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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**KOSOVO**

**OPINION OF THE VENICE COMMISSION  
ON THE DRAFT AMENDMENTS TO THE LAW  
ON THE ACADEMY OF JUSTICE**

**Adopted by the Venice Commission  
at its 142nd Plenary Session  
(Venice, 14-15 March 2025)**

**On the basis of comments by**

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## I. Introduction

1. By letter of 3 December 2024, the Minister of Justice of Kosovo, Ms Albulena Haxhiu, requested an Opinion of the Venice Commission on the draft amendments to the Law on the Academy of Justice (“the draft amendments”) ([CDL-REF\(2024\)049](#)).

2. Mr K. Tuori, Ms R. Kiener, Ms M. O’Toole acted as rapporteurs for this Opinion.

3. On 27 and 28 January 2025, a delegation of the Commission, consisting of Ms Kiener, Ms O’Toole and Mr Taras Pashuk from the Secretariat, visited Pristina and had meetings with representatives of the Ministry of Justice officials, the Academy of Justice, the Judicial Council, the Prosecutorial Council, the Bar Association, international organisations, and civil society organisations. The Commission is grateful to the Ministry of Justice of Kosovo which facilitated the excellent organisation of this visit by the Council of Europe Office in Pristina.

4. This Opinion was prepared in reliance on the English translation of the draft amendments. The translation may not accurately reflect the original version on all points.

5. This Opinion was drafted on the basis of comments by the rapporteurs and the results of the meetings on 27 and 28 January 2025. Following an exchange of views with the Deputy Minister of Justice, Mr Vigan Qorrolli, it was adopted by the Venice Commission at its 142<sup>nd</sup> Plenary Session (Venice, 14-15 March 2025).

## II. Background

### A. General remarks

6. Kosovo has been working towards aligning its justice system with European standards and has engaged in cooperation with European institutions. In recent years, the Venice Commission has provided several Opinions on justice reform in Kosovo, including on the integrity of judges and prosecutors,<sup>1</sup> and the status of the Kosovo Prosecutorial Council.<sup>2</sup>

7. According to the request letter from the Minister of Justice, Kosovo is undertaking a comprehensive reform of the justice sector. Several draft laws have been prepared covering key areas, including the recruitment, career, and accountability of judges and prosecutors, as well as the functioning of the Judicial and Prosecutorial Councils and the Academy of Justice. These draft laws have been submitted to the Venice Commission for legal assessment. The Commission has prepared several Opinions, including the present one, which focuses specifically on the Academy of Justice.

8. In the aforementioned letter the Minister of Justice noted that the draft laws under examination are the outcome of the Joint Commitment Statement on the Justice Reform in Kosovo which was signed on 14 March 2023 by the Ministry of Justice, the Kosovo Judicial Council and the Kosovo Prosecutorial Council, the Supreme Court and the State Prosecutor, and the preparatory work carried out by working groups established after the signature of the Joint Statement.

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<sup>1</sup> Venice Commission, [CDL-AD\(2022\)011](#), Kosovo - Opinion on the Concept Paper on the Vetting of Judges and Prosecutors and draft amendments to the Constitution; [CDL-AD\(2022\)014](#), Kosovo - Opinion on the Draft Law N°08/L-121 on The State Bureau for verification and confiscation of unjustified assets; [CDL-AD\(2022\)052](#), Kosovo - Follow-up opinion to the opinion on the draft law N°08/L-121 on the State Bureau for verification and compensation of unjustified assets.

<sup>2</sup> Venice Commission, [CDL-AD\(2021\)051](#), Kosovo - Opinion on the draft amendments to the Law on the prosecutorial Council of Kosovo; [CDL-AD\(2022\)006](#), Kosovo - Opinion on the revised draft amendments to the Law on the Prosecutorial Council; [CDL-AD\(2023\)043](#), Kosovo - Follow-up opinion to the previous opinions concerning amendments to the Law on the Prosecutorial Council.

9. The ongoing justice reform is also linked to Kosovo's application for EU membership. In the October 2024 Report on Kosovo, the EU Commission stated that Kosovo is at an early stage of preparation on the functioning of the judiciary and made limited progress.<sup>3</sup> As regards the Academy of Justice, the same Report noted that "amendments to the law on the Academy are currently pending and full alignment with European Standards must be ensured. The Academy suffers from insufficient resources."<sup>4</sup>

## **B. Constitutional framework**

10. The justice system in Kosovo is regulated by Chapter VII of the Constitution, titled "Justice System." Judges are appointed, reappointed, and dismissed by the President of Kosovo upon the proposal of the Judicial Council (Article 104 § 1). The initial mandate for judges is three years, while reappointment grants a permanent mandate until retirement age or removal in accordance with the law (Article 105 §§ 1 and 2). The criteria and procedures for reappointment are determined by the Judicial Council and may differ in degree from those applied to the removal of judges (Article 105 § 3). Proposals for judicial appointments must be based on an open selection process and the merit of the candidates, with all candidates required to meet the selection criteria established by law (Article 108 § 4). Judges may be removed from office if convicted of a serious criminal offence or for serious neglect of duties (Article 104 § 4).

11. The Judicial Council is responsible for ensuring that courts operate independently, professionally, and impartially (Article 108 § 2). It consists of thirteen members, seven of whom are judges elected by their peers. The remaining six members are elected by the Parliament, with at least three also being judges (Article 108 § 6).

12. The Prosecutorial Council is responsible for recruiting, proposing, promoting, transferring, reappointing, and disciplining prosecutors in accordance with the law (Article 110 § 2). The initial mandate for prosecutors is three years, while reappointment grants a permanent mandate until retirement age or removal in accordance with the law (Article 109 § 5). Proposals for appointments of prosecutors must be made on the basis of an open appointment process, on the basis of the merit of the candidates (Article 110 § 3). Prosecutors may be removed from office if convicted of a serious criminal offence or for serious neglect of duties (Article 109 § 6). The Prosecutorial Council ensures that the State prosecution service operates independently, professionally, and impartially (Article 110 § 1). Its composition is determined by law (Article 110 § 4).

13. The Constitution does not contain explicit provisions on the Academy of Justice. However, it does regulate the status of independent agencies, such as the Academy, which are institutions created by Parliament and governed by specific laws that define their establishment, operation, and competencies (Article 142 § 1). Independent agencies have their own budgets, which must be administered independently in accordance with the law (Article 142 § 2). Additionally, all organs and institutions are required to cooperate with and respond to requests from independent agencies in the exercise of their legal competencies, as provided by law (Article 142 § 3).

## **C. Draft amendments**

14. The draft amendments proposed by the Ministry of Justice introduce several changes to the status and operation of the Academy of Justice. The Academy's functions are expanded to include the power to issue by-laws within the scope of its competencies, particularly concerning training and internal organisation matters not regulated by legislation.

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<sup>3</sup> EU Commission, Directorate-General for Neighbourhood and Enlargement Negotiations, 2024 Communication on EU enlargement policy, [2024 Kosovo Report](#), Brussels, 30.10.2024, SWD(2024)692, page 5.

<sup>4</sup> EU Commission, [2024 Kosovo Report](#), cited above, page 28.

15. The Academy's governance structure is subject to significant revisions. These include amendments to the provisions on the Governing Board, updated rules on the compensation of its members, and modifications to the Programme Council, particularly its composition and responsibilities. The Programme Council is granted additional competence to review complaints against trainers and assess their performance. Further changes relate to the appointment and dismissal of the Academy's Executive Director, introducing a requirement to have passed the Bar examination and specifying that the Executive Director's appointment and dismissal procedure shall be determined by secondary legislation. Additionally, the provisions concerning trainers and mentors, as well as the Academy's reporting obligations, have been revised.

16. The draft amendments also redefine the framework for training, specifying various types of training, including initial training and additional sessions for judges, prosecutors, and professional associates. A new provision establishes dedicated training programmes for court and prosecutorial administration.

17. The delegation of the Venice Commission was informed that the draft amendments were developed in consultation with legal experts, including the European Commission. One of the key issues discussed during these consultations was the choice of the initial training model – whether it should follow a pre-appointment or post-appointment approach. The final draft amendments retain the existing post-appointment model, which has been in place for several years. Under this system, newly appointed judges and prosecutors are required to undergo twelve months of initial training, which runs concurrently with the first year of their three-year initial mandate.

18. In its analysis of the draft amendments, the Venice Commission will focus on the most pertinent changes and the issues arising from discussions with the relevant stakeholders. The absence of comments on certain provisions of the draft should not be interpreted as tacit approval of those provisions.

### III. Analysis

#### A. Applicable standards and scope of national discretion

19. The Venice Commission has previously addressed the issue of training in the justice sector in its Opinions, most recently in its opinion on Serbia.<sup>5</sup> The relevant standards, as summarised in that Opinion (paragraphs 22 and 23), are cited below:

(a) The Council of Europe standards regarding training of judges and prosecutors generally support the view that proper initial and in-service training is an essential and important component of independence of their profession. In particular, the Council of Europe Committee of Ministers Recommendation 12(2010) states that “[j]udges should be provided with theoretical and practical initial and in-service training, entirely funded by the state. (...) An independent authority should ensure, in full compliance with educational autonomy, that initial and in-service training programmes meet the requirements of openness, competence and impartiality inherent in judicial office”.<sup>6</sup> The Magna Carta of Judges (Fundamental Principles) by the Consultative Council of European Judges (CCJE) includes Principle 8 which asserts: “[i]nitial and in-service training is a right and a duty for judges. It shall be organised under the supervision of the judiciary. Training is an important element to safeguard the independence of judges as well as the quality and efficiency of the judicial system”.<sup>7</sup> The CCJE recommends that mandatory initial training includes

<sup>5</sup> Venice Commission, [CDL-AD\(2024\)036](#), Serbia – Opinion on the draft Law on the Judicial Academy and draft amendments to the Law on Judges and the Law on the Public Prosecutor's Office.

<sup>6</sup> Council of Europe Committee of Ministers Recommendation [CM/Rec\(2010\)12](#) on judges: independence, efficiency and responsibilities, paras. 56-57.

<sup>7</sup> CCJE, Magna Carta of Judges (Fundamental Principles), [CCJE\(2010\)3](#), 17 November 2010, principle 8.

programmes which are appropriate to appointees' professional experience.<sup>8</sup> Also, the Venice Commission Report on the independence of the judicial system: Part II – the Prosecution System has noted that “[a]ppropriate training should be available for prosecutors throughout their career. The importance of training for prosecutors is certainly of the same level as that for judges.”<sup>9</sup>

(b) While European standards emphasise the importance of training, they do not prescribe specific details on how the education and training systems concerning judges and prosecutors should be organised, or the conditions under which such training is integrated into the process of entering these professions.<sup>10</sup> These matters fall within the organisational competence and discretion of the states. As such, the options available to each state for structuring training and determining the entry channels to the judiciary and prosecution services are quite broad.

## **B. Status of the Academy**

20. In performing its functions, the Academy must be shielded from undue influence and ensure that training and evaluations are conducted in accordance with the principles of judicial and prosecutorial independence.<sup>11</sup> In this regard, the Venice Commission has previously emphasised that the training of judges should remain under the control of the judiciary.<sup>12</sup> Similarly, the CCJE has advised that “the judiciary should play a major role in or itself be responsible for organising and supervising training”.<sup>13</sup>

21. The Academy qualifies as an independent agency within the meaning of Article 142 of the Constitution. This implies that the law must establish sufficient safeguards to ensure its independent functioning, including provisions on the status of its governance bodies, their interaction with other authorities and institutions, accountability mechanisms, and budgetary safeguards. The Commission will analyse these elements below.

## **C. Internal governance of the Academy**

22. Article 7 of the Law on the Academy of Justice remains unchanged and retains the existing structure of the Academy's bodies, namely the Governing Board, the Programme Council, and the Executive Director. However, amendments introduce changes to the composition and functioning of these bodies.

### **1. Governing Board**

23. Under the current regulations (Article 10 of the Law on the Academy of Justice), the Governing Board exercises broad executive and organisational powers, including overseeing the work of the Academy, approving by-laws on the matters defined by this Law, approving the Academy's draft budget, and approving the list of trainers and mentors; additionally, it has authority over other Academy bodies, as it elects and dismisses the Executive Director and appoints members of the Programme Council. These provisions remain unchanged.

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<sup>8</sup> CCJE, [Opinion No. 4 \(2003\)](#) on training for judges, para. 26.

<sup>9</sup> Venice Commission, [CDL-AD\(2010\)040](#), Report on the independence of the judicial system: Part II – the Prosecution System, 17-18 December 2010, para. 70.

<sup>10</sup> See also, the [Judicial Training Principles](#) adopted by the European Judicial Training Network (EJTN), 10 June 2016; [Declaration of Judicial Training Principles](#), adopted by the International Organization for Judicial Training (IOJT) on 8 November 2017.

<sup>11</sup> Venice Commission, [CDL-AD\(2024\)036](#), Serbia – Opinion on the draft Law on the Judicial Academy and draft amendments to the Law on Judges and the Law on the Public Prosecutor's Office. § 38.

<sup>12</sup> Venice Commission, [CDL-AD\(2010\)003](#), Ukraine - Joint Opinion on the Draft Law on the Judicial System and the Status of Judges, para. 123.

<sup>13</sup> CCJE, [Opinion No. 4 \(2003\)](#) on training for judges, para. 16.

### ***a. Composition of the Governing Board***

24. The Governing Board is currently composed of nine members: two *ex officio* members (the President of the Supreme Court and the Chief State Prosecutor), one member appointed by the Minister of Justice, three members appointed by the Judicial Council (two judges and one representative of the Council's Secretariat), and three members appointed by the Prosecutorial Council (two prosecutors and one representative of the Council's Secretariat). The proposed amendments (draft Article 8) reduce the number of members of the Governing Board from nine to seven by limiting the number of judges appointed by the Judicial Council to one (instead of two) and the number of prosecutors appointed by the Prosecutorial Council to one (instead of two). Additionally, the amendments replace the member appointed by the Minister of Justice with the Minister in person.

25. The composition of the Board, despite the reduction in the number of members appointed by the Judicial and Prosecutorial Councils, continues to ensure a majority of judges and prosecutors while preserving the substantive involvement of the Councils in the appointment process. This remains an important feature, as it maintains the institutional link between the training authority and the Judicial and Prosecutorial Councils, which have a constitutional mandate to safeguard the independence of the judiciary and the State Prosecution service.

26. However, the rationale for reducing the size of the Governing Board is not clear, particularly given the concentration of substantive powers in this body and its influence over the other bodies of the Academy. The reduction comes at the expense of judicial and prosecutorial members appointed by the councils, thereby increasing the influence of the remaining members. In this regard, the inclusion of the Minister of Justice as an *ex officio* member creates a risk of influence of the executive on the functioning of the Academy of Justice. In a similar context, the Venice Commission has recommended the removal of the Minister of Justice from the management board of judicial training institutions.<sup>14</sup>

27. While the participation of the Minister of Justice may serve a functional role in advocating for the Academy's budgetary interests, alternative mechanisms should be considered to ensure adequate financial support. The Academy qualifies as an independent agency under the Constitution, and appropriate budgetary safeguards must be in place to uphold this status. However, it has been reported that in practice the Academy suffers from significant underfunding. Thus, Article 26 of the Law on the Academy of Justice, which regulates the Academy's budget, should be strengthened to provide greater financial stability and ensure the availability of sufficient resources to implement necessary training programmes.

28. The presence of the Minister of Justice on the Governing Board can also be linked to the fact that the Academy provides training programmes for other independent legal professions, such as lawyers, notaries, private bailiffs, mediators, and bankruptcy administrators (Article 22 of the Law). While this may be a relevant consideration, the information available does not sufficiently demonstrate the necessity of ministerial participation in the Board. First, the Venice Commission delegation was informed that the scope of such training programmes within the Academy remains relatively limited. Second, if deemed necessary, the draft amendments could instead provide for the inclusion of representatives of these legal professions on the Board.

29. In light of the above considerations, the Venice Commission recommends increasing the size of the Governing Board to allow for greater participation of judges and prosecutors appointed by the Judicial and Prosecutorial Councils while removing the Minister of Justice from the Board.

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<sup>14</sup> Venice Commission, [CDL-AD\(2024\)036](#), Serbia – Opinion on the draft Law on the Judicial Academy and draft amendments to the Law on Judges and the Law on the Public Prosecutor's Office. §41.



### ***b. Accountability of the Governing Board members***

30. Article 12 of the Law regulates the removal of members of the Governing Board. The procedure requires a decision by the Governing Board itself, followed by approval from the institution that appointed the member, notably the Judicial or Prosecutorial Councils. However, the scope of this procedure requires further clarification, particularly regarding the conditions under which a decision on removal becomes final, especially in cases where there is a disagreement between the Governing Board's proposal and the determination of the appointing body.

31. Furthermore, the draft amendments provide that the term of elected members of the Governing Board shall be three years, with the possibility of re-election for one additional term (draft Article 8 § 3). Accordingly, Article 12 § 4 of the Law should be amended to align with this new provision, as it currently states that a candidate for a vacant position on the Board is elected for a four-year term, which creates an inconsistency that should be addressed.

## **2. Programme Council**

32. The Programme Council is intended to serve as the main expert body of the Academy, ensuring the development and effective implementation of training programmes. Under draft Article 15, the Programme Council consists of seven members appointed by the Governing Board: three judges, two prosecutors, one expert selected from among former Academy trainers, and the Executive Director, who presides over the Council.

### ***a. Composition of the Programme Council***

33. Given that the Programme Council is the main expert body responsible for advising on the nature, scope, and duration of training programmes, its current composition appears too limited to adequately fulfil its role. Increasing the number of judges and prosecutors would be advisable, along with ensuring a division of labour whereby judicial training matters are primarily handled by judges, while prosecutorial training matters are primarily handled by prosecutors. In addition, the draft amendments could explicitly provide for the Programme Council's right to assign trainers and mentors to assist the Council on an *ad hoc* basis when addressing specialised issues, as well as the corresponding duty of trainers and mentors to contribute to such cases.

34. In addition to expanding the composition of the Council, it would also be appropriate to consider greater involvement of the Judicial and Prosecutorial Councils in the appointment and removal of Programme Council members, given their constitutional role in overseeing the judiciary and the prosecution service.

### ***b. Accountability of the Programme Council members***

35. With respect to the accountability of Programme Council members, draft Article 15 § 3 states that the procedure for the removal of Governing Board members shall apply by analogy. However, this broad approach lacks clarity and is not sufficiently coordinated with other provisions of the Law. For example, the removal of Governing Board members may involve the Judicial or Prosecutorial Councils (see the above considerations regarding accountability of the Governing Board members), whereas under Article 10 of the Law, Programme Council members are removed solely by the Governing Board. Further clarification of this procedure would be necessary to ensure legal certainty and foreseeability.

### ***c. Competences of the Programme Council***

36. The competences of the Programme Council, as defined in Article 16 of the Law on the Academy of Justice, raise concerns regarding the Council's level of autonomy. While the Council



is responsible for drafting training programmes, giving opinions on candidate trainers and mentors, and providing advice and proposals on the quality of training, these decisions remain subject to unilateral approval by the Governing Board (see Article 10). Greater coordination between these two bodies in the decision-making process would be advisable, while also ensuring that the Programme Council is granted more autonomy in exercising its expert role vis-à-vis the Governing Board.

37. In this context, it is a positive development that the draft amendments expand the powers of the Programme Council to include the evaluation of Academy trainers and the review of complaints against trainers (draft Article 16 §§ 1.4a and 1.4b). However, these provisions should be further elaborated to include procedural details and to specify the consequences of trainer evaluations, as well as the complaints procedure, including the applicable remedial measures. Similar mechanisms and procedures should be provided for by law in respect of the mentors. As many of the trainers and mentors will be judges, it is important that any measures imposed do not affect their judicial status.

### **3. Executive Director**

38. Article 18 § 1 of the Law on the Academy of Justice stipulates that the appointment and dismissal of the Executive Director shall be carried out by the Governing Board, in accordance with the provisions governing senior management positions under the Law on Public Officials. The draft amendments introduce an additional eligibility criterion, requiring candidates to have passed the Bar Examination (draft Article 18 § 3).

39. However, given the Executive Director's significant managerial responsibilities, including presiding over the Programme Council, it would be appropriate to establish managerial skills and prior experience in the justice sector administration as specific eligibility criteria. Additionally, the provision should clarify that both active and retired judges and prosecutors are eligible for this position.

40. The draft amendments further stipulate that the procedure for the appointment and dismissal of the Executive Director shall be determined by regulations approved by the Governing Board (draft Article 18 § 4). However, it would be more appropriate to set out the key provisions on appointment and dismissal within the Law itself. This would provide greater stability to the status of the officer and strengthen the legal framework governing this position.

### **4. Trainers and mentors**

41. According to the draft amendments, trainers and mentors shall be appointed from among professionals in the field, including judges and state prosecutors, through an open and transparent process conducted by the Academy of Justice (draft Article 24 § 2). The method of selecting and engaging trainers and mentors, as well as their rights and duties, shall be defined by a regulation of the Governing Board (draft Article 24 § 5).

42. However, the eligibility criteria and the main provisions on the appointment and dismissal of trainers and mentors should be established in the Law itself rather than in the Academy's regulations. The Venice Commission therefore recommends amending this article accordingly.

43. As regards the criteria for selecting trainers, admittedly the trainings should be provided primarily, but not exclusively, by judges. Limited involvement of other experts may be helpful to enrich the programmes.

## D. Training programmes

44. The draft amendments introduce a new Article 19, which defines the types of training provided by the Academy. These include initial training for newly appointed judges and prosecutors; continuous training available throughout the careers of judges, prosecutors, and professional associates; specialised training; mandatory training; training for other legal professions; and training for administrative staff in the judicial and prosecutorial systems.

45. The Commission will focus on two types of training that generated discussion during the meetings: initial training and mandatory training.

### 1. Initial training

46. Under the draft amendments, initial twelve-month training is provided to judges and prosecutors after they have been appointed for the initial three-year term. Some interlocutors expressed concerns that retaining the current post-appointment model is ineffective, as it does not ensure a merit-based appointment process and poses a risk to the quality of justice by allowing untrained judges and prosecutors to exercise their duties for a prolonged period of time. Others, however, argued that the post-appointment model is more suitable, as it strengthens the recruitment role of the Judicial and Prosecutorial Councils, it ensures more efficient use of resources, and it mitigates the risk of trainees spending a significant period without a guarantee of future appointment. Additionally, they highlighted that the post-appointment model helps to address various labour law issues that could arise in a pre-appointment system, such as securing primary employment during the training and regularising maternity and other special leaves.

47. The Venice Commission has recently addressed a similar question in an earlier Opinion, and acknowledged that, in light of the absence of specific European standards and the broad discretion afforded to individual countries in this area, both models are viable. The Commission found that the pre-appointment model had certain advantages, including the consideration that placing initial training before appointment ensured that candidates were adequately prepared, enabling a genuine merit-based evaluation of their qualifications later at the selection process; if professional training occurred after the appointment decision, the sequence would weaken the merit-based nature of the appointment process.<sup>15</sup>

48. Similar considerations apply in the context of Kosovo. The draft law on recruitment, performance evaluation, integrity control, and status of judges and prosecutors (hereinafter "draft Law on recruitment," [CDL-REF\(2025\)006](#)), which is also subject to assessment by the Venice Commission, sets out the eligibility criteria for judicial and prosecutorial appointments (Article 5). Among other requirements, candidates must have (a) at least three years of professional experience and (b) have passed a professional examination before the Judicial or Prosecutorial Council. Article 6(5) outlines a set of competences that candidates must demonstrate during the recruitment process, including professional knowledge, legal reasoning skills, prior participation in training, and the ability to analyse legal issues.

49. In view of this approach, the first advantage of the pre-appointment model is that it provides a fairer and more suitable framework for candidates – who, in the Kosovo context, are usually young professionals, given the relatively low threshold for required professional experience – to acquire the necessary skills and competences through initial training at the Academy before competing in a merit-based selection process. The pre-appointment model thus creates better conditions for the Judicial and Prosecutorial Councils to fulfil their recruitment role in compliance with constitutional requirement that appointment process must be based on merits (Articles

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<sup>15</sup> Venice Commission, [CDL-AD\(2024\)036](#), Serbia – Opinion on the draft Law on the Judicial Academy and draft amendments to the Law on Judges and the Law on the Public Prosecutor's Office, §26.

108 § 4 and 110 § 3 of the Constitution). As discussed in an earlier opinion,<sup>16</sup> it is for the relevant legislative framework to ensure that the Justice Academy's role does not unduly interfere with the Councils' selection powers.

50. The second advantage is that the pre-appointment model would mitigate the risk to the quality of justice posed by untrained judges and prosecutors. In the framework of the current model of post-appointment training, the draft law on recruitment provides that if a trainee fails initial training, the training period shall be extended (Article 9 § 5). At some point before the completion of the initial mandate, judges and prosecutors undergo their first evaluation (Article 22 § 2), and their training evaluation file is included in their performance evaluation (Article 9 § 5). If their performance is assessed as "poor", they will not be proposed for permanent appointment (Article 24 § 7). However, as interlocutors have explained, this first evaluation occurs only a few months before the expiration of the three-year initial mandate. As a result, judges and prosecutors who fail initial training may remain in office for the entirety of their initial mandate, benefiting from security of tenure, protected by the Constitution, including the limited constitutional grounds for early removal of judges and prosecutors (see paragraphs 10 and 12 above). Such an arrangement raises concerns about the potential impact on the quality of justice due to the presence of underqualified judges and prosecutors.<sup>17</sup>

51. Certain interlocutors mentioned alleged benefits of the post-appointment model, including resource savings and the avoidance of labour-law complications. However, these considerations appear less significant than the constitutional requirement of merit-based appointment and the overarching need to ensure the quality of justice. Moreover, such concerns can be effectively addressed through domestic legislative arrangements. The number of pre-appointment trainees can be adjusted to remain proportionate to recruitment needs; resources invested in their training would not be wasted, as they could participate in judicial and prosecutorial work under the close supervision of judge-mentors. Lastly, labour-law matters can be addressed through appropriate safeguards, as previously noted by the Venice Commission.<sup>18</sup>

52. A separate issue concerns the clarity of the statutory provisions regulating the consequences of initial training. Currently, draft Article 19/A § 4 provides that trainees will be evaluated by the Academy, while draft Article 19/A § 5 states that the method of assessment will be determined by the Academy's Governing Board in consultation with the Judicial and Prosecutorial Councils. However, it would be more appropriate for the Law to regulate the final evaluation of trainees in greater detail, specifying the assessment criteria, evaluation procedure, consequences of unsuccessful completion of initial training, and the possibility of appeal.

53. The Venice Commission therefore recommends that the drafters once again carefully consider – in consultation with all relevant stakeholders – the choice between the pre- and post-appointment models of initial training, including the advantages of the pre-appointment training model indicated above.

54. Another separate issue concerns the fixed duration of initial training, which is set at twelve months without flexibility to accommodate different trainees' backgrounds. The Venice Commission has previously endorsed more flexible systems that allow for adjustable training periods. The draft amendments could introduce varying durations of initial training depending on the professional experience of the trainees, ensuring that training requirements are tailored to different levels of prior expertise. In that context, it would be appropriate to elaborate the nature

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<sup>16</sup> Venice Commission, [CDL-AD\(2024\)036](#), Serbia – Opinion on the draft Law on the Judicial Academy and draft amendments to the Law on Judges and the Law on the Public Prosecutor's Office, §§ 30-35.

<sup>17</sup> See also the IOJT [Declaration of Judicial Training Principles](#): while Principle 7 states that members of the judiciary should receive training *before or upon* their appointment, the commentary to Principle 7 specifies that "[i]deally, pre-service training should take place before the judge first sits."

<sup>18</sup> Venice Commission, [CDL-AD\(2024\)036](#), Serbia – Opinion on the draft Law on the Judicial Academy and draft amendments to the Law on Judges and the Law on the Public Prosecutor's Office, §37.

and extent of the training programmes and their possible modalities in view of the varying durations.

## **2. Mandatory trainings**

55. Draft Article 19, which defines the types of training, provides a narrow description of mandatory training, limiting it to training ordered by the performance evaluation commissions of the Judicial and Prosecutorial Councils. However, this definition does not encompass all types of training that should be considered mandatory. First, the proposed regulation of initial training suggests that it is also mandatory, even though it is not ordered by an evaluation commission. Second, draft Article 20 § 2 also allows for mandatory training in exceptional cases at the request of the Judicial or Prosecutorial Council, which is not reflected in the definition provided in draft Article 19.

56. The classification of certain training programmes as mandatory is relevant not only for the Law on the Academy of Justice but also for other legislative acts. For example, Article 5 § 2.14 and Article 6 § 2.9 of the Law on Disciplinary Liability of Judges and Prosecutors ([CDL-REF\(2025\)007](#)) define "continuous failure in mandatory training programmes" as a disciplinary offence. A narrow definition of mandatory training in draft Article 19 may create inconsistencies when applying disciplinary provisions in other legislation.

57. The Venice Commission therefore recommends amending the definition of mandatory training in draft Article 19 to ensure that it covers all cases where training is not voluntary. Furthermore, draft Article 20 § 2 should be elaborated to clarify the circumstances and conditions under which training may be made mandatory at the request of the Judicial or Prosecutorial Council.

## **E. Legislative process and public consultation of the draft law**

58. The standards and best practices of due law-making process are contained notably in the Venice Commission's Rule of Law Checklist,<sup>19</sup> and its Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a checklist.<sup>20</sup> Under the Rule of Law Checklist,<sup>21</sup> the process for making law must be transparent, accountable, inclusive, and democratic. To satisfy this requirement, the public should have access to draft legislation and should have a meaningful opportunity to provide input.<sup>22</sup>

59. During the country mission, the Venice Commission delegation was informed that expert civil society organisations and international organisations had been involved in the drafting process. In their written comments, the Ministry of Justice emphasised that they ensured a transparent and inclusive drafting process, with several rounds of consultations: on 1 May 2024 the draft law was sent for comments to the relevant stakeholders, including civil society organisations; between 15 May and 5 June 2024, preliminary consultations were conducted; and between 10 June and 2 July 2024, the draft law was published on the official portal for public consultation.

60. The transparency and inclusiveness shown by the authorities is welcome. Meanwhile, several non-state interlocutors expressed regret that, despite their contributions to the working groups, they were not systematically informed about the progress of the legislative process, including access to the latest versions of the draft law, which underwent further revisions after the consultations were completed in July 2024. The Commission acknowledges the efforts of the Ministry of Justice to ensure transparency and invites the authorities to continue and increase

<sup>19</sup> Venice Commission, [CDL-AD\(2016\)007rev](#), Rule of Law Checklist, 18 March 2016.

<sup>20</sup> Venice Commission, [CDL-AD\(2019\)015](#), Parameters on the Relationship between the Parliamentary Majority and the Opposition in a Democracy: a Checklist.

<sup>21</sup> Venice Commission, [CDL-AD\(2016\)007rev](#), Rule of Law Checklist, Benchmarks A.5.

<sup>22</sup> Venice Commission, [CDL-AD\(2016\)007rev](#), Rule of Law Checklist, Benchmarks A.5.iv.

their efforts to ensure the effective participation and the systematic provision of information to all major stakeholders, including expert civil society organisations and academic experts, at the subsequent stages of the legislative process.

#### **IV. Conclusion**

61. At the request of the Minister of Justice of Kosovo, the Venice Commission has assessed the draft amendments to the Law on the Academy of Justice.

62. The Venice Commission acknowledges the authorities' efforts to enhance the status and competences of the Academy of Justice, which constitutes an important element of the ongoing justice reform. The draft amendments are based on the premise that the Academy qualifies as an independent agency under the Constitution, implying that it must be safeguarded from undue influence. In this regard, it is a positive development that the Academy is sufficiently distanced from other State branches while remaining institutionally linked to the Judicial and Prosecutorial Councils, which have a constitutional mandate to safeguard the independence of the judiciary and the prosecution service. Overall, the draft legislation seeks to strengthen the status of the Academy; however, further improvements are advisable, as outlined in this Opinion.

63. The key recommendations are the following:

- 1) The Law on the Academy of Justice should set out clear criteria and procedures for the appointment and removal of members of the Academy bodies, trainers and mentors; it should regulate the criteria and procedure for evaluation of trainers and mentors as well as the complaints procedure against trainers and mentors, including applicable remedial measures;
- 2) The composition of the Governing Board of the Academy should be expanded to include a greater number of judges and prosecutors elected by the Judicial and Prosecutorial Councils, while the participation of the Minister of Justice in the Governing Board should be removed;
- 3) The composition of the Programme Council should include more judges and prosecutors, and the Judicial and Prosecutorial Councils should be more involved in the appointment and removal of members of the Programme Council;
- 4) The Programme Council should be granted more autonomy in exercising its expert role vis-à-vis the Governing Board;
- 5) The authorities are encouraged to carefully consider – in consultation with all relevant stakeholders – the choice between the pre- and post-appointment models of initial training, including the advantages of the pre-appointment training;
- 6) The Law should set out in greater detail the procedure for completing initial training, including the assessment criteria, evaluation process, consequences of unsuccessful completion, and the possibility of appeal;
- 7) The Law should provide a comprehensive description of mandatory training and specify the circumstances and conditions under which training is made mandatory.

64. The Venice Commission remains at the disposal of the Kosovo authorities for further assistance in this matter.