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Judges' Association of Serbia Comments on Draft Laws on the Judicial Academy and on Judges

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GENERAL COMMENTS AND SUGGESTIONS RELATED TO THE DRAFTS OF LAWS

The Judges' Association of Serbia will briefly state its comments both to the Draft Law on the Judicial Academy (hereinafter: Draft), and the accompanying Draft Law on Judges.

Detailed arguments on the matter of training in the judiciary can be found in the Analysis of Training of Judges in Serbia - experiences and perspectives compiled jointly by the Judges' Association of Serbia and the Association of Judicial Assistants.

I PROCEDURAL SETBACKS

1. With an approach which dictates unreasonable and breakneck speed while drafting and prevents thorough work and essential and equal participation of all relevant subjects, contrary to the strategic goal, the good practice of inclusive and thorough work that existed while amending the Constitution in 2021/2022 and judicial laws in 2022/2023, was abandoned.

2. It is a fact that the deadline for adopting a new law on training in the judiciary has been exceeded by half a year, as stipulated by the Constitutional Law, and by more than two years in relation to the Revised Action Plan for Chapter 23. Still, the failure to pass the law within the deadline must not be an excuse for subsequent rush, work during the summer, and essentially in a single meeting (4-6 September 2024) without analyzing the Academy's functioning so far, the current state of affairs, identifying the actual needs of the judiciary, discussing an applicable concept of training in the judiciary, and the state's capability to timely ensure conditions for a successful application of the law.

3. The process was marked with other deficiencies: insufficient inclusivity which was removed as it went along (representatives of the Alumni Club of the Judicial Academy, whose members are judges, public prosecutors and beneficiaries of initial training at the Judicial Academy, did not participate in the work of the Working Group for drafting the Law at all), along with an atmosphere in which arguments on debatable matters were not exchanged. Such an atmosphere and manner of work lead to the logical impression that the establishment of the Working Group was only scenery of inclusivity and democratic dialogue.

4. It is worth remembering that one of the important reasons for the deadlock in the Constitutional Amendment process of 2018/2021 was the fact that the entire professional public, backed by civil society organizations dealing with the protection of human rights, was united in the assessment that the planned amendments to the Constitution would worsen the Constitutional provisions applicable at the time, and threaten the independence of the judiciary. This experience also influenced the way in which the process of amending the Constitution of the Republic of Serbia in 2021/2022 and passing of judicial laws in 2022/2023 was carried out, given that this was performed in an exemplary, inclusive and thorough manner

5. And exactly during the 2021/2023 process, there was no conclusion that training at the Academy was a necessary condition for election to the position of a judge, and such a condition was never prescribed. Not by accident, but for a reason. All the more, it is not acceptable, nor in accordance with good practice, that the concept of the future Law on the Judicial Academy, which is

of an organizational nature, is adjusted to the recently adopted systemic laws, and for completion of training at the Academy to be imposed again as an additional condition for election of judges.

II DEVIATIONS FROM STRATEGIC DOCUMENTS

1. Deviation from obligations of cooperation with the civil society, acknowledgment and making use of advantages of civil society's expertise:

According to Interim Benchmark 1.1.6 of the Revised Action Plan for Chapter 23, it was planned that *Serbia fully recognizes and exploits the benefits of civil society expertise and therefore engages in a real and systematic dialogue with civil society, the result of which should be that civil society organizations and professional associations participate in defining future steps in the reform process*. However, despite the state's self-bonding arising from this Interim Benchmark, the participation of the representatives of the judicial assistants, even only in the role of observers, was only made possible following serious investment of their effort. Judges and prosecutors, who have completed training at the Academy, as well as trainees at the Academy, convened in the Alumni Club of the Judicial Academy, whose insight into the functioning of the Academy would contribute to the work of the WG, were not allowed to participate in the work of the WG, even in the capacity of observers. despite the public appeals of both that association and the Association of Judicial Assistants and the Judges' Association of Serbia. The expertise and proposals of JAS, the most experienced and representative professional association of judges in Serbia, were ignored without reason or explanation.

2. The obligation of prescribing the completion of initial training at the Judicial Academy as a condition for election, i.e. single entry point to the judiciary, allegedly arising from the Action Plan for Chapter 23

At the initial meeting of the WG, held on 1 August 2024, the Ministry of Justice stressed the need for urgent fulfilment of an interim benchmark that, allegedly, envisaged "a single entry point into the judiciary" but in a way to ensure protection from undue influence during the election of judges and public prosecutors. Such an interim benchmark does not exist in the Revised Action Plan for Chapter 23.

The Revised Action Plan for Chapter 23 foresees (within Interim Benchmark 1.1.1) the adoption of the Law on the Judicial Academy, **through a transparent process, in which the representatives of the judiciary and the profession were actively and equally involved, which**, bearing in mind the recommendations of the Venice Commission and European standards, ensures the independence of the judiciary from political influence, maximally limiting the influence of the legislative and executive powers in the election, nomination, appointment, transfer and termination of office of judges, court presidents and (deputy) public prosecutors, and which must be based on precise criteria. The Constitution and judicial laws **guarantee all candidates, without discrimination, entry into the judicial system** which is based on objective criteria, fair election procedures, open to all candidates with appropriate qualifications and transparent from the point of view of the professional and general public**. The roles of the High Judicial Council** and the State Prosecutorial Council in the management of the judiciary, as well as in terms of supervision and control of the work of the judiciary, **have been strengthened**...

In addition, according to the Screening Recommendation and the Interim Benchmark 1.3.1. the following is planned: *development of the Judicial Academy as a center for continuous and initial training of judges and prosecutors in line with the rulings of the Constitutional Court on the provisions of the laws on the public prosecution and the Judicial Academy, including through: introducing a yearly curriculum covering all areas of law, including EU law and providing the necessary resources and introducing a quality control system for initial and specialized training (recommendation) and for the state to ensure that that the Judicial Academy adopts a multi-annual work program, covering human and financial resources and a further development of its training program, as well as a sustainable and long-term solution for financing the Judicial Academy, and to also apply a quality control mechanism and regularly and effectively assess the impact of the training*. (interim benchmark).

Such an obligation, therefore, does not exist, according to the applicable Action Plan for Chapter 23.

A representative of the Ministry of Justice and a member of the WG stated *that strategic documents of the EU were out of date, and that the European Union recently made a U-turn and informally requested that the Judicial Academy be the only entrance to the judiciary*, and in support of his claims, presented to the WG members an untitled page displaying a single row extracted from an untitled table in English, featuring lines in the English language, the meanings of the columns were not indicated on which, not allowing to determine the nature of such a document.

It is unacceptable that judges (members of the Working Group for Drafting of the Law on the Judicial Academy) are required to ignore a valid strategic document, and especially the newly adopted Constitution and judicial laws, in order to act on something that allegedly represents a request from the European Union, an informal one at that. This is because the principles of the rule of law apply both in the European Union and in Serbia. And, according to those principles, binding strategic and legal acts are adopted by competent authorities (in this case, the Government), in a previously regulated, transparent, inclusive and democratic procedure, and publicly announced. Only if they are adopted and published in this way, such documents oblige everyone to respect and implement them.

Bearing in mind the above, as well as the procedural shortcomings, the member of the Working Group and the Judges' Association of Serbia concluded that such conditions prevented her from further participating in the Working Group meeting, after which she had left the meeting.

III CLOSING REMARKS ON THE PROCESS

1. Following a Request on clarification submitted on 3 October 2024 by the National Convention Working Group for Chapter 23, a response from Ms. Valentina Superti of the Directorate-General for Neighbourhood and Enlargement Negotiations, Directorate D – Western Balkans, was received on 30 October 2024, stating, among other things:

In recent years, Serbia has taken important steps towards strengthening the independence and accountability of the judiciary with the timely adoption of most of the implementing legislation giving practical effect to the 2022 constitutional amendments. The new Law on Judicial Academy has yet to be adopted and is contingent upon receiving a positive opinion from the Venice Commission.

The European Commission has addressed this topic in our previous annual reports since 2019. The most recent example being the 2023 annual report which underlines that 'In line with the Venice Commission's recommendation, the Academy should be effectively 'protected from possible undue influence'. The independence and professionalism of the Academy remain essential to it becoming the sole entry point to the judicial profession'. It is important to note that this position does not prejudge the eventual opinion of the Venice Commission on the draft law.

With regards to the document you refer to in your letter, please allow me to provide some additional information. In December 2023, the authorities submitted a self-assessment of the progress made in meeting the interim benchmarks of chapters 23 and 24. In July 2024, the Directorate-General for Neighbourhood and Enlargement negotiations provided initial informal feedback on the draft assessment, primarily focusing on enhancing the document's methodological aspects before it is resubmitted by the authorities for reassessment by Commission services. This feedback is thus not an official Commission document.

2. The fourth and final debate on the drafts of said laws, which was held on 31 October 2024 in Belgrade, in short presented in the following article by the BETA agency, can be used as a picturesque conclusion on the process:

Discussion of the Judicial Academy: the Government favors the political election of judges, or is it only a ridiculous claim?

Maja Popović, The Minister of Justice of Serbia, at the last public debate on the Draft Law on the Judicial Academy, which was held today, promised that the objections would be carefully considered and announced that she will try to extend the deadline for the adoption of that law, which was requested by the participants of that meeting, because the deadline is set to expire this year, but its extension also depends on the European Commission.

Speaking first on behalf of the Judges' Association of Serbia, Nada Đorđević stated that the draft is of poor quality and that work should start from scratch, since the proposed provisions are problematic and threaten the independence of the judiciary.

"For example, should training completed at the Judicial Academy be introduced as the single entry point into the judiciary for candidates for judges and prosecutors, it would be seen as hidden political influence," Đorđević said, stating that this is the majority opinion among judges.

She emphasized that, during the recent amendments to the Constitution and judicial laws, no conclusion was reached that it was necessary to introduce such a solution.

The president of the Judges' Association, Snežana Bjelogrlić, who is also a member of the High Judicial Council, stated: "With this draft, the Working Group of the Ministry of Justice has given itself the opportunity to amend other laws on judges and prosecutors, which is not allowed and is contrary to the Constitution".

Dragana Boljević, the Honorary President of the Judges' Association and Justice at the Supreme Court, stated that the draft "gives the impression that the political authorities want to regain what they gave up by amending the Constitution and passing new judicial laws, because they persist in their aspiration to install the Academy as a conduit of their influence on the election judges".

Minister Popović reacted to these remarks, labelling them as "ridiculous claims".

IV REMARKS ON THE CONTENT

1. Deficiencies in nomothetics

First of all, the said acts are at an unusually and unacceptably low level concerning their nomothetic and mostly drafted contrary to the Uniform Methodological Rules for the Drafting of Regulations. These acts:

- introduce institutes/terms that do not exist in systemic laws (e.g. previous training);
- do not regulate nor contain institutes whose foundations are regulated by systemic laws (e.g. initial training of judges),
- contain provisions that are contrary to systemic laws. For example, contrary to Article 17, Item 15 of the Law on the High Judicial Council, according to which the High Judicial Council determines the initial training program for judges, the Draft stipulates that the Academy adopts the previous training program (Article 10, Paragraph 1, Item 5, and Article 39, Paragraph 3). Furthermore, contrary to Article 67, Paragraph 4 of the Law on the Organization of Courts, according to which the procedure for the admission of judicial interns is regulated in more detail by the act of the minister responsible for the judiciary after obtaining the opinion of the High Judicial Council, the same Draft stipulates that the Management Board shall adopt the Rules on taking the matriculation exam for previous training (Article 10, Item 6) and the matriculation exam program for interns (Article 63, Paragraph 2),
- contain mutually inconsistent provisions. For example, previous training is defined as organized acquisition of practical and theoretical knowledge and skills (Article 26), while the final exam taken by the beneficiaries of previous training only tests practical knowledge and skills (Article 42),
- lack a proper reasoning, which is a mandatory part of the regulations that are passed. It contains mandatory items on which the creator of regulations must declare. Among other things, the explanation must contain: the reasons for the adoption of a regulation, and within them:
    - analysis of the current situation,
    - problems that the regulation should solve,
    - goals that are achieved by the regulation,
    - possibilities considered for solving the problem without the adoption of regulations, and
    - the answer to the question of why is the adoption of regulations the best way to solve problems (Article 59, Paragraph 1, Item 2 of the Uniform Methodological Rules for the Drafting of Regulations).

2. Hindering the unity of the legal order

By excluding the term *initial* training and introducing the term *previous* training, the Constitutional principle of the unity of the legal order (Article 194, Paragraph 1 of the Constitution) is violated, since essentially the same concept is denoted in the Draft by the term *previous* training, while in the Law on Judges and the Law on the High Judicial Council, only the term *initial* training is used for the same thing. This designation of the same term is not a mistake, nor is it a simple nomothetic defect that causes confusion because different terms are used for one and the same thing.

The same negative effect is caused by the fact that the Draft, by replacing the term *initial* with *previous* training, prevents the High Judicial Council from exercising its legal authority from Article 17 of the Law on the High Judicial Council to determine the program of initial training.

The introduction of new terms such as *previous training, mandatory continuous training for a judge who has been elected to office for the first time and has not completed previous training* (euphemisms for initial training at the Academy) is an attempt to disguise the prescription of an additional condition for election of judges and disagreement with the Law on Judges and the Law on the High Judicial Council, as systemic laws, which are not aware of a previous training.

The aforementioned laws only use the concept of initial training, namely the Law on Judges, in Article 51, Paragraph 3, by stipulating that *a candidate for judge who is elected to the position of judge for the first time to a basic or misdemeanour court and who has completed initial training at the Judicial Academy is not is obliged to take an exam organized by the High Judicial Council, but the final grade at the initial training at the Judicial Academy will be taken as a measure of expertise and competence*, while the Law on the High Judicial Council, by virtue of Article 17, Item 15, prescribes *that the Council shall determine the initial training program training for judges*.

3. Depriving the High Judicial Council of its Constitutional Competences

It is not a usual situation that for one and the same legal act, two different solutions are offered, which fundamentally change the entire concept of the law - and the training and election of judges, depending on whether the law will be adopted with one solution (from Article 56) or without it. It is very difficult to make statements about such legal acts concisely and in one place.

Generally speaking, the Draft is a deteriorated copy of the applicable Law on the Judicial Academy. It is clear, from the reasoning of the Draft Law on Amendments to the Law on Judges states openly, explicitly and directly that *the reasons for the adoption of the Law on Amendments to the Law on Judges ("The Official Gazette of Republic of Serbia", No. 10/23), is the need to harmonize the said law with the new Law on the Judicial academy, which stipulates, as one of the conditions for candidates who are elected to the position of judge for the first time, that they must have completed previous training at the Judicial Academy*, that this law does not remove the reasons for unconstitutionality, stated in the decisions of the Constitutional Court from 2014: *IUz – 497/2011* and *IUz – 427/2013*. Quite the opposite.

The draft concept, with the decision from Article 56, would legally enable the High Judicial Council to elect a candidate who has not completed *previous* training as a judge who is elected for the first time, because such a candidate has the obligation to attend *continuous training for a judge who is elected for the first time*, which takes 30 days, and which they are obliged to start within three months from the day of taking up the position of judge. More will be said about the reasons why this decision threatens the Constitutional authority of the High Judicial Council to elect judges in the section dealing with negative aspects of commercialization of the Academy.

In any case, if the decision from Article 56 is not retained in the Law on the Judicial Academy, the accompanying amendments to the Law on Judges will prevent the High Judicial Council from electing candidates:

- by independently assessing their expertise and competence, i.e. to perform the constitutional duty to elect judges, because the expertise and competence of a candidate for a judge who is elected for the first time to the position of judge is determined by a certificate of completed

previous training at the Judicial Academy, as if no one else would have the necessary level of expertise and competence, except for users who have completed training at the Academy

- who come from backgrounds such as teaching, legal practice, commerce, etc. with effect from the entry into force of the law, and from 1 March 2025, also from the ranks of judicial assistants (who are employed on the date of entry into force of the law and who have not completed previous training at the Academy).

4. Violation of the principle of the rule of law – disobedience of authorities to the Constitution and the law

The fact that the Draft does not mention initial training at all, but introduces the term previous training, is not a mistake. The matter is much deeper and more serious. It is a plan to unconstitutionally bypass the legal effect of the decisions of the Constitutional Court *IUz - 497/2011* and *IUz - 427/2013*, which are final, enforceable and generally binding (Article 166, Paragraph 3 of the Constitution), by replacing the term *initial training* with the term *previous training*. The author of the draft law thereby violates the basic principles of the rule of law from Article 3, Paragraph 2 of the Constitution, stated among which is: obedience of the authorities to the Constitution and the law.

Simply by replacing the term *initial* with the term previous training in every place where the Constitutional Court uses the term *initial* training, it becomes obvious that the Draft reintroduces a solution that the Constitutional Court has already declared unconstitutional (this time disguised as the term previous training), as the Constitutional Court stated in those decisions that:

- prescribing the duty of the High Judicial Council to, when nominating a candidate for the election of a misdemeanor or basic court judge, propose a candidate who has completed initial training at the Judicial Academy, has the meaning of prescribing a special condition for the initial selection of a person for the position of judge
- the Law on the Judicial Academy is an organizational law
- prescribing the conditions for election to the position of a judge is subject to regulation of laws that regulate these issues in a systematic manner, therefore - the Law on Judges, and not the so-called *organizational regulation*, the subject of which is the establishment of an institution that deals with initial and continuous training of judges, public prosecutors and deputy public prosecutors, training of judicial and prosecutorial assistants and interns, and training of judicial and prosecutorial staff
- in this way, the initial training completed at the Judicial Academy is not only crucial for the evaluation of expertise and competence as general conditions for election, but it transforms into a condition for the determination of availability of these functions, which actually suppresses and prevents the adequate evaluation of other prescribed conditions
- such a solution calls into question and limits the position of the High Judicial Council established by the Constitution and its jurisdiction in the election of judges established by the Constitution and the law, as well as its Constitutional function to ensure and guarantee the independence and autonomy of judges by making the independent body established by the Constitution obliged by the grade used to determine the candidate's success in the initial training, issued by the Judicial Academy, which was established as an institution to perform certain activities related to the professional development of its *beneficiaries*

– in this way, those who did not complete the initial training were essentially eliminated from the circle of candidates for the initial election for a judge of a certain type of court, which violates the principle of equality of citizens who are in the same legal situation, even though the principle of prohibition of discrimination on any basis is expressly prescribed by the Law on Judges.

The Judges' Association of Serbia fully agrees with all the arguments presented by the Constitutional Court and presents them here as their objections to the content of the Draft.

5. Undermining the Constitutional principle of prohibition of discrimination and the right to participate in the management of public affairs

The Law on the Judicial Academy, which would not include the solution from Article 56 of the Draft, would be unconstitutional, not only in terms of preventing the High Judicial Council from exercising its constitutional authority.

It would automatically make it more difficult for graduate lawyers who have passed the bar exam and acquired many years of professional experience in the judiciary, teaching, legal practice and other fields to access the position of judge, which would discriminate against them, contrary to the Constitutional prohibition from Article 21, and their right to participate in the management of public affairs, proclaimed by Article 53 of the Constitution would be threatened.

University professors and attorneys, for example, would have to interrupt their work in order to attend training, while there would be no absolute certainty that they would be elected to the position of a judge, nor that upon their return to work, things would function as before the interruption. And that was exactly one of the reasons why the Constitutional Court declared a similar provision of the applicable Law on the Judicial Academy null and void in 2014.

6. Disputable solutions related to the Academy's funding and its financial operations

Funding and financial operations of the Academy are regulated vaguely. The Draft does not contain clear provisions on what is considered training costs (especially in the part related to practical training) and to whom they are paid (Article 37), whether to the subject conducting theoretical training (the Academy) or to those who conduct practical training (courts, public prosecution offices, other state authorities or law offices), or both (in this regard, see Article 39 of the Draft), and, depending on the above, why should the Academy be authorized to decide on the total amount of costs, when it only conducts the theoretical part of the training.

Since the Academy is a separate legal entity (Article 3, Paragraph 3) and has different sources of funding in the sense of Article 23, Paragraph 1 of the Draft (budget of the Republic of Serbia, income from publishing publications and implementation of projects, donations, gifts and other sources in accordance with the law), it is not clear which costs of the Academy will be financed from which funds, and why is it partially done from budget funds, and not from Academy funds.

In contrast to the applicable Law on the Judicial Academy, the Draft introduces the definition *beneficiaries whose training is financed from the budget of the Republic of Serbia* with regard to beneficiaries of previous training (Articles 37, 48, 50 of the Draft). It is not clear what difference in funding, status and rights is made between *beneficiaries of "previous" training whose training is*

financed from the budget of the Republic of Serbia (Article 37, Paragraph 3 of the Draft; hereinafter: budgetary training beneficiaries) and *candidates who are not covered by Paragraph 3 of this article, and have passed the matriculation exam, who ...can attend previous training as beneficiaries of previous training, with the obligation to bear the training costs on their own* (Article 37, Paragraph 4 of the Draft; hereinafter: self-financing training beneficiaries). Apart from the fact that self-financing training beneficiaries would not receive a salary equal to 80% of the basic salary of a judge of a basic court (Article 48, Paragraph 4 of the Draft), malicious persons could think that the right to participate in the management of public affairs (election to a judicial position) is exclusively available to the financially well-off, for an *appropriate fee*.

The statements in the reasoning of both draft laws, that: *For the implementation of this law, it is not necessary to provide financial resources in the budget of the Republic of Serbia* (Draft of the Law on Amendments to the Law on Judges), i.e. that: *For the implementation of this law, it is necessary to provide additional financial resources* (Draft of the Law on the Judicial Academy) are stated only as mere formality.

The reasoning of the regulation contains mandatory items on which the creator of the regulation must declare. Among other things, according to the Uniform Methodological Rules for the Drafting of Regulations, the reasoning must also prescribe:

- *an analysis of the effects of the regulation, which contains the following explanations* (Article 59, Paragraph 1, Item 4):
- *who will be most likely to be affected by the content of the regulations and how,*
- *what costs will the application of the regulations create for citizens and the economy,*
- *whether the positive consequences of the adoption of the regulations are such that they justify the costs that it will create,*
- *whether the regulation supports the creation of new economic entities on the market and market competition,*
- *whether all interested parties had the opportunity to comment on the regulation*, and
- *what measures will be taken during the application of the regulation to achieve what is intended by passing the regulations.*
- *In the event that the proposer of the regulation considers that the reasoning should not contain an analysis of the effects from Paragraph 1, Item 4) of this article, they are obliged to explain it separately* (Article 59, Paragraph 2).
- Finally, the reasoning must also *include assessment of financial resources needed for the implementation of regulations* (Article 59, Paragraph 1, Item 5).

Undeveloped and unclear provisions on the status, functioning, funding and financial operations of the Academy prevent a proper assessment of the volume of financial resources needed for its work.

Such action does not essentially satisfy the formal condition that a draft law must meet in order to enable the legislator to gain a clear idea of the financial effects of the proposed law.

That is why the provisions of the Draft relating to the funding and financial operations of the Academy are not sufficiently clear, specific and predictable. This violates the principle of the rule of law prescribed by Article 3 of the Constitution, since this principle, as one of the fundamental principles of every democratic society, implies that the norms of every general legal act should be

clear, definite and predictable, as the European Court of Human Rights defined by the standard of the autonomous concept of law.

7. Commercialization of the training and its negative effects

The mentioned solutions imply that the commercialization of *previous* (initial) training at the Academy is being introduced, as a condition for election to judicial office. The commercialization of training would certainly lead to the *hyperproduction* of beneficiaries completing it, and this would further inevitably lead to the collapse of the quality of training, which should be improved anyway.

In addition, solutions that introduce the commercialization of training bypass the legal provisions according to which the councils of the judiciary determine the required number of beneficiaries of the *previous* (initial) training at the Academy, and threaten the councils' possibility to rationally manage the judicial system.

This process should be observed and analyzed together with the fact that the Minister of Justice establishes the criteria for determining the number of judicial staff and the long-standing practice of not admitting a sufficient number of judicial interns and judicial assistants to the courts, as well as the fact that a significant number of them work for free.

Taken everything into account, it is clear that, even if the version of the Law on Judicial Academy containing Article 56 was to be adopted, it is clear that the hands of the High Judicial Council would be tied. The fact that the High Judicial Council would determine the number of beneficiaries of initial training, after conducting an analysis of the needs of the system and bearing in mind the number of judicial assistants and the possibility of candidates from outside the judiciary also applying, would not mean much.

On the one hand, the Ministry could continue with the practice of not employing a sufficient number of judicial trainees (who, after passing the bar exam, mostly continue to work as judicial assistants), even judicial assistants, and thereby cause a *shortage* of judicial assistants. On the other hand, the Academy would *produce a supply* of candidates for judges selected by itself, without any guarantees of independence from political authorities, by an uncontrolled admission of self-financed beneficiaries of *previous* training who, after completing that training, would apply for election to the position of judge. Such *hyperproduction* of beneficiaries of previous training at the Academy exceeding the number determined by the High Judicial Council, in the long run, would render the possibility of electing candidates who did not complete training at the Academy meaningless and *would not be worth the paper it is written on*.

Although the solution from Article 56 of the Draft, at first glance, preserves the Constitutional authority of the High Judicial Council to make the election, actual circumstances (insufficient number of candidates from the ranks of judicial assistants, hyperproduction of training beneficiaries) would force the High Judicial Council to make the election for judges in the largest measures among those candidates who completed training at the Academy. At the same time, High Judicial Council wouldn't be the one to assess the expertise and competence of candidates, but the Academy, since expertise and competence are determined by a certificate issued by the Academy. And in the case of such an election, all the same remarks that have already been set forth in Paragraphs 68 and 69 of this Analysis, regarding the concept of the Law on the Judicial Academy not including the solution from Article 56, would apply. In addition, it is already clear from the

documents submitted to the Venice Commission, that it is quite possible that the solution from Article 56 of the Draft will not even be retained in the final text of the law.

8. Legal employment status of training beneficiaries that is unclear and inconsistent with systemic laws

The status of budget and *self-financing* beneficiaries from Article 37 of the Draft is also unclear and inconsistent with other laws. A solution that introduces the possibility for candidates who have passed the matriculation exam for previous training, and are not on the ranking list of admitted candidates whose training is financed from the resources of the Republic of Serbia (budgetary training beneficiaries), shall bear the costs of the training on their own, in the amount determined in accordance with the act of the Academy's Management Board (self-financing training beneficiaries) is unacceptable for several reasons.

Legal employment status of beneficiaries of previous training during the training and fixed-term employment arrangements at the Academy:

As budgetary training beneficiaries establish fixed-term employment agreement in the Academy, this puts self-financing training beneficiaries in a legally absurd situation of paying to perform work and discriminates against budgetary training beneficiaries. Namely, the obligations of these two categories of beneficiaries do not differ in any way during the practical part of the training (in court, public prosecution office, other state authorities, law offices and other organizations), because they perform the same tasks. The only difference between these two categories of training beneficiaries is that they are paid differently for the work they perform on a fixed-term basis at the Academy (Article 48, Paragraph 4 of the Draft), beneficiaries from one category are paid in the amount of 80% of the basic salary of a judge of the basic court for the duration of the fixed-term employment agreement, and the other category is not only not paid, but it pays an undefined compensation for expenses to an undefined subject.

The aforementioned solution for self-financing training beneficiaries is contrary to the Constitution of the Republic of Serbia, the Labor Law, and the Law on Civil Servants.

In addition, the proposed solution will create a gap between candidates who have passed the matriculation exam and can afford to bear the training costs, on the one hand, and those candidates who have passed the matriculation exam and cannot afford to bear the training costs, on the other hand. Bearing in mind that the certificate of completed previous training exempts the *beneficiary of continuous training for judges and public prosecutors who are elected for the first time*, a graduate lawyer who would not have the possibility to pay *training costs*, even if they had more points than the one who has to pay, would not have the opportunity to attend previous training and, in case of election to the position of judge, would be obliged to attend *continuous training for judges and public prosecutors who are elected for the first time*.

The labour position of budgetary training beneficiaries after the completion of previous training is also unclear, and inconsistent with other laws. Depending on the length of their training, they are guaranteed (after 24 months of training) or enabled (after 12, six or three months of training) to establish a fixed-term employment agreement with a council of the judiciary for a maximum of two years in the duties of a judicial, i.e., prosecutorial assistant in a court, i.e., public prosecution office, or on professional duties in the High Judicial Council (Article 50 of the Draft). The presented

solution is unacceptable, as it is contrary to the applicable legal solutions on the legal employment status of persons who have graduated from law faculty, passed the bar exam and are employed in courts or public prosecution offices, which also violates the unity of the legal order.

From the existing proposal, it is not possible to determine what legal employment status, according to the applicable systemic laws, will apply to persons who have completed *previous* training, and whether the provisions of the Law on Civil Servants shall apply to them, as is the case of judicial assistants employed in courts, or the Labour Law, which applies in cases of employees in other legal entities. Simply put, it is not clear, who is the *boss* of these persons, who assigns them to which jobs, and what exactly is expected of them. Because it would be inappropriate to continue with the current practice that beneficiaries who have completed training at the Academy are independently assigned by the director of the Academy to work in certain courts and that he determines which beneficiary will be assigned to work with which judge, as well as that according to which beneficiaries do not consider that their work is subject to the same rules, in terms of expectations of mastering the scope and deadlines, or the work of judicial assistants.

Contrary to this, judicial and prosecutorial assistants are civil servants, and are subject to the Law on Civil Servants, which prescribes the *numerus clausus* of cases in which a civil servant can establish a fixed-term employment agreement, as well as the duration of a fixed-term employment agreement, and any other way of establishing of this kind of employment agreement in contradiction with that systemic law. Unlike the Law on Civil Servants, the fixed-term work of beneficiaries of *previous* (initial) training lasts, according to the Draft, for 30 months during training (Article 48, Paragraph 1) and up to two years (Article 50, Paragraph 1), a total of four and a half years.

The Strategy for the Development of Human Resources in the Judiciary for the 2022-2026 period foresees, considering the nature and importance of the work performed by judicial assistants, that the possibility of *dislocation* of the legal status of judicial assistants from the position of civil servants will be considered, and direct jurisdiction over this category of judicial staff will be established by the councils of the judiciary, however, this has not yet been done, despite the efforts undertaken by the representatives of the Judges' Association of Serbia in the Working Group for drafting judicial laws in 2022. Given that this issue must be solved uniquely, at this moment there is no justified reason for those who have completed previous training at the Academy to establish a working relationship in the High Judicial Council.

It would only make sense for those persons to exercise all rights and obligations, i.e. establish a fixed-term employment agreement in the body in which they work, and to which the High Judicial Council may assign them according to the needs of the courts. Thus, the legal position of those persons could be adequately adapted to the position of a judicial assistant, who should be involved in the performance of judicial duties, and must be supervised by judges.

Such a solution could be deviated from only if there is a need for the work of such personnel in the High Judicial Council, when the beneficiaries would establish a working agreement for a certain period of time in this body. All of the above is especially due to the fact that, according to applicable regulations, funds for the salaries and other benefits of judicial and prosecutorial assistants are provided by the Ministry of Justice, and the proposed solution would unnecessarily burden the budget of the High Judicial Council, i.e. High Prosecutorial Council. Also, taking into account that Article 43, Paragraph 3 of the Draft stipulates that previous training beneficiary who is employed by

another employer has a suspended employment agreement, it should be prescribed that these beneficiaries shall return to work at the parent employer after completing the training.

Finally, there is also the question of the expediency of guaranteeing a job after completing *previous* (initial) training. The assumption is that the beneficiary who has completed the relevant training has acquired specific knowledge and skills, due to which they are in a favourable position on the labour market, and as such can be employed through a public competition in the position of judicial assistant (if they wish to), without major difficulties. The success of such employment of training beneficiaries at the Academy would valorize the Academy's work on the market.

The provisions of the Draft relating to the legal employment status of Academy beneficiaries are also not sufficiently clear, specific and predictable, nor are they harmonized with other systemic laws - the Law on the Organization of Courts, the Law on Civil Servants, the Labor Law, thereby violating the principle of the rule of law prescribed by Article 3 of the Constitution, since this principle, as one of the fundamental principles of every democratic society, implies that the legal order is unique and the norms of every general legal act are clear, definite and predictable.

9. Lack of solutions that would ensure the independent functioning of the Academy

According to the Draft Law, the Judicial Academy is not an independent institution, because the Draft:

- does not even contain a proclamation that it is an independent institution that enjoys educational autonomy. Moreover, the Draft stipulates that the conditions of the functioning of the Academy is prescribed by the Government (Article 23, Paragraph 2), that representatives of the executive power are members of its bodies, namely, the Management Board, of which the minister responsible for justice and a member appointed by the Government are members, and the Program Council, of which the state secretary in the ministry responsible for finance and the state secretary in the ministry responsible for justice are members (Articles 8 and 17), while bodies with such composition further make all decisions on which the activity of the Academy depends
- prescribes that provisions of the law regulating public services shall apply accordingly to its internal organization and the tasks it performs, unless otherwise specified by the said law (Article 3, Paragraph 5)
- *does not require* that the director of the Academy be only not an experienced judge or public prosecutor, as is usually the case in countries in which Academies exist, but not even having to pass the bar exam, which makes him *disposable* and therefore susceptible to the influence of political authorities (Article 14)
- unnecessarily *binds* remuneration for work in its bodies to salaries that are among the highest in the judiciary (for members of the Management Board - 20% of the salary of a judge of the Supreme Court, for members of the Program Council - 10% of the salary of an appellate court judge, for mentors - 10% of the salary of a judge of a higher court), which can have a corrupting effect, since it makes the members of those bodies, i.e. mentors, financially interested and therefore susceptible to undue influences (Article 8, Paragraph 5, Article 17, Paragraph 10, Article 21).

Despite the fact that it was not established as independent, the Judicial Academy:

- performs the selection of participants of the previous (initial) training on its own
- determines the program of the previous (initial) training on its own
- trains and appoints trainers and mentors on its own
- conducts the final exam on its own
- is the only issuer of the certificate of expertise (according to the Draft of the amendments of the Law on Judges, should Article 56 of the Draft Law of the Judicial Academy be deleted).

10. Exclusion of prescribing transparency in the work of the Academy

Last, but not least, the Academy is still not obliged to function transparently, not even to publish data on the established number of beneficiaries, the number of beneficiaries enrolled, their status and names, on the criteria based which training providers are elected, on the persons who have completed training for mentors and lecturers, etc.

V SPECIFIC REMARKS ON THE CONTENT OF THE LAW ON JUDGES

1. Conditions for election of judges

There are several groups of conditions for election to the position of a judge prescribed by the applicable Law on Judges: *General Election Requirements* (Article 48), *Required Experience* (Article 49) and *Other Election Requirements* (Article 50).

The General Election Requirements are as follows: *citizenship of the Republic of Serbia; meeting the general requirements for work in state authority* (prescribed by the Law on Civil Servants, among others – being over the age of 18, and not being convicted); *graduation from law faculty and passing the bar exam* (Article 48)

Aside from passing the bar exam, experience in the field of law is the next election requirement (Article 49):

1) two years for a judge of a misdemeanour court;
2) three years for a judge of a basic court;
3) six years for a judge of a higher court, a commercial court, and the Misdemeanour Appellate Court;
4) ten years for a judge of the Appellate Court, the Commercial Appellate Court and the Administrative Court;
5) twelve years for a judge of the Supreme Court of Cassation

Finally, Article 50 of the Law on Judges prescribes a third group of requirements:

> *Other election requirements are expertise, competence and worthiness.*
>
> *Expertise implies the possession of the theoretical and practical knowledge necessary for the performance of the judicial function.*
>
> *Competence implies the skills that enable the effective application of specific legal knowledge in solving the court cases.*
>
> *Worthiness implies moral qualities that judges should possess and conduct in accordance with those qualities.*

Moral qualities that judges should possess are: honesty, conscientiousness, fairness, dignity, perseverance and exemplary behaviour, and behaviour in accordance with these qualities means preserving the reputation of the judge inside and outside the service, awareness of social responsibility, maintaining independence and impartiality, reliability and dignity in the service and outside of it and assuming responsibility for the internal organisation and a positive image of the judiciary in the public.

The indicators for the assessment of expertise, qualification and worthiness are set by the High Judicial Council, in accordance with the law.

Although it is not explicitly defined by the Law on Judges, it is clear that the first two groups of conditions are objectively measurable and easily verifiable, and their (un)fulfilment could be checked by any average civil servant.

The third group, *other election requirements*, does not represent conditions of the same quality as the first two groups. These are, in fact, qualities that society expects a judge to possess, i.e. criteria whose satisfaction, i.e. existence, can only be assessed by the High Judicial Council.

2. Judge election authority

When the Constitution entrusts the High Judicial Council with the election of judges (Article 150, Paragraph 3), it essentially means that it entrusts it with the assessment of whether the person the Council chooses as a judge, apart from other requirements, meets the criteria of expertise, competence and worthiness. This is what the essence of election made by the High Judicial Council is about and it cannot be done by anyone else instead of the High Judicial Council.

As the election of judges is the exclusive competence of the High Judicia Council, it is also within its exclusive competence to decide in the election process whether all the requirements for election prescribed in Articles 48, 49 and 50 of the Law on Judges, including the requirements of expertise and competence, have been met. This jurisdiction applies to the election of judges to all courts and to all candidates for election.

In the case of the first election to the position of judge, the check and assessment of the fulfilment of these two Requirements is carried out by the High Judicial Council through an exam it organizes in order to assess the expertise and competence of candidates for the position of judge, through the commission it appoints (Article 51 Paragraph 1). Unfortunately, the Law on Judges (Article 51 Paragraph 3) retains an exception from the previously applicable Law on Judges, which refers to candidates who have completed initial training at the Judicial Academy, and are candidates for the first election to a misdemeanor or basic court. These candidates are exempt from taking the exam organized by the High Judicial Council, which assesses the expertise and competence of candidates for the position of judge. Their final grade at the initial training at the Judicial Academy is taken as a measure of expertise and competence instead.

Although it is not prescribed as a condition by the applicable Law on Judges, by changing the way in which expertise and competence of candidates being elected for the first time to a misdemeanor or basic court, and who completed initial training at the Judicial Academy, are determined and evaluated (as one of the legally prescribed election requirements), completed initial training at the Judicial Academy actually becomes a requirement for the first selection as a judge to a misdemeanor or basic court, as an alternative requirement to the conditions of "*expertise*" and "*competence*".

In this way, the High Judicial Council would not the one deciding on the fulfilment of the requirements of expertise and competence of one category of candidates (who have completed the initial training) on the occasion of their first election to a misdemeanor or basic court, but it would be done by the Judicial Academy instead, which is not in accordance with the Constitutional powers of the High Judicial Council.

3. Deficiencies of solutions contained in the draft law on amendments and supplements to the law on judges

The *A Variant* stipulates that candidates for the first election to all courts (not only to misdemeanor or basic courts, as prescribed by the applicable law) who have completed previous (initial) training at the Judicial Academy are exempt from taking the exam organized by the High Judicial Council and at which the expertise and competence of candidates for judges are assessed. Their final grade at the initial training at the Judicial Academy is taken as a measure of expertise and competence.

This variant contains all the aforementioned deficiencies of the applicable law, with the fact that it expands the circle of candidates for the first election in relation to whom the High Judicial Council does not have the authority to decide whether and to what extent they meet the requirements of expertise and competence, and increases the number of candidates whose expertise and competence is evaluated by the Judicial Academy (thereby making a preliminary election).

The *B Variant* stipulates that the expertise and competence of all candidates for a judge to be elected for the first time is determined by a certificate of completion of previous (initial) training at the Judicial Academy, and removes the exam that evaluates the expertise and competence of a candidate for a judge organized by the High Judicial Council. This variant does not eliminate the deficiencies of the applicable law, but expands them instead. Namely, in this variant, the High Judicial Council does not have any competence in determining and evaluating the grade of fulfilment of expertise and competence of candidates for the first selection to the position of judge. Only the Judicial Academy becomes competent for this, which is in even greater contradiction to the Constitutional provisions that prescribe the exclusive competence of the High Judicial Council to elect judges (therefore, to decide on the fulfilment of all conditions prescribed by law).

In fact, initial training completed at the Judicial Academy becomes a requirement for the first election to the position of judge instead of the *Other Election Requirements* prescribed by law, and, in reality, of the expertise and competence criteria.

VI PROPOSAL FOR AMENDMENTS

1. The Academy should serve the purpose of training, so that judges, like other judicial staff, are professional and of integrity, and not to take over the judiciary and deprive the councils of the judiciary of their Constitutional duties to guarantee and ensure the independence of the judiciary and the autonomy of the prosecution and independently elect judges and prosecutors. Insisting on a law that would deal with the institution (academy) and not the purpose that institution serves (training) and that would prescribe that institution as the only point of access to the judicial function, and essentially deprive the councils of the judiciary of their Constitutional duty to elect judges/public prosecutors, and evaluate the fulfilment of the criteria for election to the position of

judge (including expertise and competence) within it can be disastrous for the independence of the judiciary. In any case, a law that would obey to such insistence would render the amendments to the Constitution and systemic laws from 2022/2023 meaningless. A law that would deal with the purpose (expertise achieved through training) and not the institution (academy) that the institution serves should be adopted, and that law should be named: **the Law on Training in the Judiciary**.

2. The law should, then, be appropriate to Serbia's traditions and capabilities and immediately applicable. This means that training in the judiciary, based on combining existing training methods, should be prescribed by law. This would not be unusual, because such training in the judiciary works successfully in numerous other European countries (since training through the academy is not a European standard).

3. The Law on Training in the Judiciary should be based on a clear and transparent structure. Thus, the first part of the law should first define general issues of training, and the second part should define the status and functioning of the Academy.

4. The first part should define and arrange:

– **Subject of the Law**, e.g.

This law shall determine the goal, the forms, the manner of carrying out and the duration of training in the judiciary, the beneficiaries, and other subjects (mentors, lecturers) of the training, and regulate the status, the work, the management bodies and the funding of the Judicial Academy.

– **The Concept and the Goal of the Training**, e.g.

The training in the judiciary represents the organized acquisition and improvement of multidisciplinary theoretical and practical knowledge and skills required for an autonomous, professional and efficient performance of the duties entrusted by law and the strengthening of citizens' trust in the judiciary.

The training of judges and public prosecutors should ensure the strengthening of independence of judges and autonomy of prosecutors from political and other external influences, impartiality in the performance of the function they perform, awareness of the importance of ethical principles and integrity of the judiciary, and knowledge of international standards and good practices in the judiciary.

The special goal of the training of judicial and prosecutorial assistants is to improve the knowledge and skills needed to successfully pass the judicial/prosecutorial exam.

The special goal of the training of judicial and prosecutorial interns, who only attend initial training, due to their specific (transitional) legal employment status is to improve their theoretical knowledge and to acquire practical skills needed to successfully pass the bar exam.

– **Training Beneficiaries**, who are, e.g.: *judges, public prosecutors, judicial and prosecutorial assistants, judicial and prosecutorial interns, judicial staff, and other beneficiaries in accordance with the Law.*

– **The Right to Training**, e.g.: *the beneficiaries have the right and obligation to a professional training, the expenses of which shall be covered by the Republic of Serbia.*

– **The Forms of Training**, e.g.: *the training is initial and continuous, and is carried out in a practical and theoretical way.*

– **Initial training**, e.g.

Initial training is mandatory.

Initial training beneficiaries are judicial and prosecutorial interns, judicial and prosecutorial assistants, and judges and prosecutors who have been elected to office for the first time, but have not completed the initial training for judicial and prosecutorial assistants.

The initial training is carried out by working in courts and public prosecution offices (the practical part of the training) and by attending seminars, lectures, study visits and in other ways organized by the Judicial Academy in its seat and the seats of appellate courts for judicial and prosecutorial assistants in courts and public prosecution offices with seats in the area of the corresponding appellate court (the theoretical part of the training).

Judges and public prosecutors who have been elected to office for the first time, but have not completed the training referred to in the second paragraph of this article are initial training beneficiaries adapted to their previous professional experience.

– **Continuous Training**, e.g.

Continuous training can be voluntary or mandatory.

Continuous training is mandatory if prescribed by law or by a decision of the High Judicial Council and the High Prosecutorial Council in the event of a change in specialization, significant legislation amendments, the introduction of new work techniques, and in order to eliminate deficiencies in the work of judges and deputy public prosecutors observed during the evaluation of their work.

Continuous training beneficiaries are judicial and prosecutorial assistants, judges, public prosecutors, judicial staff and other beneficiaries in accordance with the Law.

Continuous training is timely, financially and organizationally available to beneficiaries without discrimination, predictable, interactive and organized at the expense of the Republic of Serbia.

Continuous training beneficiaries are provided with the conditions necessary for the smooth performance of other duties (suspension of the flow of cases during training, not including the time spent on training in deadlines for various procedures, etc).

– **Training Programs**, e.g.

Training programs are created based on the needs of the judiciary, that is, the function performed by the training user.

Ethics training is mandatory and common for all training beneficiaries.

Training programs cover all areas of social importance that reflect the functioning of the judiciary.

The content of the training program and the duration of the training are determined depending on the previous professional experience of the training beneficiary.

The High Judicial Council and the High Prosecutorial Council determine the initial training programs following the proposal of the Judicial Academy.

The Judicial Academy establishes permanent training programs with the consent of the High Judicial Council and the High Prosecutorial Council.

The High Judicial Council and the High Prosecutorial Council shall supervise the implementation of the initial and continuous training programs.

– **The Duration of Initial Training**, e.g.: The training of initial training beneficiaries from the ranks of judicial and prosecutorial interns and from the ranks of judicial and prosecutorial assistants would last two years, while the training of judges and public prosecutors who have been elected for the first time, but have not completed the initial training lasts from one to three months, depending on their previous professional experience.

– **Organization of Training**, which would be organized by the Judicial Academy.

– **Carrying out of the Training**, with the practical carried out by the courts and public prosecution offices as a rule, and the theoretical training by the Judicial Academy.

In its first part, the law should define mentors and lecturers, criteria for their selection, training, the procedure for analysis and evaluation of training, and other issues related to training in the judiciary.

5. In the second part, the law should be devoted to the Judicial Academy, its status and functioning. The Judicial Academy should be organized as an independent institution for training in the judiciary, which means, among other things, that representatives of political authorities should not be members of its bodies. Also, the requirements for the Academy to function transparently, the requirement for its director to be an experienced and prominent holder of judicial office, and the requirement for membership in its management bodies to no longer be a paid position, should be emphasized.

6. Concerning the Draft Law on Amendments and Supplements of the Law on Judges, in its Variant 1, Paragraph 3 of Article 51 should be removed, and, in the case of Variant 2, the complete Article 51 should be removed.

VII ADVANTAGES OF THE PROPOSED SOLUTIONS

The proposed solutions:

- would ensure that training in the judiciary is carried out without violating the Constitutional competence of the councils of the judiciary to carry out the election and that, within its framework, they assess on their own whether the candidates for the position of judge/public prosecutor meet all the conditions for the election, including their expertise and competence. Such a solution would make it impossible for the Academy to be the one that essentially elects judges during the selection of its beneficiaries, and have the councils of the judiciary only to elect judges/public prosecutors among the ranks of those who have completed the training, and were previously selected by the Academy;
- would provide the conditions for an independent functioning and development of the Academy, removing the previous and preventing the upcoming shortcomings of its functioning resulting from the solutions contained in the Draft;
- would not expose the budget of the Republic of Serbia to any special expenses for the practical training of the initial training beneficiaries, but on the contrary, it would enable savings in the budget. This is because assistants are paid for their work, during which they

are practically trained, which is performed in the courts/public prosecution offices where they work;

- would make it possible to overcome the problem of insufficient funding and irregular training of judges, especially judicial and prosecutorial assistants and other court staff, even though these trainings constitute the majority of the legal competences of the Academy, which was caused by the circumstance that the costs for the salaries and contributions of the initial training beneficiaries were a huge share in the structure of total costs (about 90%) of the Academy, and for the Academy to fully dedicate to all its responsibilities;
- would make it possible to specify what the training costs are (initial and continuous, practical and theoretical), to whom and which of them are paid (courts/public prosecution offices, the Academy);
- would make the Academy's financial operations clear and transparent and would remove the repeated findings of the competent authorities about serious violations of the obligation of good business operations by the Academy;
- would enable the legal employment status of initial training beneficiaries to be precisely determined and easily fit into the existing legal framework (in relation to the undefined status of initial training beneficiaries and their work duties in the court/public prosecution office, refer to the letter from the President of the Academy's Management Board to beneficiaries who have completed initial training at the Academy and were then assigned to the court in Paragraph 60 of this Analysis);
- would prevent the commercialization of initial training, the hyperproduction of beneficiaries who have completed it, the lowering of the quality of training and the violation of the legal competence of the councils of the judiciary in the management of the judicial system;
- would prevent unequal treatment and discrimination of candidates for judges/public prosecutors who meet the legal requirements for election (those who passed the training program before the election as beneficiaries of the Academy and those who did not) in terms of the assessment of expertise and competence, because all candidates would take an exam for assessment of expertise and competence organized by councils of the judiciary.
- By the proposed removal of Article 51 Paragraph 3 from the Variant No. 1, i.e. the entirety of Article 51 from the Variant No. 2, the exclusive competence of the High Judicial Council to decide on the fulfilment of the requirements (criteria) of expertise and competence for all candidates to the position of judge (including those being elected for the first time), regardless to a court they are elected to, is established. In this way, the competence of the High Judicial Council is harmonized with its competence stipulated by Article 150 Paragraph 3 of the Constitution of the Republic of Serbia).