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REFORM OF JUDICIARY SYSTEM IN SERBIA - COMPLIANCE WITH EUROPEAN STANDARDS OR NOT?

The importance of the judicial system is recognized in the Republic of Serbia and represents an important part of the reform in the process of accession to the European Union. In line with that, there is a justified question of electing judges and public prosecutors in Serbia, as well as trainings conducted with the aim of improving the position of judicial office holders and realization of key principles of independent and impartial judiciary as a requirement of the European Union for Serbia. In addition to the above principles, the paper analyzes other standards of efficiency of judges and public prosecutors in Serbia. In accordance with the above, the author analyzes the subject matter from the following aspects: first, introductory considerations; second, judicial reform in Serbia - a necessity in the process of accession to the European Union?; third, judicial reform principles in the process of Serbia's accession to the European Union; fourth, judicial academy as a training center for judges and prosecutors - requirements of the European Commission; fifth, concluding remarks.

Key words: European integration; Efficiency; Corruption; Procedural guarantees.

1. INTRODUCTION

The necessity to improve the efficiency of conduct of judicial office holders has been recognized in Serbia as in Lithuania as an important component of the reform of the normative framework, at the same time pointing out both the importance of practical conduct of judges and public prosecutors and the degree of harmonization with European standards. Namely, the level of competence, in addition to the initial training of judges and public prosecutors, requires continuous work, professional training, adoption of new legal texts and strategic documents which will improve aspects of professionalism, in-

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dependence and efficiency of the judiciary as an international legal standard. The analysis of the subject matter has been the subject of the scientific and professional public for decades, whereas aspects of training are manifested through the improvement of the normative framework observed from the aspect of ratified international documents and the process of Serbia's accession to the European Union. Accordingly, the opening of chapters as regards Serbia's accession to the European Union has opened up numerous issues related to the position, election, and expertise of judicial office holders. The independence of the judiciary is recognized by the European Commission as a significant factor in the efficiency of judicial office holders. The principle of independence is not only a contemporary tendency in the conduct of judiciary, but Montesquieu has long pointed out that "when the legislative power and the executive power are held by the same person, or the same body, there can be no freedom, because there is a danger that the monarch or senate would enact tyrannical laws, or enforce them tyrannically". There is no freedom if the judicial power is not separated from the legislative power and the executive power. If the judicial power were united with the legislative power, the life and freedom of the individual would be subject to arbitrary control, because the judge would then be the legislator. If united with the executive power, a judge could act violently and oppressively. Accordingly, striving for the realization of Montesquieu's words in a contemporary society, the realization of independence, impartiality, responsibility and efficiency of the judiciary are key criteria in evaluating the work of judges and public prosecutors. Namely, the High Judicial Council, on the basis of publicly announced uniform criteria, evaluates the work of judges whose evaluation system is set in the Law on Judges in a single procedure. The legitimate question is whether Serbia will meet the above criteria and whether the judicial system will function in compliance with the previously set principles.

2. JUDICIAL REFORM IN SERBIA- A NECESSITY IN THE PROCESS OF ACCESSION TO THE EUROPEAN UNION?

2.1. Election of judges and public prosecutors in Serbia - independence or not?

The organization and functioning of the judiciary in Serbia is regulated in the Constitution itself,¹ in the part entitled Organization of Power, determining, in addition to the judiciary, the legislative and executive branch of state power whose relationship should be based on balance and mutual control (Article 4, paragraph 3 of the Constitution of the RS, art. 4, para. 3). In addition to the Constitution, the legal framework that further defines

¹ Constitution, *Official Gazette of the Republic of Serbia*, no. 98/06.

the field of justice, i.e. courts and public prosecutor's offices, consists of: Law on the Organization of Courts,² Law on Judges,³ Law on the Seats and Territorial Jurisdictions of Courts and Public Prosecutor Offices,⁴ Law on Public Prosecutor's Office,⁵ Law on Organization and Competences of State Bodies in Combating Organized Crime, Terrorism and Corruption,⁶ Law on Organization and Competences of State Bodies in War Proceedings crimes,⁷ Law on the Organization and Competences of State Bodies for the Fight against High-Tech Crime,⁸ Law on the State Council of Prosecutors,⁹ Law on the High Judicial Council,¹⁰ Law on the Judicial Academy.¹¹ When it comes to the judicial profession and strengthening the capacity of the judicial, prosecutorial and other functions to which the former judicial competence has been delegated, the normative framework of Serbia in addition to the law, includes a number of bylaws, strategic documents, which indicate the readiness of Serbia to significantly improve this branch of legislation and harmonize it with European standards. The starting point in the period of the genesis of the judiciary is a critical review of the issue of judicial independence, which was pointed out by the Venice Commission during

² Law on Organization of Courts, *Official Gazette of the Republic of Serbia*, no. 116/08, 104/09, 101/10, 31/11 - other law, 78/11 - other law, 101/11, 101/13, 106/15, 40/15 - other law, 13/16, 108/16, 113/17, 65/18 - Decision of the Constitutional Court, 87/18 and 88/18 - Decision of the Constitutional Court.

³ Law on Judges, *Official Gazette of the Republic of Serbia*, no. 116/08, 58/09 - Decision of the Constitutional Court, 104/09, 101/10, 8/12 - Decision of the Constitutional Court, 121/12, 124/12 - Decision of the Constitutional Court, 101/13, 111/14 - Decision of the Constitutional Court, 117/14, 40/15, 63/15 - Decision of the Constitutional Court, 106/15, 63/16 - Decision of the Constitutional Court and 47/17.

⁴ Law on the Seats and Territorial Jurisdictions of Courts and Public Prosecutors Offices, *Official Gazette of the Republic of Serbia*, no. 101/13.

⁵ Law on Public Prosecutor's Office, *Official Gazette of the Republic of Serbia*, no. 116/08, 104/09, 101/10, 78/11 - other law, 101/11, 38/12 - Decision of the Constitutional Court, 212/12, 101/13, 111/14 - Decision of the Constitutional Court, 117/14, 106/15 and 63/16 - Decision of the Constitutional Court,.

⁶ Law on Organization and Competences of State Bodies in Combating Organized Crime, Terrorism and Corruption, *Official Gazette of the Republic of Serbia*, no. 94/16 and 87/18 - other law.

⁷ Law on Organization and Competences of State Bodies in War Proceedings crimes, *Official Gazette of the Republic of Serbia*, no. 67/03, 135/04, 61/05, 101/07, 104/09, 101/11 - other law and 6/15.

⁸ Law on the Organization and Competences of State Bodies for the Fight against High-Tech Crime, *Official Gazette of the Republic of Serbia*, no. 61/05 and 104/09.

⁹ Law on the State Council of Prosecutors, *Official Gazette of the Republic of Serbia*, no. 116/08, 101/10, 88/11 and 106/15.

¹⁰ Law on the High Judicial Council, *Official Gazette of the Republic of Serbia*, no. 116/08, 101/10 and 106/15.

¹¹ Law on the Judicial Academy, *Official Gazette of the Republic of Serbia*, no. 104/09, 32/14 - Decision of the Constitutional Court and 106/15.

the evaluation of the 2006 Constitution which stressed the need for judicial reform, especially in the segment of the system of selection, nomination, election of judges, presidents of courts and public prosecutors, i.e. deputy public prosecutors, without the influence of legislative and executive bodies. Namely, when it comes to the election of judges in Serbia,¹² it is necessary to distinguish between general and special conditions for the election of judges. The general conditions are unique for the election of judges of all courts, and they are: 1. that the candidate for election to the title of judge is a citizen of the Republic of Serbia; 2. that he or she graduated from the Faculty of Law; 3. that he or she has passed the bar exam; 4. that he is professional, qualified and worthy of a judicial function (Law on Judges, art. 43). Special conditions relate to the candidate's work experience and depend on the type of court for which the candidate is elected. Namely, after passing the bar exam, work experience in the legal profession is required, as follows: three years for a judge of the basic court; six years for a judge of a higher court; ten years for a judge of the court of appeals and twelve years for a judge of the Supreme Court of Cassation (Law on Judges, art. 44).

Chart 1 - Conditions for the election of judges



In addition to the above conditions, the expertise, competence and worthiness are also taken into account for the selection of judges. Worthiness includes moral qualities that a judge should possess, which are: honesty, conscientiousness, fairness, dignity, whereas behavior in accordance with that implies preserving the reputation of the judge in the court, maintaining independence and impartiality, etc. When it comes to the bodies that make the decision on the election of judges, a difference is made whether the judge is elected for the first time or not. When it comes to the first election of a judge, the National Assembly elects a judge on the proposal of the High Judicial Council, whereas a judge is elected to a permanent position by the High Judicial Council. When it comes to general and special conditions for election to the public prosecutor's office, we can see that the conditions are almost identical to the conditions for the election of judges for the area for

which a specific prosecutor's office is established. Accordingly, the public prosecutor is elected by the National Assembly of Serbia on the proposal of the Government, provided that, in the case of the Republic Public Prosecutor, they obtain the opinion of the competent committee of the National Assembly (Law on Public Prosecutor's Office, art. 74, para. 1). When it comes to deputy public prosecutors, a difference is made whether they are elected for the first time or for a permanent position. If the deputy public prosecutor is elected for the first time, he or she is elected by the National Assembly on the proposal of the State Council of Prosecutors for a period of three years. The deputy public prosecutor is elected by the State Prosecutors' Council for permanent position. We can see that when it comes to the election of judges and public prosecutors and deputy public prosecutors, there is control and decision-making on elections to judicial and public prosecutorial positions by the National Assembly of Serbia and the Government of Serbia, so the question of independence of these functions is justified, as well as the necessity of reforms, which is the key objection of the European Commission in the process of Serbia's accession to the European Union.

3. JUDICIAL REFORM PRINCIPLES IN THE PROCESS OF SERBIA'S ACCESSION TO THE EUROPEAN UNION

The European integration processes in Serbia have opened up numerous questions about the necessity of reforming the national framework, critical reviews on the efficiency of procedures, but also Serbia's successful responses to the European Commission's requests and harmonization of positive legislation with the *acquis communautaire*. Accordingly, Serbia is successfully responding to the recommendations of the Screening Report for Negotiating Chapter 23¹³ on Justice and Fundamental Rights, which presents an overview of Serbia's compliance with EU standards when it comes to legislature and the need for reform in priority areas highlighted by the European Commission. Namely, priority areas and the need to establish an efficient and professional legal mechanism are manifested in the areas of justice, corruption, procedural guarantees and intensive work primarily on Constitutional provisions, then legal texts, but strategic documents¹⁴ as well which to a considerable extent

¹³ Serbia received the Screening Report for Negotiating Chapter 23 on July 28, 2014, Screening Report for Negotiating Chapter 23: Justice and Fundamental Rights, https://www.mei.gov.rs/upload/documents/skrining/izvestaj_pg_23_16.pdf, 10. December 2021.

¹⁴ When it comes to strategic documents in priority areas, primarily in the field of justice, Serbia has adopted the National Strategy for Judicial Reform for the period 2006-2011. After that, the National Strategy for Judicial Reform for the period 2013-2018. (National Strategy for Judicial Reform 2013-2018, *Official Gazette of the Republic of Serbia*, No. 57/13) and the Action Plan for the Implementation of the National Strategy for Judicial Reform 2013-2018, adopted by the Government of Serbia on August 31, 2013 (Action Plan for the Implementation of the National Strategy for Judicial Reform 2013-2018, *Official Gazette of the Republic of Serbia*, no. 71/13).

contribute to the realization of the requirements envisaged in the Action Plan. Among the first responses to the Screening Report, Serbia developed and adopted the Action Plan for Chapter 23, which was adopted by the Government of Serbia at the session held on April 27, 2016. The Action Plan was created as a result of the maximum level of consensus of all three branches of government, independent and autonomous state bodies, having in mind the powers of all mentioned parties regulated by the Constitution and laws. The process of European integration itself requires substantial and fundamental changes in the judicial system, in the areas of fight against corruption and protection of fundamental rights, both in terms of the normative framework and in terms of the implementation of international documents. When it comes to the area of justice, the reform process highlights five basic principles that include improving the independence, impartiality, expertise, quality of justice, accountability and efficiency of the judiciary. These principles and commitments towards reform should be viewed not only in the context of the judiciary, but also in other areas in the process of harmonization with European standards, which will strengthen procedural guarantees through the implementation of the principles of independence, autonomy, efficiency as well as the system of realization of criminal policy that would in its entirety represent a big step forward for Serbia in the process of accession to the European Union.

3.1. Independence as a key principle of judicial reform - a key requirement of the European Commission

The Venice Commission recognized the issue of judicial independence in its assessments of the 2006 Constitution, emphasizing as primary the arguments of influence of the executive and legislative branches on the judiciary, especially in the procedure of electing court presidents, public prosecutors, judges, deputy public prosecutors and others. In accordance with that, the National Strategy for Judicial Reform for the period 2013-2018 identified the need to change the Constitution; a set of judicial laws was amended; it was planned to establish precise, predetermined criteria for the system of election and promotion of judges and public prosecutors, continuous training of judicial office holders, which will strengthen this principle, but also contribute to the realization of other areas important in the process of reform and accession to the European Union. Also, the recommendations from the Screening Report for Negotiating Chapter 23, which are also set out in the Action Plan for Chapter 23 (hereinafter: the Action Plan), provide certain guidelines for strengthening the independence of the judiciary and compliance with European standards. Among the first ones in the recommendation (Action Plan, recomen. 1.1.1) is that Serbia should conduct a thorough anal-

ysis of existing solutions, possible amendments to the Constitution, bearing in mind the recommendations of the Venice Commission and European standards, ensuring the independence and accountability of the judiciary by changing the system of election, transfer and termination of office of judges, presidents of courts and public prosecutors, i.e. deputy public prosecutors, who should be independent of political influence.

Also, the legislative or the executive authorities should not have the authority to control or monitor the work of the judiciary. The Venice Commission has recognized the influence of the parliament in the process of electing members of the High Judicial Council, the State Council of Prosecutors and other holders of judicial functions as a critical point of the principles of independence and harmonization with European standards. In addition to the election procedure, it is necessary to specify the reasons for dismissal of judges, rules related to the termination of the mandate of judges of the Constitutional Court, but also to adopt the Rulebook on criteria and benchmarks for assessing expertise, qualification and worthiness for the election of judges and presidents of courts in accordance with the amendments of the Law on Judges (Action Plan, recomen. 1.1.3.1). The recommendations particularly emphasize the need to establish a fair and transparent system of promotion of judges and public prosecutors, including periodic professional evaluation of the work of judges and public prosecutors (Action Plan, recomen. 1.1.3) and the establishment of a system for monitoring and evaluating the application of these standards in practice. In accordance with the recommendations, Serbia has adopted a Rulebook on criteria and benchmarks for assessing the expertise, qualification and worthiness for the election of a judge to a permanent judicial position in a second or higher court and on criteria for nominating candidates for president of the court,¹⁵ Rulebook on the program and manner of taking the exam which assesses the expertise and qualifications of the candidate for a judge who is being elected for the first time¹⁶ etc. In addition to amending judicial laws and adopting strategic documents and regulations, the starting point in the process of judicial reform and the critical review of the Venice Commission is the need to adopt a new Constitution, and then harmonize bylaws with amended judicial laws, harmonized with the new Constitution. It seems to us that Serbia has no easy task and that only through a responsible and continuous approach to

¹⁵ Rulebook on criteria and benchmarks for assessing the expertise, qualification and worthiness for the election of a judge to a permanent judicial position in a second or higher court and on criteria for nominating candidates for president of the court, *Official Gazette of the Republic of Serbia*, no. 64/16.

¹⁶ Rulebook on the program and manner of taking the exam which assesses the expertise and qualifications of the candidate for a judge who is being elected for the first time, *Official Gazette of the Republic of Serbia*, no. 7/18.

justice can we strengthen the system of justice, procedural guarantees, but also all other areas recognized by the European Commission as inefficient and inconsistent with the *acquis communautaire*.

3.2. Impartiality and accountability of the judiciary

In order to realize impartiality and accountability as key reform principles for strengthening the capacity of the judiciary, the recommendations of the Screening Report indicate the need to clarify and apply the rules on automatic case allocation, including finding technical solutions to avoid circumvention. Also, it is necessary to ensure that the system is not subject to manipulation and that it is subject to regular inspections by the body authorized to supervise within the High Judicial Council and the State Prosecutors' Council (Action Plan, *recomen.* 1.2.1).

With regard to strengthening the accountability of judges and public prosecutors, the recommendations relate to the strict application of all legal and disciplinary means, including the following: ensuring the effective implementation of the provisions regarding «conflicts of interest» and amending them if necessary; providing effective property card verification and cross-checking with relevant information; monitoring compliance with the code of ethics and conducting additional activities related to the evaluation and training of judges and public prosecutors in the field of ethics; reviewing the extent to which it is necessary and effective to apply the rules on disciplinary liability and dismissal procedure, etc. (Action Plan, *recomen.* 1.2.2). One of the activities that should be undertaken in order to implement the recommendation is Amendments to the Law on the Anti-Corruption Agency in order to strengthen the Agency's control mechanism in the process of implementing provisions regarding conflict of interest, as well as verification and cross-checking of judicial property information (Action Plan, *recomen.* 1.2.2.1). We can see that the legislator has successfully responded to this task, so the latest Amendments to the Law on the Anti-Corruption Agency from 2019,¹⁷ strengthened the rules regarding the prevention of conflicts of interest in performing public functions and reporting the property of persons performing public functions, as well as other issues of importance for the work of the Agency.

In addition to improving the normative framework, the moral qualities of judges and prosecutors in the selection contribute to the realization of the principles of accountability and impartiality and the realization of the right to a natural judge, who will, in addition to preventing conflicts of interest, preserve the court's reputation.

¹⁷ Law on Amendments to the Law on the Anti-Corruption Agency, *Official Gazette of the Republic of Serbia*, no. 88/19.

3.3. Judicial efficiency as an international legal standard

Efficiency as an international legal standard is envisaged in a number of international documents, which through reformed normative frameworks and strategic documents indicate tendencies of improvement and development of systems that enable more efficient access to justice and further reform steps of the judicial network. The efficiency standard includes the quantitative and qualitative component of realization, which is achieved through continuous and initial trainings, reform of legal texts, adequate application of legal norms, introduction of e-judiciary, etc. In accordance with the above, we can see that it is necessary to realize several components of judicial efficiency and not only judicial, but also the effects they have on other areas of reform in the process of accession to the European Union, such as fundamental rights, procedural guarantees, corruption, etc. The recommendations of the European Commission relate, inter alia, to the promotion of the Judicial Academy as a center for continuous and initial training of judges and public prosecutors in accordance with the decisions of the Constitutional Court on the provisions of the Law on Public Prosecutor's Office and the Judicial Academy through the following: introduction of annual training program that includes all areas of law, including EU law; providing the necessary resources and introducing a quality control system for initial and specialized training (Action Plan, recomen. 1.3.1). In order to achieve a continuous result in the work of judges and public prosecutors, one of the recommendations related to developing a system that enables assessment of training needs as a segment of evaluating the results of work of judges and public prosecutors through a system of determining criteria for referring judges to additional training based on the evaluation of the results of work (Action Plan, recomen. 1.3.2). These recommendations of the European Commission and their implementation significantly contribute to the efficiency of court proceedings, especially from the aspect of the duration of proceedings in Serbia, which is one of the key objections of the European Commission. Accordingly, it is necessary not only to resolve new cases more efficiently, but also to implement a program for resolving old cases, including the introduction of methods of alternative dispute resolution. One of the reasons for the existence of a relatively large number of old cases is the unequal workload of judges and public prosecutors, so in accordance with that, a sustainable solution should be found, which is the recommendation of the European Commission (Action Plan, recomen. 1.3.5). The efficiency of court proceedings¹⁸ can be achieved by reforming the legal text, introducing

¹⁸ S. Mijalković, D. Čvorović, V. Turanjanin, "Efficiency as an International Standard in Criminal Procedural Legislation of the Republic of Serbia - Toward European Union", *Towards a better future: Democracy, EU Integration and Criminal Justice* (ed. G. Ilik), Faculty of Law,

extensible legal terms, but also by alternative methods of resolving proceedings, such as plea agreement,¹⁹ the principle of opportunity,²⁰ which, by concluding the procedure in earlier phases, enables the courts to resolve more complex criminal cases more efficiently. Accordingly, Serbia has adopted a new Criminal Procedure Code,²¹ Law on the Protection of the Right to a Trial within a Reasonable Time,²² Law on Organization and Competences of State Bodies in the Suppression of Organized Crime, Terrorism and Corruption,²³ Law on Free Legal Aid,²⁴ which, through the adequate application of certain institutes, the introduction of new bodies, contribute to a considerable degree to the realization of the right to a fair trial as an international legal standard. We can state that the last Report forwarded to the European Commission by the body responsible for supervising the application of the Criminal Procedure Code, indicated greater efficiency of criminal proceedings, with greater application of plea agreements and the principle of opportunity. Also, a more successful fight of Serbia in the field of combating the most serious forms of crime and respecting European standards is achieved by introducing special departments for combating corruption, appointing liaison officers, forming task forces, etc.

4. JUDICIAL ACADEMY AS A TRAINING CENTER FOR JUDGES AND PROSECUTORS- REQUIREMENTS OF THE EUROPEAN COMMISSION

In order to implement the reform principles of independence, accountability, efficiency of the judiciary, it is necessary to develop systems to improve the work of judges and prosecutors, evaluate the results achieved, but

St. Kliment Ohridski University - Bitola, Republic of North Macedonia, 2019a, 134–147.

¹⁹ D. Čvorović, *Agreements between the public prosecutor and the defendant*, Manual for the application of the Code of Criminal Procedure. Association of Public Prosecutors and Deputy Public Prosecutors, Belgrade 2013, 273–284.

²⁰ V. Turanjanin, D. Čvorović, *Simplified forms of conduct in criminal matters*, Official Gazette, Belgrade, 2021.

²¹ Criminal Procedure Code, *Official Gazette of the Republic of Serbia*, no. 72/11, 101/11, 121/12, 32/13, 45/13, 55/14 and 35/19.

²² Law on the Protection of the Right to a Trial within a Reasonable Time, *Official Gazette of the Republic of Serbia*, no. 40/15.

²³ S. Mijalković, D. Čvorović, V. Turanjanin, "New Criminal Legal Challenges in Combating Organized Crime and Terrorism in the Republic of Serbia – A Big Step Forward", *The Great Powers Influence on the Security of Small States* (ed. M. Gjurovski), University "St. Kliment Ohridski" - Bitola & Faculty of Security - Skopje, North Macedonia, 2019b, 87–114.

²⁴ Law on Free Legal Aid, *Official Gazette of the RS*, No. 87/18. See more at: D. Čvorović, "Pre-investigation procedure and free legal aid", *Free legal aid (Ratio legis, scope and conditions of application)* (ed. S. Bejatović), Ministry of Justice - Serbian Association for Criminal Law and Practice, Belgrade 2017, 323–341.

also identify problems by establishing a system for monitoring and evaluating the application of these standards in practice (Action Plan, recomen. 1.1.3). The realization of the stated goals is enabled by the programs of continuous and initial training of judges and prosecutors, court and prosecutorial staff, which is entrusted to the Judicial Academy. Accordingly, the Recommendations of the European Commission relate to the promotion of the Judicial Academy as a center for continuous and initial training of judges and public prosecutors, improving the initial and continuous training program through the development and adoption of an annual training program covering all areas of law (including EU law and human rights), etc. (Action Plan, recomen. 1.3.1.6). Accordingly, the Judicial Academy²⁵ (hereinafter: JA) started operating on January 1, 2010 and by adopting the recommendations of the European Commission related to the improvement of training programs, amendments to the law, responded to European standards and contributed to the realization of the reform principles of the judiciary. Namely, the aim of establishing the Judicial Academy is to exercise the rights established by the Law on the Judicial Academy (hereinafter: LJA) and to contribute to the professional, independent, impartial and efficient performance of judicial and prosecutorial functions and professional and efficient performance of judicial and prosecutorial staff (LJA, art. 2). Also, the activities of the Judicial Academy are envisaged by the LJA and they are as follow: it organizes and conducts the entrance exam for initial training; it organizes and conducts initial training; it organizes and conducts continuous training of judges and prosecutors; it organizes and conducts professional training of court and prosecutorial staff; it establishes and maintains cooperation with domestic, foreign and international institutions, organizations and associations in connection with the tasks it performs; it systematically collects data that are important for the work of the Academy and especially on the implementation of training and training results, and runs a documentation and information center, etc. (LJA, art. 5). In order to achieve the goal of establishing the Judicial Academy, two forms of training of judicial office holders are performed - continuous and initial training. Initial training represents organized acquisition of initial and theoretical knowledge and skills, understanding of the role and basic principles of conduct of judges and deputy public prosecutors in order to independently, professionally and efficiently perform the function of judge in misdemeanor and basic court and deputy public prosecutor in basic public prosecutor's office (LJA, art. 25). Lecturers and mentors, specially trained persons from the ranks of judges, prosecutors and other professions who directly conduct training programs

²⁵ The Judicial Academy is managed by bodies consisting of: the Management Board, the Director and the Program Council (LJA, art. 6).

are determined by Article 19 of the LJA. When it comes to initial training, it lasts for 30 months, i.e. 24 months, followed by six months of preparation for taking the final exam. The conditions for admission to the initial training are as follows: the person has to have passed the bar exam; he or she has to fulfil general conditions for work in state bodies; he or she has to have passed the entrance exam for initial training (LJA, art. 28). The initial training program includes the application of substantive and procedural laws, judicial and prosecutorial practice, standards of judicial and prosecutorial ethics, international legal standards, internal organization of courts and prosecutor's offices, scientific and professional work in domestic and international law, as well as judicial and prosecutorial skills. (LJA, art. 35). After completing the initial training, the users of the initial training take the final exam, which assesses the practical knowledge and skills acquired in the initial training, before a commission of five members - three members who are judges and two members who are prosecutors (LJA, art. 37). The number of participants in the initial training, according to the recommendation from the Action Plan, is determined having in mind the conclusions and recommendations from the Human Resources Strategy for Justice (Action Plan, recomen. 1.3.1.5). In addition to initial training, the Law on the Judicial Academy provides for continuous training to achieve key reform principles of judicial office holders and includes knowledge and skills. Namely, according to the Law on the Judicial Academy, continuous training is the improvement of theoretical and practical knowledge and skills for the purpose of professional and efficient performance of the judicial and prosecutorial function (LJA, art. 41). Beneficiaries of continuous training are judges and prosecutors, and records of continuous training and data are submitted by the Judicial Academy to the High Judicial Council and the State Council of Prosecutors (LJA, art. 42). Continuous training can be voluntary and mandatory. Continuous training is mandatory when provided by the law or a decision of the High Judicial Council and the State Prosecutors' Council in case of change of specialization, significant changes in regulations, introduction of new techniques of work and in order to eliminate shortcomings noticed during the assessment of work of judges and deputy public prosecutors. In accordance with the above, we can see that these initial and continuous training programs of the Judicial Academy contribute to a considerable extent to the realization of the principles of independence, responsibility, efficiency, but also continuous improvement of judicial office holders through reforms in the normative system which are successfully followed by the Judicial Academy by transferring the necessary knowledge and skills to users of initial and continuous training. When it comes to European standards and practice, it is important to mention the recommendation of the European Commission regarding the

need to develop cooperation between the Judicial Academy and academies from the European Union from the European Judicial Network (EJN) and ensuring the participation of judges and public prosecutors in EJN activities (Action Plan, recomen. 1.3.1.11). We also consider it important to develop the path of mutual cooperation between the academies from the European Union and Serbia, considering that the exchange of experiences will contribute to finding more efficient instruments for improving the principles of efficiency and responsibility of judicial office holders.

5. CONCLUSION

In addition to the efficiency of the national framework of Serbia, all contemporary states know the European path of democracy and respect for European standards, regardless of whether they are members of the European Union or not. Accordingly, Serbia is successfully meeting European requirements to improve the reform principles of judicial office holders, with the aim of obtaining an efficient, transparent, independent and autonomous legal system. A number of adopted legal texts, strategic documents and ratified international documents support this fact, which, through the segment of improvement and harmonization with European standards, create the image of an independent judiciary of all contemporary states, which certainly includes Serbia.

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РЕФОРМА ПРАВОСУЂА У СРБИЈИ – УСКЛАЂЕНОСТ СА ЕВРОПСКИМ СТАНДАРДИМА ИЛИ НЕ?

Сажетак

Значај правосудног система препознат је у Републици Србији и представља важан део реформе у процесу придруживања Европској унији. У складу с тим, поставља се оправдано питање избора судија и јавних тужилаца у Србији, као и обуке које се спроводе с циљем унапређења положаја носилаца правосудних функција и остваривања кључних принципа независног и непристрасног судства као захтева Европске уније Србији. Поред наведених принципа, у раду се анализирају и други стандарди ефикасности судија и јавних тужилаца у Србији. У складу са наведеним, аутор анализира предметну материју са следећих аспеката: прво, уводна разматрања; друго, да ли је реформа правосуђа у Србији неопходност у процесу приступања Европској унији; треће, принципи реформе правосуђа у процесу приступања Србије Европској унији; четврто, Правосудна академија као центар за обуку судија и тужилаца – захтеви Европске комисије; пето, завршне напомене.

Кључне речи: *Европске интеграције; Ефикасност; Корупција; Процедуралне гаранције.*