


ejtn



“Assessment of Judicial Training Needs on European Union *acquis* in Montenegro”

(Training Needs Assessment REPORT)

Pilot Action on Judicial Training n° IPA/2021/425-032

“Western Balkan II Project”

Year one (March 2022 – March 2023)

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In cooperation with the Centre for Training in Judiciary and State Prosecution of Montenegro

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List of Acronyms

CTJSP	Centre for Training in Judiciary and State Prosecution of Montenegro
CJEU	Court of Justice of the European Union
COE	Council of Europe
CURIA	Court of Justice of the European Union database
DG NEAR	European Commission's Directorate General for Neighbourhood and Enlargement Negotiations
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EIPA	European Institute of Public Administration
EJTN	European Judicial Training Network
ERA	Academy of European Law
EU	European Union
EU MS	Member States of the European Union
EUROL	European Union Support to the Rule of Law in Montenegro
HELP	The European Programme for Human Rights Education for Legal Professionals
ILEA	International Law Enforcement Academies
IPA	Instrument of Pre-Accession Assistance
JTI	Judicial Training Institution
JTM	Judicial Training Methods
MOOC	Massive Open Online Course
NGO	Nongovernmental organization
OPDAT	United States' Office of Overseas Prosecutorial Development, Assistance and Training
TNA	Training Needs Assessment
TOEE	Training of Experts on EU law
TOT	Training of Trainers
UNODC	United Nations Office of Drugs and Crime

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1. Executive Summary

This Training Needs Assessment (TNA) Report and its accompanying recommendations were produced in the context of the “Western Balkans II Project” – Pilot Action on Judicial Training IPA/2021/425-032 (Project), financed by the European Commission’s Directorate General for Neighbourhood and Enlargement Negotiations (DG NEAR) and implemented by the European Judicial Training Network (EJTN).

The Report provides an in-depth analysis of the current judicial training needs on the European Union legislation (*acquis*) in Montenegro as a baseline for development of six tailored EU law courses at the Centre for Training in Judiciary and State Prosecution of Montenegro (previously referred to as the Judicial Training Centre (JTC) and hereinafter referred to as the Centre or CTJSP), in 2023-2024. The broad set of recommendations provided herein also aim to support the CTJSP to perform TNAs on the EU *acquis* in the years to come and in the long-term embed EU law training in its national training activities.

The report reflects the opinion of two experts appointed by the EJTN who worked on the conduct and analysis of the results of the TNA in cooperation with the CTJSP from November to December 2022 (Experts). The Experts contributed to the TNA with the elaboration of survey questions, participation in focus groups meetings, discussions with project beneficiaries and other relevant stakeholders, and drafting of a proposal for the organization of training courses on EU law and recommendations for improvement of the TNA process, as elaborated in this Report.

The main task of the Experts was to contribute to the achievement of Outcome 1 of the Project: “JTC effectively delivers strong, adequate, and efficient judicial training to judges and prosecutors, mainly on EU *acquis*” and Output 1.1 “...JTC is able to undertake TNA on EU *acquis* among judges and prosecutors”. The first component of the Project, which defines the CTJSP as one of the primary beneficiaries of this activity, is focusing on further strengthening CTJSP’s existing capacities to plan, organize and analyse results of a TNA and to design and implement training at the national level, specifically on EU law. The Report aims to reflect the opinion and training needs of judges, prosecutors, and trainers from Montenegro and to enhance their professional knowledge, practical skills, integrity and capacities to adhere to European rule of law standards and apply the EU *acquis*.

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The main expected result is the development of a **Training Programme on the EU *acquis***, consisting of **5 (five) face-to-face and 1 (one) online seminar**, which will be incorporated into the CTJSP's Annual Training Programme in 2023 and 2024.

The experts' assignment started in November 2022 and finished in March 2023 with the elaboration of this Report.

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2. Introduction

2.1. Why provide training on the EU *acquis*

It is essential that national level judges and prosecutors receive in-depth, quality training that allows them to correctly understand and apply European Union (EU) legislation. Judicial professionals in Europe are increasingly dealing with legal issues of an international nature. National training on the EU *acquis* can therefore support daily work of judges and prosecutors, especially in cross-border cases, through coherent application of law across the EU and establishment of mutual trust and increased dialogue with European and national institutions.

Observance of European standards at the earliest possible time in judicial proceedings also contributes to timely case processing and backlog reduction efforts in both national and European courts. The role of the national judicial office holders in application of EU law is therefore paramount to ensure that citizens receive timely access to justice and high-quality judicial services.

2.2. How can training on the EU *acquis* benefit the Montenegrin judiciary

Given its candidate status and prospect for EU membership, Montenegro has taken significant steps to align its normative and institutional framework with the EU *acquis* and further develop its bilateral, regional, and multilateral judicial cooperation. It is in this context of EU integration – approximation of the national legal framework and increased cooperation with EU Member States (EU MS) – that judges and prosecutors in Montenegro can benefit from a better understanding and adoption of EU law.

As a body of knowledge, European legislation, jurisprudence of the European courts and the many European judicial cooperation mechanisms, can act as a valuable resource for legal reasoning, case processing and impartial and independent decision-making in Montenegro.

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2.3. Tailoring the TNA to the specific country context

Any TNA process must consider the broader judicial context in the country. During the TNA process in Montenegro, it is necessary to take into account its EU candidate status and the judicial reform process; 1) the strategic objectives at the European and national levels, 2) the distinctive landscape of *ad hoc* funding and donor support, and 3) the complex legal and institutional framework subject to frequent changes following from the EU accession process.

EU legislation is not directly applicable in non-EU Member States. A deeper examination of the approximation of the local legal environment to EU law is needed. Planning for annual EU law training must balance out the immediate and long-term needs of the judiciary and identify the right priorities and sequence of training provision during the EU accession process, all in an effort to develop a cohesive strategy for training on EU law. To that end, it is also crucial to integrate EU training in the national in-service and initial training program. The training must be tailored to the real needs of judicial professionals (and citizens) of the country.

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3. EJTN Intervention Logic

As an organization, EJTN plays a central role in Europe for coordination of training activities, development of common curricula and exchange of good practices and training methodologies. The goal of the Network is to build a genuine European area of justice and to promote knowledge of legal systems for enhancing the understanding, confidence and cooperation between judges, prosecutors, and court staff across Europe. EJTN is also a platform for larger dissemination of experiences in the field of judicial training.

Above all else, EJTN is a community of judicial training institutions (JTIs) across Europe which facilitates continuous improvement and dialogue on judicial training and offers training activities produced jointly by its Members. Most of the training institutions from EU accession states have a status of Observer at EJTN (including Montenegro).

3.1. European Judicial Training Strategy

EU strategic objectives drive the actions of EJTN. The most recent EU strategy on judicial training (*European Judicial Training Strategy for 2021-2024*¹) sets new operational objectives tailored to the needs of different justice professions and focuses on a broader target audience. The main priority of judicial training is to **promote the common rule of law culture**, to **uphold fundamental rights** and to support the **development of specific professional skills** (judge craft, case management, etc.) in addition to **legal education**, by considering the concrete training needs of legal professionals. Building trust in EU-wide justice, by **strengthening awareness of EU law**, is another important goal.

¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions/Ensuring justice in the EU – a European judicial training strategy for 2021-2024/ Brussels,02.12.2020/COM(2020)713 final

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The EU is facing new developments and challenges that need to be addressed by judicial training, including the prospects of EU membership for the Western Balkans. The enhancement of capacities of JTIs from the region is seen as a condition for ensuring sustainability of actions. The [organization of a sound TNA](#) and a [problem-oriented approach to delivering training](#) are tools for achieving this objective. In that regard the new *European Judicial Training Strategy* includes consolidating the unique role of EJTN, which can support capacity-building and methodological improvements.

The European Commission particularly encourages the participation of justice professionals from the Western Balkans region in [cross-border judicial training](#), as the exchange of experiences among EU and Western Balkan representatives has a cumulative effect of raising competence of those participating in the discussion.

EJTN Strategic Plan 2021-2027 mirrors these objectives. EJTN Members are committed to streamline relations with candidate countries in order to support the strengthening of judicial systems and secure the rule of law in Europe.²

3.2. EJTN standards

The Project supports the enhancement of CTJSP's capacities for planning and execution of TNAs by considering existing good practices and standards developed at EJTN by its Members.

Indeed, EJTN standards on judicial training - EJTN community and institutional memory - were used as a baseline for the assessment to transfer knowledge to the beneficiary.

² EJTN Strategic Plan 2021-2027 of the European Judicial Training Network, European Judicial Training Network, 2020

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At the same time, this TNA itself supports the evolution and development of best practices at the EJTN Secretariat, for the benefit of all its Members and Observers. EJTN is continuously learning from the work and collaboration of experts and Members in the Network.

The following EJTN standards merit special attention:

- EJTN Guiding Principles³;
- EJTN Handbook on Judicial Training⁴; and
- EJTN Training Guide on Rule Law⁵.

3.2.1. EJTN Judicial Training Principles

The EJTN Judicial Training Principles serve as a reminder of the importance of in-service and initial training as a guarantee of competence and professionalism of the judiciary. They stress that judicial training must not be limited to legal education but lead to development of professional skills and values. They provide guidance on practical aspects of training implementation, including for selection of trainers and timely organization of activities which align with regular work-life of judges and prosecutors. They reiterate the central role of the JTI in training provision, which contributes to ensuring independence of justice and the protection of the rights judicial actors are called to ensure. Finally, it reiterates the importance of the support of the highest judicial authorities in the training process, including the provision of regular funding.

³ Judicial Training Principles, European Judicial Training Network, 2016

⁴ EJTN Handbook on Judicial Training Methodology in Europe, European Judicial Training Network, 2016

⁵ Training Guide on the Rule of Law for Judges and Prosecutors, European Judicial Training Network, Otilia Stefania Pacurari, Rafael Bustos Gisbert, Nicolae Horatius Dumbrava, 2019

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3.2.2. EJTN Handbook on Judicial Training

The EJTN Handbook on Judicial Training makes available a checklist of activities and steps to follow during the planning phase. These include: 1) defining the purpose of education and training, 2) setting the main training goals, 3) analysing the job tasks, 4) setting the training programmes/curriculum general objectives, 5) setting the evaluation criteria, 6) selecting the evaluation instruments, and 7) ordering the training program objectives.

The philosophy which should guide the work of training providers is prescribed in three key principles:

- *“Any training program should be needs oriented”*

The specific judicial setting and background of the potential target group must be detected beforehand. Training needs can be further evaluated through surveys, questionnaires, observation, and identification of typical tasks, as well as regular career development discussions with judges and prosecutors. A good practice is also to consult seminar evaluations from previous years and obtain input from civil society and academia.

- *“Any training programme should use a variety of training formats. The approach should be tailored-made.”*

Both legal knowledge and judicial skills should have a prominent place in judicial training. Participants should receive background information and be encouraged to use legal knowledge in interactive, small group discussions. Various training formats can be adopted (case studies, facilitated debates, mock trials, etc.)

In terms of substance, other disciplines (e.g., economics, politics, science) and personal skills (e.g., management, leadership) can further contribute to the quality of the training.

European law must also be specifically considered. Given the inseparable entwinement of domestic and European law, it *“should form part of virtually any knowledge-based training*

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for judges and prosecutors”⁶. Most importantly, understanding the interface between domestic and European law in the field of specialization must be one of the key learning objectives.

Finally, the choice of training method must consider the level of knowledge and experience of the target group.

- *“Integrating needs-oriented planning in a general conceptual framework”.*

Defining the purpose of training and education in a judiciary has a lot to do with the country specific judicial culture. At the same time, the training provider should also concern her/himself with recent developments in Europe. Rapid changes in society and human behaviour constantly generate new training needs and should form part of the TNA.

3.2.3. EJTN Training Guide on the Rule of Law

The EJTN Training Guide on the Rule of Law recalls that the 1) the needs assessment process should be a continuous process, 2) those who have relevant information about the needs in specific fields should be identified, 3) data collection and analysis should be organised, and information obtained used, and 4) the needs assessed should contribute to the training programme objectives.

⁶ EJTN Handbook on Judicial Training Methodology in Europe, European Judicial Training Network, 2016, p. 13-15

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3.3. EJTN Members and Experts

EJTN relies on and calls upon its Members – *the EU Member States JTIs and the Academy of European Law (ERA)*, who have experience of judicial training methodologies and training on EU law, to support its activities.

Four experts from the Network were appointed by the Project to transfer knowledge and state-of-the-art best practices on training needs assessment, judicial training methodologies and judicial training on the EU *acquis*, including on the rule of law.

EJTN also holds a *valuable repository of information* on EU law training. Materials from previous seminars were therefore collected to inform the work of the Project during the TNA and will continue to be useful throughout the design phase and delivery of seminars at the CTJSP.

EJTN *(sub-)working groups* are also an important resource for the Project. There are four sub-working groups at EJTN, dealing with specific areas of law (Civil, Criminal, Administrative and Human Rights and Fundamental Freedoms) and two working groups supporting training on judicial skills (Linguistics and Judicial Training Methods). Their experience of the training life cycle and systematic training programme development, as well as their knowledge of recent trends and developments on EU law and interconnection of European and national law in the field of specialization can serve the Project to better assess the training priorities on EU law in Montenegro.

Judicial Training Methods (JTM) seminars and *Exchanges for Judicial Trainers* were identified as especially important and integrated in the Project structure. With support from the Project, local trainers from Montenegro have an opportunity to attend EJTN events held across Europe and develop their skills as trainers to better prepare for design and delivery of the 5 (five) Project-supported seminars in the local environment.

EJTN also offers *webinars* on EU law on a regular basis, which can be used as complementary resources. The EJTN Lunchtime webinars are an ongoing series of webinars treating topics on Administrative Law, Civil Law, Criminal Justice, Human Rights and Fundamental Freedoms, Linguistics and Judicial Training Methods. Everyone is free to join the webinars as there is no application, no selection process and no national quota foreseen in these webinars.

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3.4. EJTN Partners

EJTN is working collaboratively with many partners in the region to identify training gaps, create synergies and contribute to cohesive support and delivery of training (EU, Council of Europe, Organization for Security and Cooperation in Europe, Regional Cooperation Council, etc.).

Steps are being taken to ensure that Project-supported trainings do not overlap with efforts already made or planned with other donors or European support. Knowledge of such activities can help identify how to best use available resources for the benefit of the CTJSP. Those who provide support should strive to build on what has already been achieved and promote existing good practices wherever possible. Efforts are also being made to support the re-use of materials, identify complementary courses, and support the CTJSP to successfully exercise its role as a coordinator of donor support.

3.5. Project Intervention Logic

Training needs assessment is the first and most critical step in implementing any training.

The key focus of this planning phase must be on detecting and meeting the real training needs of acting judicial professionals. Proper planning of a training program therefore requires a broad consultation process with judicial professionals, a thorough analysis undertaken from various angles, and an understanding of the broader context in which the training is being developed.⁷

⁷ EJTN Handbook on Judicial Training Methodology in Europe, European Judicial Training Network, 2016, p. 13-15

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Consistent with these and other EJTN standards on judicial training, the following steps were taken:

- At the start of the assignment, the roles and responsibilities for Project implementation were clearly defined - CTJSP will have a leading role during the TNA process, with EJTN Secretariat and EJTN Experts providing support and transferring knowledge. Highest judicial authorities and local partners providing support in this area should be consulted to support judicial training on EU law and create synergies.
- European and national strategies on judicial training and the European Commission findings on the Montenegrin accession process were reviewed to provide a context for assessment.
- The CTJSP's institutional framework was assessed to identify any strengths and weaknesses of the current TNA process and provide recommendations for its ongoing improvement.
- *Status quo* on EU *acquis* training was analysed from CTJSP records and discussions with local partners supporting judicial training. Materials from previous trainings on EU law were collected to encourage re-use of existing data and adoption of lessons learned.
- Training needs were further assessed through surveys and interviews with focus groups.
- The Project scope, both limitations and opportunities, were considered to maximize use of project resources.

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4. Broader Judicial Framework for Assessment of Training Needs in Montenegro

4.1. The Judicial Reform and EU Integration Process in Montenegro

Montenegro is a candidate country to the EU. Montenegro submitted its application for EU membership in December 2008. The candidate status was granted on 17 December 2010. The EU accession negotiations with Montenegro started in 2012, and after ten years, all the 33 screened chapters have been opened, of which 3 are provisionally closed.

During the negotiation process each candidate country is assessed on its ability to apply EU legislation, meaning that Montenegro has to fully transpose and implement the EU *acquis* by the time of accession. As the key judicial training institution in Montenegro, the CTJSP plays a central role in the proper implementation of EU law.

Key findings from the European Commission's 2022 Enlargement Report⁸ provide a framework for analysis. The following conclusions and recommendations are of particular interest for training needs assessment and continuous improvement of training provision at the CTJSP:

- *"Efforts are needed to involve more judges and prosecutors in the TNA process and further improve training delivery and evaluation practices".*
- *"TNA should take into consideration the multidisciplinary and practical nature of judicial training, essentially intended to transmit professional techniques and values complementary to legal education."*
- *"It is important to establish regular cooperation and more frequent communication between the Judicial Training Centre and the Judicial and Prosecutorial Councils."*

⁸ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Communication on EU Enlargement Policy, Brussels, 12.10.2022/SWD(2022)335 final

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- *“The Centre must develop capacity to conduct assessment on training needs in connection with meeting rule of law standards and implementing the EU acquis, and to design and implement corresponding training activities”.*

4.2. CTJSP Institutional Framework

Information about the CTJSP institutional framework - its competences, governance structure and business processes - was collected through desk research, review of laws and regulations, independent studies⁹ and discussions with the beneficiary. The assessment allowed the Project to align its support with CTJSP’s regular activities and provide recommendations for sustainable planning of training on EU law in Montenegro.

4.2.1. CTJSP Competences

The CTJSP is an independent public institution with the capacity of a legal entity, financed through the state budget, as established by the *Law on the Centre for Training in Judiciary and State Prosecution* adopted in September 2015.

CTJSP is responsible for training of judges and state prosecutors in Montenegro, however, the Centre may also organize training activities for lawyers, notaries, bailiffs, advisors and trainees from courts and state prosecution offices. It organizes and implements in-service training, initial training for candidate judges and state prosecutors, and training activities for trainers and mentors.

⁹ Study on the existing systems of judicial training in the Western Balkans, Regional Cooperation Council, 2017, <https://www.rcc.int/docs/440/study-on-the-existing-systems-of-judicial-training-in-the-western-balkansrn>

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4.2.2. Governance Structure

The Centre has two main decision-making bodies – *Steering Committee and Programming Council*.

4.2.2.1. Steering Committee

The Steering Committee appoints the members of the Programming Council. It adopts the Programming Council's proposal for the Annual Training Programme, grants final approval for the list of trainers at the Centre, and defines the criteria for selection and the number of participants to a training.

The Steering Committee has 7 (seven) members;

1. 1 (one) judge from the Supreme Court.
2. 1 (one) prosecutor from the Supreme State Prosecution Office, who is not a member of the Prosecutorial Council.
3. 1 (one) representative of the Judicial Council, with at least 5 (five) years of professional experience, who is not a Supreme Court judge or a member of the Judicial Council.
4. 1 (one) representatives of the Prosecutorial Council with at least 5 (five) years of professional experience, who is not a state prosecutor in the Supreme State Prosecution Office or a member of the Prosecutorial Council.
5. A representative of the Ministry of Justice with at least 10 (ten) years of professional experience.
6. A representative of the Bar Association.
7. 1 (one) member of academia.

All members must have experience in judicial training. Each representative is appointed by their respective institutions, for a mandate of 4 (four) years.

Steering Committee meetings are held *ad hoc*.

4.2.2.2. Programming Council

The Programming Council coordinates, supervises, and evaluates training in line with the Annual Training Program. They propose the annual training offer, and update and improve the program (including the methodology of assessment, implementation, and evaluation of the program) based on evaluations and feedback received from participants, trainers, and mentors. They also nominate trainers from the list of trainers at the Centre for each individual training.

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The Programming Council has 10 (ten) members; well-respected judges and prosecutors appointed by the Steering Committee. The Council consists of *two Programming Boards* (Programming Board for Initial Training and Programming Board for In-Service Training). Each Board has 5 (five) members, with a 4 (four)-year mandate.

Their meetings are organized *ad hoc*. Trainers or other members of the judiciary can be invited to contribute to decision-making.

4.2.2.3. Secretariat

The Secretariat is led by the Director who is appointed for a 5 (five)-year term. The Secretariat implements decisions of the Steering Committee, manages the training provision, and prepares the annual report and other reports of the Centre. The Secretariat has 4 (four) departments - *Initial Training Department, In-Service Training Department, Service for General Affairs and Finances, and International Cooperation and Project Department*. 7 (seven) out of 16 (sixteen) employees are directly involved in the organization of training.

4.2.3. TNA Process

The training offer is approved by the CTJSP governing boards after consultations with a wide group of judicial stakeholders and consideration of relevant national strategic documents.

The process is conducted from October to December for the following year.

4.2.3.1. Survey

CTJSP prepares a survey, *usually by October*, which is distributed to all courts and prosecution offices in the country, as well as to the Judicial Council, State Prosecutorial Council, Ministry of Justice, Bar Association, Ombudsman, and relevant NGOs.

Surveys completed by judges and prosecutors are anonymous. The response rate usually varies between 40% -60%. The results are collected in 15+ days (*tentative*). The CTJSP also receives a separate list of recommendations from the Councils and other institutions whose opinion was sought.

4.2.3.2. Focus Groups

Once the surveys are received and processed by the Centre, they are further elaborated in discussions with focus groups. This is a recent development at the CTJSP that forms part of the new methodology of work. Indeed, the TNA process was recently revised with support from the *Horizontal Facility for the Western Balkans and Turkey 2019-2022*.

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The size, composition and members of the focus groups are decided by the Programming Boards, keeping regional and gender distribution in mind.

The focus group meetings and interviews are held face-to-face at the Centre.

The aim is to obtain information about day-to-day challenges of judges and prosecutors that may further elaborate the training needs. Based on a pre-prepared list of questions, participants are asked to specify their preferred training topics, both legal subjects and professional skills, and their opinions on training methodologies and organizational factors, such as venue preferences and composition and skills of trainers.

The responses received commonly confirm the results of the survey.

In 2021, two focus groups were held; civil law and criminal law focus groups. CTJSP also conducted an interview with the President of the High Misdemeanour Court. In 2022, additional interviews with Administrative and Commercial courts were organized, for a more comprehensive inclusion of all members of the judiciary.

4.2.3.3. Annual Training Programme

The Annual Training Programme is prepared and approved by the Programming Boards and the Steering Committee respectively. It is then distributed to all courts, prosecution offices, the Councils, the Ministry of Justice, and other stakeholders who received the initial survey. It is also made public on the CTJSP website. According to the *Law on the Centre for Training in Judiciary and State Prosecution Service*, the Annual Training Programme should be issued by 1 November for the following year.

4.2.4. Selection of Trainers

CTJSP maintains a Register of Trainers. Every 4 (four) years, the Steering Committee launches a public call for election of trainers and determines the number of trainers per area of law (civil, criminal, administrative, commercial, misdemeanour, human rights, EU law, ethics) considering the trend from the previous (4 year) period. The Call is published in an official gazette and distributed to all courts and prosecution offices via email. If the requisite number of trainers is not elected, a call will be launched on the internet presentation of the Centre, and applications received therefrom considered bi-annually.

Trainers are elected and added to the Register by a decision of a 3 (three)-person Commission from the members of the Programming Council. To be appointed trainers must

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have 5 (five) years of experience as a judge, prosecutor, lawyer, academic, mediator, notary, enforcement officer and/or public servant. Professional knowledge and experience, and previous evaluations of the trainer are considered (*criteria for election*). Rights, obligations, criteria for evaluation of trainers' performance, remuneration, and other conditions of work are further defined in the *Guidelines on criteria for appointment of trainers and their remuneration*. Mentors also must be judges or prosecutors with at least 5 (five) years of work experience.

Programming Council enlists trainers for each individual training based on the relevant topic, equal representation, and previous evaluations. Trainers from other professions (medicine, IT, psychology, etc.) are chosen by the Secretariat *ad hoc*, beyond the listing in the register, after notifying the Steering Committee.

At present the CTJSP relies on 3 (three) trainers for the design and implementation of EU law training.

4.2.5. Participation

4.2.5.1. Initial Training Programme

The CTJSP offers an initial training program for candidate judges and prosecutors. The length of the initial training program depends on the participants position in the judiciary:

- Candidates for the Basic Court attend an 18-months program, with 6 months devoted to training at the CTJSP.
- Candidates for the Misdemeanour Court attend a 9-months program, with 3 months training.
- Candidates for the Commercial Court attend a 6-months program, with 40 days training.
- Candidates for the Administrative Court attend a 4-months program with 20 days training.

The Montenegrin Judicial Council and State Prosecutorial Council administer an entrance exam for initial trainee candidates and appoint final participants to the CTJSP's programme from a list of candidates who achieved satisfactory results.

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4.2.5.2. In-Service Training Programme

In-service training is mandatory for judges and prosecutors in Montenegro, who are required to complete 2 (two) days of training per year. CTJSP keeps a register of all judges' and prosecutors' attendance to in-service training. CTJSP offers approximately 80 to 110 in-service trainings annually, which includes online trainings. This does not include the initial training offer nor trainings held outside of Montenegro. The Judicial Council and the Prosecutorial Council direct individual judges and prosecutors to trainings where their performance is unsatisfactory, or they fail to attend the 2 (two)-day mandatory training.

The selection of participants is made by the court president or chief prosecutor. CTJSP sends a call for applications to all courts and prosecution offices to nominate participants for each seminar. The number of participants depends on the training. The optimal number is 20-25 participants. CTJSP attempts to ensure that all judges and prosecutors have access to trainings and are appointed throughout the year.

4.2.6. Evaluations

Evaluations are completed by each participant to a training. They are used by the Programming Council to continuously update and improve the training program.

However, CTJSP does not have a systematic program for long-term evaluations. Indeed, participants are seldom, if at all, asked to complete long-term evaluations.

4.2.7. Premises and Training Venues

The Centre is located in rented premises in Podgorica. There are two training rooms, one of which has facilities for simultaneous translation.

Most trainings are held in CTJSP premises. This does not necessarily preclude judges and prosecutors from outside the capital to access training given the relatively small distances across the country. Nevertheless, efforts are made to offer trainings in other *rented* premises to give all judicial office holders an opportunity to participate in training within the confines of their regular daily tasks.

Courts and prosecution offices are located as follows:

- Basic Courts in *Bar, Berane, Bijelo Polje, Danilovgrad, Zabljak, Kolasin, Kotor, Niksic, Plav, Pljevlja, Podgorica, Rozaje, Ulcinj, Herceg Novi and Cetinje.*

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- High Court in *Bijelo Polje* and *Podgorica*.
- Appellate Court in *Podgorica*.
- Supreme Court in *Podgorica*.
- Commercial Court in *Podgorica*.
- Administrative Court in *Podgorica*.
- Misdemeanor Courts in *Bijelo Polje*, *Budva* and *Podgorica*.
- High Misdemeanor Court in *Podgorica*.
- Supreme State Prosecution Office in *Podgorica*.
- Special State Prosecution Office in *Podgorica*.
- High State Prosecution Offices in *Podgorica* and *Bijelo Polje*.
- Basic state prosecution offices in *Bar*, *Berane*, *Bijelo Polje*, *Kolasin*, *Kotor*, *Niksic*, *Plav*, *Pljevlja*, *Podgorica*, *Rozaje*, *Ulcinj*, *Herceg Novi* and *Cetinje*.

4.2.8. Technical Capacities

The Centre's internal software was upgraded in 2018 to allow for tracking of judges' and prosecutors' training, as well as to facilitate self-paced learning and other online learning activities.

4.2.8.1. E-learning

CTJSP started offering e-learning courses in 2014. Currently the CTJSP only offers e-learning courses developed with support from the COE HELP Programme.

There are no e-learning courses on EU law available on the platform.

4.2.8.2. Repository of Materials

The Centre maintains a repository of materials from previous trainings.

Materials from face-to-face trainings are seldom uploaded to the CTJSP website for wider distribution. As is commonly the case, they are prepared *for a temporary purpose* with a view to facilitate lectures and discussion during the training event (power point presentations and lecture notes), and therefore hold limited value for those who did not participate in the event.

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Standard CTJSP contracts with local trainers do not provide for release of copyrights, which prevents CTJSP to freely distribute materials without obtaining additional consent from trainers.

4.2.8.3. Webinars

While the CTJSP itself has the necessary facilities, equipment and other resources to organize webinars, the technical capacities in the local courts and prosecution offices hinder active participation. In particular, judicial offices are not always equipped with cameras and microphones, which prevents judges and prosecutors to actively engage with the trainer and other participants. This also prevents CTJSP to account for attendance. Given this, the Centre is not able to rely on webinars for proper planning of professional development.

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4.2.9. State of Play on EU Law Training

During missions to Montenegro, the Project team met with international organizations and projects supporting the organization of judicial training and capacity building across the judiciary. The consultations aimed to identify target gaps to maximise project resources and promote (re)use of complementary courses and existing materials, all in an effort to contribute to a more cohesive training provision at the CTJSP. Mapping of EU law training together with the CTJSP was also an important step. The process should be continued in the design phase of training development to identify in more detail specific training gaps and opportunities.

4.2.9.1. Existing EU Law Training Programme

The CTJSP has been implementing an EU Law Training Programme, with seven modules developed with support of the European Institute of Public Administration (EIPA), as follows:

- The European Union Legal Order. Instruments, Characteristics and Fundamental Principles of EU law (Module I)
- The Judicial Organization of the European Union. The Court of Justice of the EU and the Role of National Courts (Module II)
- Cooperation between National Courts and the Court of Justice of the European Union. The Reference for a Preliminary Ruling (Module III)
- Protection of Fundamental Rights in Europe (Module IV)
- Judicial Cooperation in Civil and Commercial Matters (Module V)
- Judicial and Law Enforcement Cooperation in Criminal Matters (Module VI).
- Legal requirements of the EU enlargement process, EU legal instruments progressively transposed into the Montenegrin legal order (Module VII)

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Groups of judges and state prosecutors apply to attend the EU Law Training Programme which is implemented across a period of 2 (two) years.

There is a need to adopt a more holistic approach to development of training plans and training content on EU law, for both initial and in-service training. The existing content should be updated first by expanding the framework of the programme to create a more comprehensive roadmap on EU law. Second, by developing substantive materials on EU legislation and case studies on CJEU jurisprudence, with a focus on the interconnection between national and EU law practice *per module*. Improvements can also be made by re-examining the curriculum for the purposes of online self-paced learning. Finally, the training program on EU law should be tailored to the needs of specific target groups (criminal law, civil law, administrative law, commercial law and misdemeanour law) and the initial training programme.

4.2.9.2. Continuous Donor Support

Other organizations and projects also provide support on EU law training and associated international and European standards.

With support from the EUROL II Project, several seminars on judicial cooperation in civil and commercial matters were developed (12 modules), the continuation of which is anticipated within the context of the EUROL III Project (2022 -2024). At least 4 workshops on this sub-topic will be organized. The overall aim is to improve the skills of judicial professionals to draft requests for mutual legal assistance and raise awareness of EU tools, such as the EU arrest warrant.

An EU-funded Competitiveness and Innovation Project, running from 2022-2025, aims to provide comprehensive support in the area of competition and innovation, and support the CTJSP to develop trainings on competition law.

With support from the Horizontal Facility for Western Balkans and Turkey 2019-2022, trainings on judicial independence, judicial ethics and trial management were organized. Within this framework, the CTJSP receives ongoing support for training on the ECHR, jurisprudence of ECtHR, and Council of Europe Conventions and human rights standards

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including in the area of domestic violence, freedom of expression, access to justice, protection of victims, privacy and data protection, discrimination, and cross-cutting judicial skills (Council of Europe (COE) European Programme for Human Rights Education for Legal Professionals (HELP)).

The United States Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) periodically supports the organization of training on anti-corruption, human trafficking, investigations, juvenile justice, counter terrorism, war crimes, and training on cross-cutting skills, such as evidence management and case management.

Other partners have recently also supported training on various topics; for example, cybercrime and forest theft (ILEA) and money laundering (UNODC).

The Project aims to support the CTJSP to exercise its central role in planning and delivery of cohesive training, in line with existing priorities and training needs of sitting and future judges and prosecutors. It will aim to avoid unnecessary duplication of programmes and structures and take account of relevant experience gained in running previous training.

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5. Training Need Assessment Methodology and Experts' Findings on EU training needs

5.1. TNA Methodology

The training needs were assessed through survey questions and interviews with focus groups by the CTJSP with support from the Experts.

Use of surveys facilitates a broad consultation process and is the most common method for gathering quantitative data. The process should be inclusive and representative, allowing all judges and prosecutors to express their preferences for training and contribute to the identification of needs.

Focus groups are a useful qualitative method that can provide a range of opinions to complement the quantitative data collected through surveys. It supports the training provider to better assess learning and development needs by focusing on the views and opinions of a cross-section of the judiciary.

5.1.1. Surveys

The Experts first reviewed and evaluated CTJSP's survey questions from the previous year. It was observed that they 1) collect demographic data to identify needs of specific target groups, 2) exercise an appropriate balance between assessing needs for legal education and training on judicial skills, 3) analyse respondents' preferences in view of modern methodologies for training (mock trials, case studies, etc.), and 4) provide participants with an opportunity to give feedback on the overall performance of the CTJSP as a service provider. The survey design and distribution methodology, which was recently revised with

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support from the *Horizontal Facility for the Western Balkans and Turkey 2019-2022*¹⁰, is well aligned with European and international best-practices.

Project resources were therefore directed to complementing the existing TNA process by focusing on EU *acquis* training needs. To that end, **seven questions** were incorporated in the existing CTJSP's TNA survey (**Annex I**).

5.1.2. Focus Groups

The CTJSP organized 3 (three) focus groups and 2 (two) interviews during the 2022 TNA. The focus groups were divided by thematic area - criminal law¹¹, civil law¹², and misdemeanour law¹³. Two separate interviews were held with representatives of the Administrative Court and the Commercial Court, given the small size of these institutions in the country¹⁴. The methodology for selection of focus group participants was horizontally and vertically balanced, and took into account gender balance, territorial dispersion, and representation of both judges and prosecutors. It is unclear if age and length of professional

¹⁰ as elaborated in the Manual „*Methodology for training needs assessment – tools and recommendations*“, EU/COE Horizontal Facility for the Western Balkans and Turkey 2019-2022, 2021

¹¹ 10 (ten) judicial office holders attended the criminal law focus group: 3 (three) representatives from the High Court, 2 (two) representatives from the Basic Courts, and 3 (three) representatives from the Basic State Prosecution Office, representing different regions in the country, as well as 1 (one) member of the High State Prosecution Office in Podgorica and 1 (one) member of the Special Prosecution Office in Podgorica. The group had a mixed composition of judges and prosecutors, 5 (five) prosecutors and 5 (five) judges.

¹² The civil law focus group was composed of 6 (six) judges: 3 (three) representatives of the Basic Court and 3 (three) representatives of the High Court. 50% of participants came from outside of the capital city.

¹³ The misdemeanour law focus group was composed of 5 (five) judges; 2 (two) representatives of the High Misdemeanour Court in Podgorica, and 3 (three) representatives of the misdemeanour courts from three regions.

¹⁴ Both courts are located in Podgorica

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experience was considered during selection. Participants to the initial training program were not involved in the focus groups.

Under the guidance of an expert facilitator and following a pre-defined set of questions, participants were encouraged to express their opinions on training needs (training legal topics and professional skills), methods of training (including online and hybrid forms of training), preferences regarding professional skills of trainers, and organizational factors (venues, etc.). The methodology follows best practices for facilitating focus groups, both in terms of content and organization.

The Experts provided support by encouraging a discussion on EU law training, as explained below.

5.2. TNA Survey Results on EU law training

The Survey was distributed to a total of 325 potential respondents within the judiciary. A total of 180 responses were received, resulting in a very high response rate of 55%.

5.2.1. Respondents' Satisfaction with Previous EU Law Training

The first 2 (two) questions asked respondents to reflect on their previous experience of EU law training. The information received should provide CTJSP with a baseline for continuing to improve the organization and substance of such training.

- *Number (and content) of EU law trainings attended*

The respondents were first asked to specify how many EU law trainings they attended in the last two years. 54% of participants responded that they did not attend any training on EU law. 19% attended 1 training, while 22% attended 2 or more trainings. 5% of respondents did not provide an answer.

Participants were also asked to specify which training they attended. The survey results indicate that most respondents attended training on one or more aspects of the *European Convention on Human Rights (ECHR)*. Very few respondents, however, provided a response to this question.

In the future, this information should be recorded and extracted from the CTJSP centralised database, to avoid overburdening the TNA questionnaire.

- *Respondent's perception of the quality of the EU-law trainings they attended*

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The respondents were then asked to assess EU law training quality on a 10-point scale against 8 (eight) quality criteria, i.e., did the training you attended provide or accomplish the following:

1. *provide a comprehensive overview of EU laws and standards on the topic.*
2. *increase knowledge of CJEU jurisprudence.*
3. *provide examples of case studies from other relevant national jurisdictions.*
4. *provide comparative legal analysis of one or more jurisdictions.*
5. *give information on how the Montenegrin legal system is harmonized with EU law.*
6. *contribute to an understanding of the importance of European Union law for participant's daily work.*
7. *contribute to an understanding of what it means to be a European judge (knowledge, skills, attitudes, values).*
8. *test knowledge at the start and end of the seminar.*

In the future, these or similar questions can be added to the CTJSP evaluation forms for EU law training, and therefrom excluded from the TNA survey.

5.2.2. Respondents' Expectations of Future EU Law Training (Quality Criteria)

Participants were also asked to evaluate what they expect from future training on EU law, based on the above-mentioned set of criteria on a scale of 1-5.

The results show that a very high percentage of participants answered higher than 3 (three) on a scale of 1 (one) to 5 (five) when assessing their importance, leading to a conclusion that the respondents place a high value on all 8 (eight) quality standards:

- *Examples from other national jurisdictions - 94%.*
- *Knowledge of CJEU jurisprudence - 93%.*
- *Harmonization of Montenegrin law to the EU acquis - 92%.*
- *Importance of EU law for daily work - 90%.*
- *Comparative legal analysis - 89%.*
- *Knowledge, skills, attitudes, and values of a European judge - 89%.*
- *Comprehensive overview of EU laws and standards - 87%.*
- *Testing - 83%*

The distinction between the scores in the aggregate was statistically insignificant.

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These standards, as confirmed by Montenegrin judges and prosecutors, should be kept in mind when designing EU law training, by both national and external providers.

From the results it is clear that 1) EU law training shouldn't be abstract, but rather focus on court practice - CJEU jurisprudence and cases of other national courts, and 2) address approximation of national laws to EU law. The training must respond to concrete problems and assist judges to interpret national law in conformity with European standards.

Most judges and prosecutors (83% of respondents) welcome pre- and post- testing during training.

5.2.3. Preferred Training Topics on EU Law

With support from the Project, a list of potential topics on EU law (general and specialised areas of law) was incorporated in the survey.

- List of EU law sub-topics:

7 (seven) general EU law topics and 10 (ten) specialised topics on EU law were proposed. They were suggested with a view of the strategic priorities expressed in national and European documents and based on the experience of Project experts and prior TNA results received by the CTJSP.

Closed-ended questions with pre-populated answer choices are favourable for situations where respondents have limited experience of the topic. They can serve the additional purpose of raising-awareness on international and European legal instruments among Montenegrin judges and prosecutors.

The list of training topics on EU law should be carefully redacted by CTJSP staff each year. Providing complete, up-to-date, and categorised information on European legal subjects will be a challenge for the CTJSP. Indeed, the body of European law and the harmonization process is complex, and European norms and court practices are rapidly growing both

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numerically and in complexity. To that end, it would be beneficial to establish and maintain regular communication with members of regional networks and European institutions, to support the process. Local experts on EU law should also be consulted prior to the distribution of the survey.

- Results:

According to the data received, 77% of respondents are interested in improving their understanding of *cooperation between national courts and the CJEU*, including on the process of filing for a preliminary ruling of the Court.

61% of respondents wish to receive additional training on the *EU acquis on the rule of law and fundamental rights*, including the Charter of Fundamental Rights.

57% of respondents are interested in attending training on *EU fundamental principles*.

More than half of the respondents (52%) consider relevant training on the *harmonization and screening processes, including the current status and national priorities of Montenegro*.

A large number of respondents would also like to raise their knowledge of the *general chapters of the EU acquis* (49%), the *basic functioning of the EU*, its institutions and legal framework (47%) and the *EU membership negotiation process* (47%).

Based on these results, and as confirmed during interviews with focus groups, it can be concluded that Montenegrin judicial professionals require training on EU law fundamentals.

Training on specialised EU legal subjects also garnered approval from specific target groups.

66% of respondents requested more training on *judicial and police cooperation in criminal matters*.

Civil and commercial court cooperation in the European Union was also well-received (43%).

Consumer and health protection followed with the same number of requests (43%), and slightly less for *EU Environmental law* (41%).

Respondents also expressed interest in *Intellectual Property Law* (34%), *EU acquis on Justice, Freedom and Security* (34%), *EU acquis on free movement of goods, workers and capital* (33%), *Competition Policy* (32%), *Company Law* (28%) and *Public Procurement* (26%) training, from the perspective of the EU.

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5.2.4. Interest in attending a Specialised EU Law Training Program

Participants were then asked if they are interested in attending a specialised training program on EU law, with 60% of respondents demonstrating an interest.

There are two main approaches CTJSP can adopt for EU law training. References to EU law or EU law modules can be added to national law seminars in a specialized area of law. Alternatively, CTJSP can develop a specialised EU law training program which draws necessary parallels between EU and national laws.

While it is indeed recommended that EU law training should form part of virtually any knowledge-based training, designing a specialised program on EU law (general topics and specialised per target group) can be beneficial in the absence of a long-standing history of implementation of EU law. Creating a specialised program offers an opportunity to engage colleagues from European judicial institutions and EU Member States, especially as trainers. Participants can then be selected also based on their willingness to contribute to ongoing training and consultations on EU law.

The survey results confirm that there is an interest and a need for a specialised training approach. Of course, this does not prevent the CTJSP to incorporate relevant modules on EU law in associated national training, which should also be encouraged.

5.2.5. Interest in and Preparedness for becoming a Trainer on EU Law

Establishing a core group of trainers who will lead the process of ongoing design and development of EU law training is crucial.

Not all judges can be experts on EU law. Instead, the state can invest in establishing and supporting a national network of experts on European law (EU law and other European

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standards), who can provide expertise and assistance to their colleagues, with full respect for judicial independence.¹⁵

73 out of 180 respondents expressed interest in becoming a trainer on EU law.

Prior to the selection of participants, CTJSP should inform itself if the participant is willing and able to contribute to in-service EU law training – participate in a national network for the application and adherence to European law and standards, contribute to in-service training needs assessments on EU law and act as a trainer during design and implementation of EU law courses.

It is anticipated that with Project support 20 participants will attend each seminar for a total of 100 accreditations. With this in mind, at least 50% of participants to the EJTN-supported training program should commit to such contribution.

The participants were also asked if they previously attended a **Training of Trainers (TOT)**, with only 23% answering yes (42 respondents). Therefore, it is recommended that Project resources also be devoted to developing a course for TOT, *as well as facilitate attendance at EJTN Trainers' Exchanges and Judicial Training Methods (JTM) Seminars and Working Groups.*

5.2.6. Observations regarding Survey Development and Distribution Process

CTJSP demonstrated noteworthy commitment to survey development and distribution. The entire process was led by CTJSP staff. The process strives to be comprehensive, inclusive, and representative of members of the judicial hierarchy country wide.

¹⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions/Ensuring justice in the EU – a European judicial training strategy for 2021-2024/ Brussels,02.12.2020/COM(2020)713 final

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However, it should be noted that the survey is not sent directly to each judicial office holder; it is instead distributed via their court or prosecution office. This approach has the potential to encourage individual judges and prosecutors to participate in the assessment with endorsement of the president of the court or chief prosecutor. At the same time, there are also risks that the indirect distribution of the survey can limit participation. In the future, CTJSP should explore the option to distribute e-surveys directly to each member of the judiciary.

CTJSP has recently adopted the practice of using electronic surveys during the TNA. The practice was temporarily halted in 2022 due to a cyber-attack which affected the entire judiciary. Despite these challenges, CTJSP exerted significant efforts to distribute surveys and gather feedback (via fax). The practice of using e-tools for survey distribution and analysis should be continued under regular circumstances. Automation can result in significant time- and resource- savings.

5.3. TNA Focus Group Results on EU law training

During the focus groups participants were asked:

- *if there is a need for training on EU law, and how EU law training can contribute to quality of decision-making.*
- *which areas of EU law should be covered by training, and on which grounds to prioritise such topics.*
- *which standards should be adopted for EU law trainings (training methodology, trainers' professional skills, etc.).*

The survey questions, as described above, were used to guide the discussion.

5.3.1. Participants' Perception of Training on EU Law

Focus group participants felt that training on EU law can benefit Montenegrin judges and prosecutors, especially where comparative case studies from countries in the region are used with concrete examples on how to meaningfully cite EU law in their judgments. One participant mentioned that awareness of EU law can shift judges' approaches to case resolution from rigid application of the law to more complex analysis and legal reasoning.

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Participants agreed that they are at the start of implementation of EU law. Judicial office holders are more familiar with the *European Convention on Human Rights (ECHR)* and the associated jurisprudence of the *European Court of Human Rights (ECtHR)*, given that its provisions are directly applicable in Montenegro.

5.3.2. Participants' Preferences per Subject Matter

The topics listed in the survey questionnaire (general and specialised) were presented to the participants who either expressed interest in or stated that they were unsure about their relevance.

Participants agreed that any training on the EU acquis should support their daily work, i.e., focus on the interface between EU law and national law. To that end, when considering which topics should be prioritised, the participants reflected on the following:

- is the area of law well-harmonized to EU law?
 - how many active cases are judicial holders dealing with? and
 - are there specific problems appearing in practice?
-

Examination of EU law can be useful for developing national solutions even where there is limited or no case law at the national level. However, if the training does not address immediate needs, interest in training is likely to be low.

- Legal Subjects:

Based on the results of the focus group discussion, the following topics merit special attention per target group:

The **Commercial Court** is dealing with approximately 300 cases on *intellectual property law*. The area of law is also well harmonized to EU legislation.

In the area of company law, judges can benefit from training that focuses on comparative analysis of existing systems in other countries. The Business Entities Law is undergoing amendment. It is expected that it will be adapted to EU law by 2023. Any training should align with the amendment process, which is pending.

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The **Administrative Court** deals with a number of asylum law cases but, at present, faces limited challenges that can be resolved through additional training.

Administrative judges could benefit from training on competition law, data protection and intellectual property law, but the case law is limited.

The **Civil Law** focus group identified various topics with active cases where EU body of law can complement training on national law - property rights and adequate housing, defamation and reputational damage, freedom of expression, right to privacy and media freedom, divorce proceedings and child protection in mixed marriages, temporary measures in employment law and maritime law.

The **Criminal Law** focus group drew attention to the following – forensic investigation, sources and admissibility of evidence, including digital and DNA evidence, sentencing and penal policy, domestic violence, cyber-crime, money-laundering, tax evasion, combatting trafficking in human beings and working with minors and victims.

Members of the **Misdemeanour Law** focus group highlighted the following training topics - right to a fair trial, non-discrimination, domestic violence and legal aid for victims of violence, competition law, tax law, insurance law, customs law and public order.

- Professional Skills:

The need to strengthen judicial writing skills and legal research on EU law was mentioned across the board as a cross-cutting issue. Participants also stressed that trainers' capacities in adult learning should be improved, which was confirmed by the CTJSP staff. More resources are needed to train trainers. Foreign legal language skills were also mentioned by participants.

5.3.3. Participants Preferences for Training Methods and Choice of Trainers

Focus group participants expressed a preference for *practice-oriented and interactive training*, especially *case-studies*.

Despite recognizing the advantages of online learning, participants prefer face-to-face or hybrid training, also because not all institutions have the appropriate equipment to be able to monitor interactively online training activities. At the same time, they welcome online access to *preparatory written materials* which can contribute to meaningful discussions during in-person events.

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Trainers should have proven expertise in the topic of the training and adult learning methodologies, including rhetoric. When organizing training on EU law, participants noted that the contribution by foreign and international experts to the work of local trainers was successful and that regional training events contributed to their professional development.

5.3.4. Observations regarding Focus Group Contribution to EU Law Training

Assessment of training needs on EU law during focus groups is somewhat limited. Members of the focus groups have insufficient knowledge of EU Directives and Regulations, as well as CJEU jurisprudence. The specific thematic area is also not separately highlighted by the facilitator during planning and discussion.

In the future, CTJSP should continue to adopt new, more specific questions on EU law in preparation for the focus groups to assist participants to properly assess and prioritize training needs. A distinction between EU law and other international and European standards should be made by the facilitator, to clarify understanding of the various sources of law and potential training.

For this purpose, CTJSP needs to rely on individuals with knowledge of EU law and the status of the judicial reform process in Montenegro. At the outset, a good practice is to involve trainers or experts on EU law as (co)facilitators to the focus groups. It might also be beneficial to consider if participants have a basic knowledge and/or have completed training in European Union law during the selection process. From an operational standpoint, in order to narrow the focus of the discussion, a separate focus group for the thematic area of EU law, human rights law, and European and international legal standards might be organized. Apart from judicial office holders, representatives of NGOs and Bar Associations could be here involved.

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6. EJTN Training Program Proposal

The EJTN Training Program Proposal was designed with a view to support the CTJSP to embed EU law training in its in-service and initial training offer and contribute to a sustainable strategy for future planning of training and coordination of donor support on EU law.

The proposal is based on the analysis of completed questionnaires, interviews with focus groups, analysis of strategic objectives and state of play at the CTJSP, including from discussion with counterparts working on judicial training in the region, as described above.

6.1. EJTN Training Program Objectives

The Project-supported programme should help the CTJSP to reach the following key objectives: 1) establish a core group of trainers on EU law; 2) maintain quality control during design and implementation of EU law training; and 3) facilitate cross-border cooperation.

6.1.1. Establish a Core Group of Trainers on EU law (Network of Experts)

Currently the CTJSP relies on 3 (three) experts for international and European law training.

A larger network of judges and prosecutors could better support the work of the CTJSP during the training needs assessment, design, implementation and evaluation of training – to clarify and update surveys questions, improve focus group discussions, design and tailor the training curricula, and create meaningful evaluations for EU law training. This group could foster the establishment of quality criteria on EU law and ensure that considerations of European and international standards are consciously raised throughout the training life cycle.

While foreign experts can indeed provide support, local practitioners with knowledge of the Montenegrin legal system, in an area of specialisation, who are also equipped to understand EU law and skilled in the art of training others and legal research, could exponentially increase CTJSP capacities and multiply the impact of Project-supported seminars. Beyond this, the network, once established, could contribute to a broader set of objectives of the

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Montenegrin judiciary – provide information about access to decisions of the European courts, contribute to improvements in the harmonization of case law, and *on request* provide advice and assistance on EU law to other judges and prosecutors.

6.1.1.1. Training of Experts on EU law (TOEE) Concept

2 (two) out of the 5 (five) seminars are to be devoted to training of experts. One seminar will focus on civil law. The other on criminal law.

Big picture overview

Each training of experts on EU law seminar (TOEE) must first formulate a Roadmap on EU law - a “big picture” overview of the EU *acquis* in the area of specialisation (e.g., criminal law) as a framework for future planning of a comprehensive and robust training program. This portion should preferably occupy one third of the course, with the remaining time being devoted to practical workshops on a specific subtopic (e.g., environmental crime). The overall aim of this portion of the seminar is to encourage ongoing research and expansion of the training program on EU law.

Sub-topics

The seminar will then ‘dive deeper’ into one or more specialised sub-topics in the field of criminal and civil law. The final choice of the sub-topic(s) should be based on the results of this TNA and chosen in discussions with selected national trainers during the design phase of the program.

Based on the TNA results, the **civil law seminar** might focus on one or more of the following - *property rights and adequate housing, defamation and reputational damage, freedom of expression, right to privacy and media freedom, divorce proceedings and child protection in mixed marriages, temporary measures in employment law and/or maritime law.*

The **criminal law seminar** might cover one or more of the following - *forensic investigation, sources and admissibility of evidence, including digital and DNA evidence, sentencing and penal policy, domestic violence, cyber-crime, money-laundering, tax evasion, combatting trafficking in human beings and working with minors and victims.*

When prioritizing topics, trainers should examine which specific problems judges’ and prosecutors’ face in their active cases and the interface between EU and Montenegrin legal system.

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Workshops

Discussion on sub-topics should be framed in three connected workshops - case study-, judicial writing- and legal research- workshops. Each one will heavily focus on raising awareness of the importance of the *Court of Justice of the European Union (CJEU)*'s jurisprudence. At the end of the TOEE, participants should be able to find the relevant case law of the CJEU on their own, they should know the key judgments of the CJEU and the European legal framework on the topic, as well as to what extent internal law is already harmonized with the EU *acquis*.

In workshops on judicial writing, they might be asked to utilize and draw inspiration from CJEU cases when making arguments for factual and legal conclusions. They should understand how to read a case, which are the relevant parts to use, and how to apply CJEU jurisprudence at the national level.

In case study workshops, they will work in small interactive groups to resolve pending challenges in case processing and legal reasoning with reference to CJEU jurisprudence and European best-practices.

A session will be devoted to finding sources of EU law and identification of key descriptors for ongoing legal research in the area of specialisation (CURIA legal database).

6.1.1.2. TOEE Participant Selection

With 40,5% of survey respondents answering yes to becoming a trainer on EU law, it is indeed feasible to increase both the size and capacities of the group of trainers at the CTJSP.

During the participant selection process, candidates should be asked to express a commitment to contribute to training and legal research that will enhance knowledge and skills of their colleagues to adhere to European rule of law standards and apply the EU *acquis*.

The call for applications should target *senior* judges, prosecutors, legal practitioners, academics, as well as CTJSP staff and trainers.

In the future, the Montenegrin judiciary should be supported to formalize the work of the network and **establish appropriate procedures and guidelines for its continued advancement**.

6.1.1.3. Training of Trainers (TOT)

Focus group results show that the CTJSP needs additional support for organizing and implementing TOTs. The TOT seminar can act to complement the TOEE by preparing experts

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for future training activities, while serving a broader purpose of raising capacities of all CTJSP's trainers.

The TOT will teach basic principles and standards for adult learning and advanced training methodologies: different learning styles; difficult participants; working in a team; communication as a process; different methods for presentations and interactive training; creating case studies and hypothetical cases; design of a training course.

6.1.2. Establish a Quality Control Mechanism for Design and Implementation of EU law training.

Each of the 5 (five) seminars should follow a common approach and adhere to the same quality standards for EU law training.

6.1.2.1. Approach to seminar design

Firstly, the training should balance out the need to establish a basic level of understanding of EU law and keep the training interactive – cover both EU law fundamentals and an in-depth discussion on case law. The former is needed to give direction for future development of EU law courses at the JA and provide context for active participation during workshops, while the later ensures that the training addresses immediate training needs and provides valuable resources and practical examples for resolution of daily tasks of judges and prosecutors. This approach also aims to ensure that judicial training is not limited to legal education but leads to development of professional skills and values.

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The quality criteria presented during this training needs assessment can further guide the process of training design and implementation.

Training on EU law should strive to:

- Improve participants knowledge of CJEU jurisprudence.*
- Provide case studies with examples from other national jurisdictions.*
- Contain information about how the Montenegrin legal system is harmonized with EU law.*
- Provide comparative legal analysis of one or more jurisdictions.*
- Provide a comprehensive overview of EU laws and standards on the topic.*
- Contribute to an understanding of the importance of European Union law for participant's daily work.*
- Contribute to an understanding of what it means to be a European judge (knowledge, skills, attitudes, values).*
- Test knowledge at the start and end of the seminar.*

6.1.2.2. Quality of Written Materials

The elaboration of training materials should lead to the development of quality written content which can be (re)used and made available for wider distribution by the CTJSP. All written materials, even those created for face-to-face training activities, can contribute to future development of e-courses if they are **well-documented** and **made compatible with self-paced online learning**.

To that end, certain key features of online content delivery should be highlighted. During development of **MOOCs (massive open online courses)**, content creators commonly 1) divide content into logically defined sections or modules, which contain both lecture style material designed to transfer new concepts or “know how” to the learner and exercises designed to encourage “learning by doing”, 2) include a range of media, to keep learners

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engaged with the content while learning in isolation, 3) facilitate and enable the use of modern techniques for learning, such as branched scenarios¹⁶, which make learning unexpected and engaging, and 4) enable participants to evaluate their progress, most commonly through multiple-choice pre- and post- module testing. The most important feature of a MOOC is that learners should be able to work through the course material at their own pace, without supervision and often with support from a community of learners.

Training providers and trainers should be encouraged to keep these concepts in mind when they develop content for face-to-face seminars. While it is unrealistic to presume that each in-person seminar should lead to the development of a self-standing online course without additional resources, the awareness and consideration of these methods during the design phase can in the aggregate facilitate future preparation of e-courses.

6.1.3. Encourage Cross-border Judicial Cooperation within the Scope of the Project

It is necessary to examine how the resources of the Project can be maximized to create the greatest impact.

Aside from providing targeted support to the CTJSP, the Project also works with the Judicial Academy in Serbia. It is foreseen that each institution will design and implement 5 (five) in-person seminars on EU law, with 20 participants each, for a total of 100 accreditations per country. Each in-person seminar will be implemented over 1½ days. Each in-person seminar will be implemented over 1½ days. Seminars should be designed jointly by local trainers appointed by the judicial training institutions (JA and CTJSP) and EJTN experts appointed by the Project. They are to be implemented locally, in the local language with simultaneous interpretation provided by the Project. It is also foreseen that each national institution will

¹⁶ Branched scenarios use real-life examples to display content and test knowledge of learners by challenging them to make a decision - new situations and choices are then presented based on the preceding decision made by the learner. Branched scenarios teach learners about the immediate consequences of their decisions and reactions.

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receive support for the development of 1 (one) online course. The content and method for the design and implementation of the online course are discussed further below.

Considering the very low number of judges in certain courts in Montenegro - 14 judges of the Administrative Court and 13 judges of the Commercial Court, it is strongly recommended that the Project explore opportunities for the inclusion and exchange of participants and trainers from Montenegro to the seminars organized at the Judicial Academy, and *vice versa*.

This would not only resolve the challenges of preparing seminars for the smaller courts in Montenegro, but also allow participants to share experiences with colleagues facing similar challenges on their path to EU integration.

Facilitating cross-border cooperation of judicial training institutions through the exchange of professional experiences, practices and lessons learned during the EU integration process contributes to the realisation of the strategic objectives outlined in the *European Judicial Training Strategy 2021-2024*.

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6.2. EJTN Training Program Structure

The following trainings are included in the Training Programme:

1. Training of Experts on EU law (TOEE) – Criminal Law Group
 2. Training of Experts on EU law (TOEE) – Civil Law Group
 3. Training of Trainers (TOT)
 4. EU Intellectual Property Law
 5. EU Consumer Protection Law
-
6. Roadmap on EU law e-Course

The first 3 (three) courses will assist the CTJSP to build a knowledge base and human resource capacities for EU law training in the years to come. The overall objective of the seminars is to enhance the participants' knowledge and competences to independently design and implement a curriculum on EU law - understand the big-picture and sub-topics in the criminal and civil law area of EU law, conduct legal research on EU law, design interactive workshops and act as a trainer. The participants will then be able to encourage professional development of their peers and support the CTJSP in its ongoing work.

The final two in-person seminars – *Intellectual Property and Consumer Protection* – aim to fill a training gap which was identified in collaboration with CTJSP and other partners and respond to training needs expressed through surveys and focus groups. When prioritizing the choice of topic, it was also taken into account that the area of law is well-harmonized to EU law, and that there are cases appearing in practice.

The e-Course “Roadmap on EU law” will consolidate information from CTJSP’s existing EU law training programme and the TOEE curriculum. The course should raise the basic knowledge of Montenegrin judges and prosecutors on EU law. It should be made suitable for both in-service and initial training, as a preparatory resource for the organization of practical face-to-face seminars.

The detailed course outlines can be found in **Annex II**.

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7. Recommendations and Conclusions

7.1. Continuous improvement of the training needs assessment on EU law at the CTJSP

Any TNA process should provide feedback for its continuous improvement. For this purpose, the following main observations and recommendations were elaborated.

7.1.1. Surveys

- It is recommended that closed-ended questions on EU *acquis* subtopics be added to the CTJSP's annual survey. With support from a national network of experts on EU law and European partners, the list can be reviewed and redacted on an annual basis. These efforts should assist the CTJSP to “*develop capacity to conduct assessment on training needs in connection with meeting rule of law standards and implementing the EU acquis*”, as highlighted in the EU Enlargement Country Report 2021.
- CTJSP survey question(s) which assess training needs on judicial and professional skills, might be updated to include legal writing and legal research on EU law.
- CTJSP should distribute the TNA survey to initial training participants and explore the option to distribute e-surveys directly to each member of the judiciary, to avoid any risks of indirect distribution, all with a view to “*involve more judges and prosecutors in the TNA process*”.
- Considering time- and resource- savings of automation, the practice of using e-tools for survey distribution and analysis should be continued.

7.1.2. Focus Groups

- The EU Enlargement Country Report 2021 stresses that “[*e*]fforts are needed to involve more judges and prosecutors in the TNA process”. In that regard, it was observed that focus group organization, centralized in Podgorica, contributes to exchange of experiences and interactive discussion on training needs at the country level, a practice which should be continued. The selection process led to countrywide representation, with 43% of participants (10/23) coming from outside of Podgorica, a high % especially considering that some courts and prosecution offices are exclusively located in the capital. In 2022, additional interviews with Administrative and Commercial courts were organized, for a more comprehensive inclusion of all members of the judiciary. It is recommended that initial training participants be included in the discussion in the future. The exact scheme

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for selection of individual participants is unclear and could benefit from further systematization.

- CTJSP focus groups should be further supported to assess training needs on the EU *acquis*. A good practice is to involve trainers or experts on EU law as (co)facilitators to the focus groups.
- CTJSP might benefit from organizing a separate focus group for the thematic area of EU law, human rights law, and European and international legal standards. Apart from judicial office holders, representatives of NGOs and Bar Associations could be here involved. Foreign or local experts with knowledge of EU law and the status of the judicial reform process in Montenegro might also be invited to participate - adopt new, more specific questions for EU law training, which bring the area of law closer to participants, and allow them to prioritize training needs.

7.1.3. Evaluations

- Evaluations are an important resource for succeeding TNAs. CTJSP is encouraged to add to their evaluation forms questions which were used during this TNA or similar questions to assess the quality of training on EU law (found on p.34).

7.2. Managing the Design and Implementation Phase of Training on EU law

The training on EU law should adhere to good practices for design and implementation of training. At the same time, specific standards for EU law training should be set and monitored. The following recommendations are relevant for the design and implementation phase of training:

7.2.1. Design

- The approach to seminar design must aim to ensure that judicial training is not limited to legal education but leads to development of professional skills and values. The development of *legal research* and *legal writing workshops* with a specific focus on EU law in the Training of Experts on EU law (TOEE) program and *adult learning methodologies* in the Training of Trainers (TOT) course should help the CTJSP to implement trainings which “*transmit professional techniques and values complementary to legal education*” as recommended in the EU Enlargement Country Report 2021.
- Trainers on EU law should adhere to certain quality standards for EU law training. Training shouldn’t be abstract, but rather focus on court practice of the CJEU and other national courts, and address approximation of national laws to EU law. It should respond

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to concrete problems and assist judges to interpret national law in conformity with European standards (see further on p.46)

- It is recommended that seminar materials be designed to contribute to future development of e-courses. They should be well-documented and compatible with self-paced online learning. Trainers at the CTJSP must release copyrights to enable ongoing use and widespread distribution of curricula.

7.2.2. Implementation

- During Project implementation, special attention should be paid when launching a call for applications for the TOEE and TOT to select participants willing and able to participate in a national network of experts for adhering to European standards.
- During implementation of EU law training (and selection of participants), regional exchange is strongly recommended. The Project can explore opportunities for the inclusion and exchange of participants and trainers from Montenegro to the seminars organized at the Judicial Academy, and *vice versa*.
- Court presidents and chief prosecutors, *who provide approval and nominate participants*, need to be properly informed about the importance of EU law training, and encourage judges at all levels of the hierarchy, including senior judges to attend the training. Organization of training must be done in advance to give judges and prosecutors an opportunity to fit the training into their busy schedule.

7.3. Strengthening CTJSP's Governance Role

The managing role of the CTJSP is a cornerstone for the successful and sustainable provision of training on EU law. The following recommendations aim to address CTJSP's management responsibilities.

7.3.1. Developing a knowledge base and human resources for EU law training

- Training on EU Law is a relatively new and an unknown area of law in Montenegro. Given this, it is recommended that the CTJSP should create a specialized program on EU law for in-service and initial training and establish a core group of trainers who can discern priorities for courses on EU law and lead the process of ongoing design and development. In the future, the Montenegrin judiciary should be supported to establish a national network of experts and establish appropriate procedures and guidelines for its continued advancement.

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- CTJSP should engage external partners to support its capacities for EU law training during planning, design, implementation, and evaluation, with a view to develop a knowledge base on EU law and a capacity to track trends and developments at the EU level.
- Judicial professionals from Montenegro should be encouraged to participate in cross-border judicial training at EJTN and other European institutions, especially those who are willing and able to contribute to institutional capacity building at the CTJSP (“multipliers”). Judicial professionals chosen to attend EJTN-events with Project support should ideally contribute to the development of EU law trainings at the CTJSP.

7.3.2. Quality Management

- To ensure sustainability and cohesive provision of training, CTJSP must establish a quality control mechanism and monitor for implementation of quality standards for EU law training. For example, courses shouldn’t be abstract, but rather create a visible link between national case law and the Court of Justice of the European Union (CJEU) jurisprudence and provide judges and prosecutors with valuable tools for their daily work. These and other quality criteria must be set and monitored by the CTJSP.
- CTJSP’s role in quality management can strengthen its capacities to coordinate donor-supported activities; avoid inconsistent, *ad hoc* training provision and variations in quality, irrespective of the sources of funding.

7.3.3. Raising Awareness

- Considering judges’ and prosecutors’ unfamiliarity with EU law, CTJSP must also play a role in raising awareness of the importance of European rule of law standards, the EU *acquis* and jurisprudence of the CJEU, including standards on human rights. Working closely with other national judicial institutions and the presidents of courts can lead to new opportunities to promote such values - at national judicial conferences, meetings in individual courts and prosecution offices, and via other regular channels of communication across the judiciary. In particular, annual judicial conferences present an opportunity to reach a broad target audience of judges and prosecutors.

7.3.4. Coordination with other Judicial Institutions in Montenegro and External Partners

- Planned coordination among all key judicial institutions in Montenegro (Ministry of Justice, Judicial Council, State Prosecutorial Council and CTJSP), including those responsible for monitoring of the European integration process in the field of justice, can improve the quality of the analysis of training gaps on EU law. CTJSP must have accurate and

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timely information to plan for training in parallel with the adoption of new legislation and strategic objectives of the judiciary.

- The TNA results should be presented at the next CTJSP Programming Council meeting to contribute to ongoing support at the highest levels of the judiciary. The entire training program must be integrated in the regular training offer at the CTJSP to avoid discontinuation after Project closure.
- The Councils and the Ministry of Justice must also contribute to raising awareness of the benefits of systematic training on EU law among the nationwide network of judges and prosecutors.
- *“In accordance with the principles of judicial independence, design, content and delivery of judicial training are exclusively for national institutions responsible for judicial training to determine”*.¹⁷ This is one of the core nine principles of EJTN. CTJSP should always take the lead during the TNA process; it is well equipped to understand the real needs of the judiciary, it plays a central role as a coordinator of external support, and the process of “learning by doing” is the best approach to transfer knowledge of best practices by external partners.

¹⁷ Judicial Training Principles, European Judicial Training Network, 2016, principle 5

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8. Annex I - TNA Survey

Training Needs Assessment in the field of European Union law - supplementary questions for the analysis of training needs on European Union law

*"Western Balkans II" Project
European Judicial Training Network (EJTN)*

1. In the previous two years, I attended trainings on European Union law:

- I didn't attend
- 1 training
- 2 trainings
- 3 trainings
- 4 trainings
- 5+ trainings

Please specify the name of all trainings:

- 1) _____
- 2) _____
- 3) _____
- 4) _____
- 5) _____

2. Training on EU law which I attended contained the following:

(Please provide your opinion on a scale of 1 to 10, 10 – it was entirely covered by the training, or extremely satisfied, 1 – not included in the training or extremely unsatisfied)

1. Training contained a comprehensive overview of EU laws and standards on the topic of the training	1	2	3	4	5	6	7	8	9	10
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(Regulations, Directives and other decisions at the EU level).	
2. Training focused on strengthening my knowledge of the CJEU jurisprudence related to the topic of the training.	1 2 3 4 5 6 7 8 9 10
3. Training provided useful examples of cases/studies on EU law.	1 2 3 4 5 6 7 8 9 10
4. Training provided useful comparative legal analysis of one or more jurisdictions relevant to the topic of the training.	1 2 3 4 5 6 7 8 9 10
5. Training improved my understanding of how/in which way the Montenegrin legal system has been harmonized with the EU law.	1 2 3 4 5 6 7 8 9 10
6. Training improved my understanding of the importance of understanding EU law for my daily work.	1 2 3 4 5 6 7 8 9 10
7. The training improved my understanding of what it means to be a European judge (knowledge, skills, attitudes, values).	1 2 3 4 5 6 7 8 9 10
8. The training tested my knowledge of EU law relevant to the topic (at the start and end of the seminar).	1 2 3 4 5 6 7 8 9 10

3. Specify your expectations for EU law training:

Please provide a rating on a scale of 1 to 5 (5 – agree entirely, 4 - agree; 3 – neither agree or disagree; 2 - disagree, 1 –entirely disagree):

1. Training should contain a comprehensive overview of EU laws and standards on the topic of the training (Regulations, Directives and other decisions at the EU level).	1 2 3 4 5
2. Training should focus on strengthening my knowledge of the CJEU jurisprudence related to the topic of the training.	1 2 3 4 5
3. Training should provide useful examples of cases/studies on EU law.	
4. Training should provide useful comparative legal analysis of one or more jurisdictions relevant to the topic of the training.	1 2 3 4 5

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5. Training should improve my understanding of how/in which way the Montenegrin legal system has been harmonized with the EU law.	1	2	3	4	5
6. Training should improve my understanding of the importance of understanding EU law for my daily work.	1	2	3	4	5
7. The training should improve my understanding of what it means to be a European judge (knowledge, skills, attitudes, values).	1	2	3	4	5
8. The training should test my knowledge of EU law relevant to the topic (at the start and end of the seminar).	1	2	3	4	5
10. Other suggestions – training on EU law should contain:	1	2	3	4	5

4. Are you interested in attending a training on the following EU law topics?

1. Functioning of the EU (historic overview; institutional and legal framework)	Yes	No	Unsure
2. EU Law – fundamental principles (primacy, direct effect); primary law; secondary law.	Yes	No	Unsure
3. EU enlargement and EU membership negotiation process (history; process of legal approximation and accession negotiations; role of national authorities in the process of accession);	Yes	No	Unsure
4. EU <i>acquis</i> (general presentation of chapters of the EU <i>acquis</i>)	Yes	No	Unsure
5. Harmonization of legislation and screening process – overview; national priorities; current status	Yes	No	Unsure
6. EU <i>acquis</i> on the Rule of Law and Fundamental Rights.	Yes	No	Unsure
7. EU <i>acquis</i> on Justice, Freedom and Security	Yes	No	Unsure
8 EU <i>acquis</i> on Free Movement of Goods, Free Movement of Workers and Free Movement of Capital	Yes	No	Unsure
9 National courts and CJEU cooperation	Yes	No	Unsure
10. Civil and commercial court cooperation in the European Union	Yes	No	Unsure
11. Judicial and police cooperation in criminal proceedings	Yes	No	Unsure
12. EU <i>acquis</i> on Public Procurement (public procurement proceedings, reasons for annulment of decisions)	Yes	No	Unsure

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13. EU <i>acquis</i> on Company Law (Annulment of decisions adopted by bodies of business entities, legal consequences of declaration of insolvency, representation of business entities in proceedings – procurators, compliance of national legislation with the EU <i>acquis</i>)	Yes	No	Unsure
14. Intellectual property law (Introduction to the EU <i>acquis</i> , Directives related to industrial property)	Yes	No	Unsure
15. Competition policy (Competition Law Directives, State Aid)	Yes	No	Unsure
16. Environment and climate change (Various aspects of Environmental Protection Law)	Yes	No	Unsure
17. Consumer and health protection (Collective consumer protection, Unfair trading practice (UTP))	Yes	No	Unsure
Other (please provide your suggestions...)			

5. Are you interested to undergo a specialized training program on EU Law?

- Yes
 No
 Unsure

6. Are you interested to become a trainer on EU Law?

- Yes
 No

7. Did you attend a Training of Trainers (TOT) in the past?

- Yes – if yes, please specify who organized the training _____.
 No

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9. Annex II - Course Outlines

EU LAW TRAINING PROGRAM PROPOSAL

Centre for Training in Judiciary and State Prosecution of Montenegro

The following proposal considers the results of the training needs assessment conducted in 2022-2023 and aims to assist the Centre for Training in Judiciary and State Prosecution of Montenegro to develop a comprehensive initial and continuous judicial training program on the EU *acquis*. The scope and content of the program will be further defined during the next phase of Project implementation with support from EJTN Experts.

EU law Training Program
<p style="text-align: center;">Seminar 1 TOE on EU Criminal Law</p> <p>Purpose/Objectives/Content: The aim of the training is to support the establishment of a core group of trainers for training on EU Criminal Law in Montenegro. The seminar will improve participant’s knowledge of EU legal instruments and jurisprudence of the Court of Justice of the European Union in the field of criminal law and develop skills needed to find relevant sources of EU law and design and implement interactive training (hypothetical case studies and judicial writing workshops).</p> <p>Given the results of the 2022 TNA process in Montenegro, special attention should be given to one or more of the following sub-topics: <i>forensic investigation, sources and admissibility of evidence, including digital and DNA evidence, cybercrime, money laundering and tax evasion.</i></p>

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Training Methodology: Participants in this event will receive course materials on EU criminal law in advance and will devote their time in training to the discussion of practical cases on selected issues in this field.

The seminar will first provide a roadmap on the criminal law EU *acquis* - key legislation and landmark decisions in the criminal law field, which should include both procedural and substantive aspects of criminal law (*e.g., common minimum standards for criminal proceedings, evidence in criminal proceedings, terrorism, organized crime, trafficking in human beings, illicit arms and drug trafficking, fight against corruption, cybercrime, fraud and money laundering, environmental crime and non-discrimination*). References might be made to the following EU legal instruments:

- Interpretation and Translation in Criminal Proceedings Directive, Right to Information in Criminal Proceedings Directive, Right to Access to a Lawyer Directive, Presumption of Innocence and the Right to Present in a Trial Directive, Procedural Safeguards for Children who are Suspects or Accused Directive.
- Freezing and Confiscation of Instrumentalities and Proceeds of Crime Directive, Market Abuse Directive, Protection of the Euro and other currencies against Counterfeiting Directive, Fight against Fraud to the Union's Financial Interests Directive, Prevention of Money Laundering and Terrorist Financing Directive, and Combatting Fraud and Counterfeiting of Non-Cash Means of Payment Directive.
- Protection of Victims including Prevention and Combatting of Trafficking in Human Beings Directive, Combating Sexual Abuse and Sexual Exploitation of Children, Child Prostitution and Child Pornography Directive and Minimum Standards for Protection of Victims Directive.
- Cooperation for Evidentiary Purposes including eu-LISA Regulation, Schengen Information System Regulation, ECRIS-TCN Regulation, Interoperability of IT systems in police and judicial cooperation, Asylum and Migration Regulation, EUROJUST and EPPO.
- Charter of Fundamental Rights of the European Union.

Participants will then be asked to partake in three practical workshops, with reference to one or more of the sub-topics mentioned above:

2. Case studies workshop - how to prepare a hypothetical case study specifically for EU law training.
3. Judicial writing workshop - how to prepare a judicial writing workshop specifically for EU law training.

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4. EU legal research workshop - How to access and use EU legal instruments and CJEU jurisprudence.

Target Group: Judicial trainers in Montenegro. *The following assumption should be kept in mind:* participants have limited knowledge of European Union civil law, moderate knowledge and skills in judicial training methodologies, and high-level knowledge and practical experience in application of domestic criminal law.

Trainer/Expert Requirements:

The training will be designed and carried out by domestic judicial trainers in Montenegro with support from leading experts from EU Member States (judges, prosecutors and/or judicial trainers) with ample experience in training in the area of EU criminal law. The EU MS Experts should have both holistic and in-depth knowledge of European integration in the field of criminal law, including a thorough understanding of EU criminal procedure, the evolving role of European agencies and judicial and police cooperation mechanisms, and harmonization of substantive criminal law provisions in the EU, especially in the field of financial and high-tech crime.

Experts will support domestic judicial trainers to adapt the seminar to the national legal environment in Montenegro, and to that end, consider the approximation of domestic laws to the EU *acquis* in the process of EU accession. Some knowledge or understanding of the Montenegrin judicial system and legislation in the field of criminal law is desirable.

Experts must have practical knowledge of state-of-the-art best practices in judicial training. They will be required to assist domestic trainers to design interactive workshops on EU law devoted to judicial writing with reference to EU law, legal research on EU law, and preparation of hypothetical case studies with a focus on the interaction between domestic and EU law. Familiarity with and experience in the use of EJTN manuals, guidelines and principles will be considered an asset.

Duration: 1,5 days

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Seminar 2 TOE on EU Civil Law

Purpose/Objectives/Content: The aim of the training is to support the establishment of a core group of trainers for training on EU Law. The seminar will improve participant's knowledge of EU legal instruments and jurisprudence of the Court of Justice of the European Union in the field of civil law and develop skills needed to find sources of EU law and design and implement interactive training (hypothetical case studies and judicial writing workshops).

Given the results of the 2022 TNA process in Montenegro, special attention should be given to one or more of the following sub-topics: *defamation and damage to reputation, divorce proceedings and protection of children in mixed marriages, temporary measures in labor law and/or property law, including the right to adequate housing.*

Training Methodology: Participants in this event will receive course materials on EU civil law fundamentals in advance and will devote their time in-training to the discussion of practical cases on selected issues in this field.

The seminar will first provide a roadmap on civil law EU *acquis* - key legislation and landmark decisions in the civil law field, which may include the following: civil procedure and/or family law, inheritance law, employment law, contract law and tort law. References might be made to the following EU legal instruments:

- Charter of Fundamental Rights of the European Union, Brussels I Regulation and Brussels I recast, European procedures in civil matters (EEO, EOP, ESCP, EAPO), Rome I Regulation for contractual obligations and Rome II Regulation for Tort and Delict, Parental responsibility and divorce (Brussels IIa Regulation and Rome III Regulation), Brussels I Regulation and Hague 2007 Maintenance Convention, Succession and the European Certificate of Succession, Service of Documents Regulation, Taking of Evidence Regulation, Legal Aid Directive, European Mediation Directive and Execution of Judgments including EAPO,

Participants will then be asked to partake in three practical workshops, with reference to one or more of the sub-topics mentioned above:

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2. Case studies workshop - how to prepare a hypothetical case study specifically for EU law training.
3. Judicial writing workshop - how to prepare a judicial writing workshop specifically for EU law training.
4. EU legal research workshop - How to access and use EU legal instruments and CJEU jurisprudence.

Target Group: Judicial trainers in Montenegro. *The following assumption should be kept in mind:* participants have limited to moderate knowledge of European Union civil law, moderate knowledge and skills in judicial training methodologies, and high knowledge and practical experience in application of domestic civil law.

Expert/Trainer requirements: The training will be designed and carried out by domestic judicial trainers in Montenegro with support from leading experts from EU Member States (judges, prosecutors and/or judicial trainers) with ample experience in training in the area of EU civil law. The EU MS Experts should have both holistic and in-depth knowledge of European integration in the field of civil law, including a thorough understanding of common minimum standards of civil procedure in the EU, EU competencies in cross-border civil law cases, instruments of judicial cooperation in civil matters, and jurisprudence of the CJEU in the field of family law, employment law, and defamation law. The Experts should have an excellent understanding of the Charter of Fundamental Rights of the European Union and other European standards on human rights as they relate to civil law matters.

Experts will support domestic judicial trainers to adapt the seminar to the national legal environment in Montenegro, and to that end, consider the approximation of domestic laws to the EU *acquis* in the process of EU accession. Knowledge or understanding of the Montenegrin judicial system and legislation in the field of criminal law is desirable.

Experts must have practical knowledge of state-of-the-art best practices in judicial training. They will be required to assist domestic trainers to design interactive workshops on EU law devoted to judicial writing with reference to EU law, legal research on EU law, and preparation of case studies with a focus on the interaction between domestic and EU law. Familiarity with and experience in the use of EJTN manuals, guidelines and principles will be considered an asset.

Duration: 1,5 days

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Seminar 3 Training of Trainers

Purpose/Objectives/Content: The aim of the training is to support the establishment of a core group of trainers on EU Law by developing participants' skills and practical knowledge for use of adult learning techniques and training methodologies in line with existing standards and best practices.

The TOT will focus on subjects of interest defined on the basis of the analysis of the existing TOT programs implemented by the Centre for Training in Judiciary and State Prosecution (CTJSP) to avoid duplications and repetitions. The TOT shall focus on:

- Kolb's cycle
- Different learning styles
- Communication as a process
- Working in a team
- Methods for presentations and interactive training
- Creation of case studies and hypothetical cases
- Design of a training course in a team
- Planning and organization of training on EU Law
- Access to data and legal research of relevant acts
- Elaboration and delivery of presentations (including PPP)

By the end of the TOT, the participants should be able to:

- implement in practice modern training techniques and methods for the planning, organization, delivery, monitoring and evaluation of training for judges and prosecutors on EU Law and/or other subject areas;
- prepare training plans and practical exercises and case-studies based on legal research;
- make legal research about the case law of the CJEU by using key words;
- develop glossary of terms in respective areas of the *EU acquis* on the basis of the practical assignments during the TOT;
- prepare presentations (PPP or other materials) by following the specific formats and quality requirements;

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- make presentations in line with existing standards and good practices.

Training Methodology:

The TOT program will be developed in cooperation with the CTJSP. The trainer has to assess the available information and materials about the TOT organized in the past by the CTJSP or with the assistance of other projects and donors. When the group of participants is clear, the trainer needs to assess their concrete training experience and if they've been attending similar TOT before in order to draft the TOT program by considering the level of knowledge and training experience of the group.

The training will be practical and interactive, and tailored to the national environment. The participants will learn the modern training methods and techniques by working on different practical assignments related to the elaboration of training plans, programs, case-studies, evaluation tools, doing research, preparing presentations.

At the end of the TOT the participants can be divided into teams of two and may be asked to prepare and make short presentations (up to 15 min.) on different modules/topics from the EU law training curriculum. The presentations will be assessed and discussed in order to receive feedback from the trainer and other participants.

Target group: Group of trainers (up to 20), with or without prior training experience, who are committed to contributing to delivery of EU Law training and have proven professional and training capacities.

Expert/Trainer requirements: The candidates for the position should have proven professional expertise in the field of law (EU Law can be an advantage) and judicial training.

Duration: 1,5 days

Seminar 4 Intellectual Property Law

Purpose/Objectives/Content: The training program will provide a thorough introduction to European intellectual property law, with a particular focus on the European Patent

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Convention and other aspects of industrial property:

- EU and international legal framework
- Trademarks and designs
- Geographical indications
- Copyright and the digital age
- Patent law and litigation
- Intellectual property exhaustion
- Intellectual property licensing
- Cross border litigation and enforcement of intellectual property rights
- Procedural issues in court proceedings

Learning outcomes: At the end of the training, the participants should be able to find the relevant case law of the CJEU on their own, they should know the key judgments of the CJEU and the legal framework, as well as to what extent internal law is already harmonized with the EU legal framework. It will enable participants to analyse the relevant case law of the Court of Justice of the European Union and/or relevant examples from other national jurisdictions. It will also enable participants to better explain court decisions using the interpretive methods of the Court of Justice of the European Union. They should be familiar with the procedural options for asserting various types of claims: nullity, violation of rights, scope of protection.

Training Method: The training will be practical and interactive, and tailored to the national environment. Training methods will include presentations, case studies and workshops. After a short introduction, the participants will be divided into small working groups and work on concrete cases, both cases that have already been considered by the CJEU, as well as cases specially prepared for this training, which will take into account the daily needs of judges when deciding on intellectual property, especially on patent disputes.

Target group: Commercial law judges (Basic, Higher and Supreme Court)

Expert/Trainer requirements: The candidates for the position should have proven professional expertise in the field of EU and international civil and commercial law, especially intellectual property law, and continuous judicial training: law professors, judges, lawyers (previous participation in EJTN trainings can be an advantage).

Duration: 1,5 days

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Seminar 5 Consumer Protection

Purpose/Objectives/Content: The training program will provide a thorough introduction to European Consumer Protection Law, with the presentation of EU legislation and relevant case law of the Court of Justice of the European Union. The training will use case studies and practical examples with a focus on building participants' skills relevant to the topics:

- EU legal framework on consumer protection
- Consumer contracts
- Unfair commercial practices law
- Product safety and liability
- Consumer credit agreements
- Consumer contracts concluded at a distance or outside the trade, digital contracts
- Consumer protection in travel contracts
- Collective/class actions

Learning outcomes: At the end of the training, the participants should be able to find the relevant case law of the CJEU on their own, they should know the key judgments of the CJEU and the legal framework, as well as to what extent internal law is already harmonized with the EU legal framework. It will enable participants to analyse the relevant case law of the Court of Justice of the European Union and/or relevant examples from other national jurisdictions. It will also enable participants to better explain court decisions using the interpretive methods of the Court of Justice of the European Union. They should be familiar with the procedural options for asserting various types of consumer claims, with a special emphasis on so-called collective/class actions.

Training Method: The training will be practical and interactive, and tailored to the national environment. After a short introduction, the participants will be divided into small working groups and work on concrete cases, both cases that have already been considered by the CJEU, as well as cases especially prepared for this training, which will take into account the daily needs of judges when deciding on consumer disputes (in domestic disputes and disputes with an international element).

Target group: Civil law judges of all instances (Basic, Higher and Supreme Court)

Expert/Trainer requirements: The candidates for the position should have proven professional expertise in the field of EU and international civil and consumer protection law

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and continuous judicial training: law professors, judges, lawyers (previous participation in EJTN trainings can be an advantage).

Duration: 1,5 days

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