of vacancies for the first time elected Judges/DPP. Adequate strategic mid-term planning needs to be performed and coordinated by HJC, SPC and the MoJ.	LOPP, LJA
3	Transparent election of the JA students - LONG TERM RECOMMENDED SYSTEM	In addition to the state legal exam (so called Bar exam) a state exam on an annual basis should be established in order to recruit alumni for the JA and further appointment as a judge/DPP. The exam should be drafted and the examination process carried out by HJC/SPC with the assistance of JA. The competition should be published in advance and be based on public, uniform, objective, clear and transparent criteria. List of candidates, results and the content of the exam should be accessible to the public. The number of admitted candidates to the JA should be equal to the planned number of first time elected judicial function holder vacancies in the year when the admitted generation will graduate.	LOPP, LJA
4	Training program at the JA - covered by another EUD project LONG TERM RECOMMENDED SYSTEM	The initial training at the JA should comprise substantive topics and practical skills and follow a clear pedagogical plan with the aim of building the capacities needed as Judges/ DPPs This is further covered by another EU project that focuses on JA.	LJA
5	Introducing a TRANSITIONAL PERIOD for a limited number of years	A transitional period of FIVE YEARS, should be introduced to allow rightful expectation of existing graduates of JA, judicial and prosecutorial assistants and other professionals who fulfil the existing selection criteria to be appointed as first time elected judicial function holders.	LJ, LJA, Const, LOPP

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6	A new Law / regulation should be passed that will strongly justify the content and reasoning of the transitional period - TRANSITIONAL PERIOD	With the aim of aligning the transitional period with the Constitution of the Republic of Serbia a new Law / regulation should be passed that will strongly justify the content and reasoning of the transitional period (as the only tool able to guarantee the rights of all the candidates) and its alignment with the aim of Action Plan Ch.23 (1.1.1). The new law should enable introduction of a system of quotas for the alumni of the JA, assistants and others. The quota system should be defined by HJC/SPC to allow a balanced proportion of each group of candidates when electing judges/DPP (e.g. 2/3 of positions go to judicial assistants and others, 1/3 to alumni in the two first calls, etc.).	New Law for prosecutorial and judicial assistants
7	Transitorily election process based on public, uniform, objective, clear and transparent criteria - TRANSITIONAL PERIOD	This new Law should clarify the public competitions for election of judges/DPP during the transitional period. The election should be based on public, uniform, objective, clear and transparent criteria. The number of vacancies at the JA should be adjusted during this period to the assigned quota. During this period the current/foreseen test to check the skills for the judicial/prosecutorial assistants could be in force.	
8	Abandon the practice of recruitment of new judicial or prosecutorial assistants with a prospect of them becoming judges or prosecutors - TRANSITIONAL PERIOD and LONG TERM RECOMMENDED SYSTEM	For the described system to work it is necessary to abandon the practice of recruitment of new judicial/prosecutorial assistants with a prospect of them becoming judges or DPP in order to avoid perpetuating the current problem. This could also be set out by the new Law. If the need to recruit new judicial/prosecutorial assistants arises, their selection should be carried out by the HJC/SPC based on public, uniform, objective, clear and transparent criteria, provided that they are not offered any prospect of eventually becoming judges/DPP. A new position within the legal system could be set (adviser, counsellor...) for those who do not decide to apply for the position of judge/DPP within the transitory period. Exceptionally, the legal framework should reserve just a small part of the annual vacancies (no more than 1/4 per announcement) or highest positions (public prosecutors, president of courts, members of court of appeal etc...) for very experienced and skilful candidates that prove seniority and expertise in legal professions according with a further regulation.	

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PROMOTION			
Any person fulfilling the legal requisites may apply and eventually be appointed to any vacancy in the Serbian judiciary. This means that judges do not have any legal preference for appointment to higher positions in the judiciary; therefore we cannot speak about a real promotion system. It is significant that Serbian authorities are seriously considering establishing a proper system of promotion because they are aware that the current system is more about election than promotion. There are no provisions in the Law on Judges foreseeing a specific system of promotion			
9	PROMOTION: A real system of promotion needs to be implemented based on principles completely free from the interference of the legislative and the executive powers.	Seniority and the objective merit based evaluation should be the guiding principles for promotion. Therefore, preference should be given to judges/ PPs already serving as judges and prosecutors. The decision of HJC/SPC on promotion should be subject to challenge before a court. Amendments to the Law/Rulebook may be needed to develop a professional career and a transparent and fair system of promotion and nomination for the highest positions within judiciary. Even if at present those criteria are quite developed in the Rulebook for evaluation of Judges and Court presidents and DPP/PP their implementation needs to be checked.	LOPP and Rulebook PPO
EVALUATION OF WORK			
The High Judicial Council adopted the Rulebook on criteria, standards, procedure and bodies for evaluation of performance of judges and court presidents on 22nd July 2014; which has been positively evaluated by the European Parliament in their Proposal for Resolution from 28th January 2016.			
10	EVALUATION: Judges/PPs are not evaluated on a regular basis. Evaluation criteria are not always applied objectively.	The evaluations based on the criteria defined in the Rulebooks should continue to be applied in an objective way. Evaluation should be carried out on a regular basis, preferably every year. Unsatisfactory repeated evaluations should lead to disciplinary proceedings and other measures to overcome the deficiencies detected. The evaluated judges/PPs should be entitled to a legal remedy against the decision before a court.	n/a
Result III - MECHANISMS FOR DISCIPLINARY ACCOUNTABILITY OF JUDGES AND PUBLIC PROSECUTORS			
Component A - IMPROVEMENT OF DISCIPLINARY ACCOUNTABILITY MEASURES FOR JUDGES AND PUBLIC			
PROPOSALS AND RECOMMENDATIONS FOR STRENGTHENING THE CAPACITY AND WORK OF THE DISCIPLINARY BODIES OF THE HIGH JUDICIAL COUNCIL			

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1	<p>The description of certain disciplinary offences in the LoJ (article 90) can be deemed to be vague and too broad. The broad description of the infringements does not promote legal certainty and increases risks of arbitrariness in the imposing of sanctions.</p> <p>The catalogue of conducts is not classified according to seriousness in Article 90 of the LoJ.</p>	<p>Amend the relevant paragraphs of Art. 90 LoJ in order to get a more precise definition of the infringements.</p> <p>Introduce classification of conducts according to seriousness of the infringement</p>	Art. 90 LoJ
2	<p>There is no clear differentiation between ethics and disciplinary proceedings. The current LoJ provides under Art. 90 “the serious violation of provisions of the Code of Ethics” as a disciplinary infringement</p>	<p>If “serious violation of provisions of the Code of Ethics” shall be deemed to be liable as disciplinary offence, the law and the code of ethics must provide clear explanation regarding what is considered a serious breach of provisions of the Code of Ethics</p>	Art. 90 LoJ
3	<p>The narrative of the Article 62 LoJ: “a punishable act that demonstrates that he/she is unfit for judicial function, in case of incompetence or in case of a serious disciplinary offence” does not provide sufficient clarity for the grounds for dismissal of judges.</p>	<p>It is recommended to provide further elaboration on the grounds for dismissal due to the seriousness of the sanction that is the end of the professional career.</p>	Art. 62 LoJ
4	<p>The types of sanctions are only three: public reprimand; salary reduction of up to 50% and prohibition of promotion for up to 3 years.</p>	<p>Include a broader catalogue of sanctions that should be aligned to the seriousness of infringements.</p>	Art. 91 LoJ
5	<p>No provisions regarding aggravating and mitigating circumstances in the LoJ.</p>	<p>List and define aggravating and mitigating circumstances.</p>	LoJ

No	Recommendation	Explanation of the Twinning Project regarding the recommendations (guideline to overcome the shortcomings in the existing system)	Connected Legal act
6	No clear evidence of personal data protection is guaranteed by current procedural rules.	Set specific provisions in the RDC regarding confidentiality and personal data protection.	LoJ, RDC
7	Lack of clear rules for random distribution of cases at the office of the Disciplinary Prosecutor.	Elaborate random distribution of cases between the Disciplinary Prosecutor and the Deputy Disciplinary Prosecutors in the Law.	Art. 6 LoJ
8	The RDC allows that new evidences, which are not proposed or withdrawn by parties, can be presented by the Disciplinary Commission.	Short term: establish explicit limitation in Article 31 of the Rulebook, so that incriminatory new evidence cannot be presented by the Disciplinary Commission on its own motion. Long term: delete Article 31 of the RDC.	Art. 31 LoJ
9	The Rulebook on disciplinary responsibility does not foresee storing minutes of the hearings taking place before the Disciplinary Commission.	Drafting the necessary legal amendment for the obligatory transcription of the hearing before the Disciplinary Commission.	Art. 33 RDC
10	Lack of interim measures in the Law to be taken during the course of the disciplinary proceeding.	Provide a catalogue of interim measures to be taken during disciplinary proceedings.	LoJ
11	No legal provisions of the statute of limitations during disciplinary proceedings exist in law.	Introduce the legal provisions of the statute of limitations during the disciplinary proceeding.	LoJ
12	Final decisions of the Disciplinary proceedings are not published, except in cases given in Articles 40 and 43 of the RCD.	Publish complete decisions from the disciplinary proceedings, even if they are still pending an appeal. Create a repository of disciplinary decisions of the Disciplinary Commission as well as of the High Judicial Council.	LHCJ, Article 40 and 43 RDC

No.	Recommendation	Explanation of the Twinning Project regarding the recommendations (guideline to overcome the shortcomings in the existing system)	Connected Legal act
13	Lack of provisions for removal of the sanctions from the personal record of a judge after a certain period of time.	Regulate a period after which the records on disciplinary sanctions can be deleted from the personal file of the judge.	Loj
14	Potential risk of insufficient independence from executive power through the participation of officials of branches of government as members of the HJC in the revision proceeding or in the election of members of the Disciplinary Bodies.	Short term: when deciding on the revision of disciplinary decisions of the Disciplinary Committee or when electing members for the Disciplinary Commission include only judge members of the HJC. Long term: consider establishing a working body for review of the decisions of the Disciplinary Committee instead of the HJC.	Art. 38 Loj
15	The disciplinary initiatives are excessively based on random claims and there is a lack of systematic overview of potential disciplinary misdemeanour across the court network.	Set up a permanent supervision service according to the Twinning report regarding Administrative supervision over the work of courts.	Loj
COMPONENT B - SPECIAL FOCUS ON THE CODE OF ETHICS AND CURRENT LEGAL FRAMEWORK			
PROPOSALS AND RECOMMENDATIONS FOR FURTHER DEVELOPMENT AND PROMOTION OF THE CODE OF ETHICS FOR JUDGES			
1	Too broad and not precise enough definition of the breaches of the code of ethics when they are to be considered as disciplinary infringements.	Specification of disciplinary infringements in law.	
2	Guarantee of fundamental rights of judges.	Balance between restrictions in private spheres and affirmation of fundamental rights. The restrictions and limitations to the fundamental freedoms recognized by the Constitution and by the European Convention for Protection of Human Rights and Fundamental Freedoms insofar as they could be the object of disciplinary infringements must be regulated by the law.	
3	Board of ethics – need to strengthen its working framework.	HJC has to adopt Rules of Procedure for the Board of Ethics that will regulate the monitoring of compliance with the Codes of Ethics for judges and HJC members and the conduct of the activities of evaluation and training of judges in ethics.	

No	Recommendation	Explanation of the Twinning Project regarding the recommendations (guideline to overcome the shortcomings in the existing system)	Connected Legal act
4	Training. Gaps detected, particularly in continuous training.	Organization of a comprehensive programme on the subject that would also have as mentors other professionals, as well as the introduction of alternative ongoing training activities in the Judicial Academy and in the Courts in order to make more effective the acquisition of knowledge on the subject and familiarization with ethics issues.	
5	Brochure for purpose of increasing awareness on rules of ethics.	Publication of a brochure with complete information about the Code of Ethics that should be disseminated and published on the HJC website.	

