REPORT ON THE EXCHANGE AND SUMMARY

Instructions:
1. The report must be sent to the EJTN (exchanges@ejtn.eu) within one month after the exchange.
2. Please use the template below to write your report (recommended length: 4 pages).
3. Please write in English or French. Should this not be possible, the report can be written in another language but the summary must be in English or French.
4. Please read the guidelines for drafting the report (in Annex). Feel free to add any other relevant information in your report.
5. The summary shall contain a synthesis of the most important information of the report.
6. Please note that NO NAMES, neither yours nor the ones of the persons you met during your exchange, should appear in the report in order to ensure anonymity¹. Initials can be used when necessary.

Identification of the participant

Name:
First name:
Nationality: Bulgarian
Country of exchange: Croatia

Publication

For dissemination purposes and as information for future participants in the Programme please take note that, unless you indicate otherwise, EJTN may publish your report in its website. In this case the report will remain anonymous and your name and surname will not appear. To this aim, please do not mention any names in the reports. Initials can be used instead.

Please tick this box if you do not wish for your report to be published □

¹To that purpose, the first page of this report will be taken out before any possible publication.

For completion by EJTN staff only
Publication reference:
Identification of the participant

Nationality: Bulgarian
Functions: Investigator
Length of service:

Identification of the exchange

Hosting jurisdiction/institution: Judicial Academy of Croatia
City: Zagreb & Rijeka
Country: Croatia

Type of exchange:

- one to one exchange
- group exchange
- general exchange
- specialized exchange (please specify: )

REPORT

1. Background

In the period from September 23 - October 4, 2013 I was sent on a mission to participate in a short-term internship program, organized by the European Judicial Training Network, under the 2013 Exchange Program for Magistrates from the European Union. The internship was part of a group exchange held between September 23 and October 4, 2013 in the cities of Zagreb and Rijeka - Croatia, following a predefined agenda /Attachment 1/

During the exchange we received detailed information about the legislative framework, regulating the competencies of the different judicial institutions.

The Judicial Academy of Croatia organized the exchange program and its success was due to the professional assistance provided by the directors of directorates, engaged in the program implementation. During the exchange program we were given the opportunity to review some criminal cases and visit court sessions. We attended work meetings and discussions on investigation actions. In addition, we took part in the discussion of issues pertaining to some changes, occurred in the legislation after 2010. Moreover, the Code of Ethics was discussed.
We visited the Supreme Court, regional and district courts, and the Constitutional Court.

Due to the kind assistance by Judge Judith Vitermark, Court in Harlem, Netherlands, we paid a visit to the Parliament. With representatives of the Legal Commission we discussed some issues and challenges facing the judicial system.

During the meeting, as per the agenda, we received valuable information on the legal system in Croatia, incl. the criminal and civil legislation. We were provided with the Croatian Criminal Procedure Code and the Criminal Code, plus the Code of Ethics.

At the conversations that we had with the State Judicial Council and the Council of Public Prosecutions of Croatia we talked about the rules and conditions of appointment in the judicial system. The two professional bodies operate independently and appoint judicial professionals based on transparent, uniform and objective criterias. During the last six (6) months were appointed 40 judges. On January 1st, 2013 entered into effect a new appointement system for the first instance judges, according to which all candidates shall have graduated the State School for Judicial Officials. A Regulation was adopted on the final exam and the final note in the State School for Judicial Officials, according to which the state exams are held. With the amendments to the Law on the State Judicial Council, /2013/, the chairperson of the State Judicial Council and the members who are judges, are discharged with 75% and 50% respectively of their usual obligations. Discussions were held on specific excerpts from the Code of Ethics.

The Ministry of Justice adopted long-term plans for the appointment of judges and prosecutors in the period encompassed between 2013 – 2025.

Life-long professional training for judges and prosecutors was adopted to ensure the ongoing judicial system quality improvement.

The trend exhibited during the meetings with the chairpersons of the criminal and civil departments of the courts and the representatives of the prosecution offices demonstrated their success to resolve the issue with the old caseload as a whole. In this regard, the Ministry of Justice created an instrument for statistical analysis of the judicial system performance that enables the handling of the cases filed and the forgotten delayed pending cases via a distibution of the human capacity and financial resources. We were provided with some statistics in support of the following: in 2012, the overloaded courts delegated 27 013 cases, following a decision of the Supreme Court. The opportunity was used to allow the temporary or permanent voluntary mobility of judges, to assist the oberloaded courts. In 2012, 48 judges in total were permanently trasferred, while 22 were assigned on a interim basis. In February 2013 the Parliament adopted a new law on the courts to strengthen the supervisory functions of the chairpersons and more specifically, to ensure the efficient functionning of the courts, incl, the incorporation of a mechanism in support of the right to a trial in reasonable term. The amendments made into the Law on the State Judicial Council /2013/ envision bigger transparency when transferring judges and facilitate the horizontal mobility. Amendments were also made to the Civil Procedure Code /2013/ that limit the possibility for multiple recall of cases from the higher instances to the lower ones, the incorporation of electronic summons in the commercial courts, as well as strict rules for the submition of new evidence.

Example: District Court Zagreb – The Civil Division examines annually 18 000-20 000 cases. The Criminal Division, comprised of 40 judges, examines annually about 300 cases. Three (3) are the judges who review cases related to organized crime groups and corruption. Prosecution Office in Rijeka – number of pre-trial proceedings: 200, about 20-25 per prosecutor. The cases examined by the specialized division on corruption and organized crime/USKOK/ are excluded from the random case assignment system for the investigators.

The work meeting with the Specialized Division for the Fight against the Corruption and Organized Crime /USKOK/ aroused particular interest among the participants. The division has a direct subordination to the Prosecutor General. The competencies are duly designated in the Criminal Procedure
Code /ZKP/. Offices are set up in Split, Rijeka and Osijek. The investigation actions are performed by the prosecutors in the investigation. The major principles in the work comprise the following: zero tolerance towards the corruption, financial investigations aiming at confiscating property, inter-institutional and international cooperation.

We were acquainted with results, based on efficient, effective and unbiased investigation. We met with a team of professionals – active, competent and determined in their actions regarding the white collar cases of corruption (former mayors, former deputy ministers, former prime minister /2012/).

Impressive results were shared on the implementation of the acting European standards in the legal regulation of the prisons’ system and the enforcement of the judgment “deprivation from freedom” in Croatia. We were acquainted with the penitentiary policy and system, and the strategy of the state, in particular with relation to the drug addicted deprived from freedom, as well as with the viewpoints of the employees in the penitentiary system. Some difficulties were mentioned, such as: as of September 20, 2013 the deprived from freedom were 4541 while the prisons capacity was for 3771 people, i.e. a 120.42% surplus. After the adoption of the Action Plan for the improvement of works in the places for deprivation of freedom for the period comprised between 2009 – 2014, the first results were reported – a new building was inaugurated /2011 r./ with the capacity of 716 people. The Plan also envisions reorganization of the system regarding the probation, medical assistance and modernization. Due to the new measures in 2102, 4004 new jobs were open, of which 2690 have been occupied so far. A particular attention is addressed to activities aiming at the re-socialization of those deprived from freedom, the use of incentives and motivation system, as well as planning and delivery of educational, training and qualification programs.

The institute for the protection of witnesses provoked general interest. The independent sector for the protection of victims and witnesses to the Ministry of Justice and the divisions with the district courts for the protection of the victims and witnesses facilitate the appearance of criminal cases witnesses before the court, and at the same time special attention is allocated to those who testify on military crimes cases.
2. Conclusions

The internship of the European Judicial Training Network under the 2013 EU Exchange Program for Magistrates provided us with the exclusive opportunity to get acquainted with the specifics of the material and procedural criminal law of a new EU member country. My internship, held in different institutions in Croatia, gave me the possibility to discuss with my colleagues magistrates the specifics of our respective national legislative frameworks and uniform European standards. On the other hand, it was an appropriate forum for confidence building between the magistrates, participating in the program, incl. the hosting magistrates, which is a guarantee for a fruitful and effective cooperation, based on mutual confidence and professionalism.

I was left with the impression that Croatia had created a well functioning and stable judicial system, able to find and punish corruption and organized crime, a fact demonstrated with concrete accusations, cases and court decisions on white collar corruption crimes.

The organization of the entire internship was at a very high level.

For the successful delivery and good organization I would like to extend a sincere gratitude to the Judicial Academy of Croatia and more specifically to Ms. Olgica Macek, Ms. Nella Popovic and Ms. Marija Fuchs.

3. Recommendations

In view of the amendments in the BG Criminal Code /01.01.2013/ in relation to Trafficking in human beings and the measures, envisioned in the Criminal Procedure Code – the fact that the victims of serious crimes are entitled to an indemnification from the state budget – I think that it is appropriate to include the topic of trafficking in human beings in future programs. The good practices of the other European countries can be successfully used to identify the victims from trafficking in human beings and the conduct of investigation. This can be achieved by including the professionals in trainings under different projects, incl. by delivery of trainings by other experts in the area of trafficking in human beings.
ANNEX
GUIDELINES FOR DRAFTING THE REPORT

I- Programme of the exchange
Institutions you have visited, hearings, seminars/conferences you have attended, judges/prosecutors and other judicial staff you have met…
The aim here is not to detail each of the activities but to give an overview of the contents of the exchange.
If you have received a programme from the hosting institution, please provide a copy.

II- The hosting institution
Brief description of the hosting institution, its role within the court organisation of the host country, how it is functioning…

III- The law of the host country
With regard to the activities you took part in during the exchange, please develop one aspect of the host country’s national law that you were particularly interested in.

IV-The comparative law aspect in your exchange
What main similarities and differences could you observe between your own country and your host country in terms of organisation and judicial practice, substantial law...? Please develop.

V- The European aspect of your exchange
Did you have the opportunity to observe the implementation or references to Community instruments, the European Convention of Human Rights, judicial cooperation instruments? Please develop.

VI- The benefits of the exchange
What were the benefits of your exchange? How can these benefits be useful in your judicial practice? Do you think your colleagues could benefit of the knowledge you acquired during your exchange? How?

VII- Suggestions
In your opinion, what aspects of the Exchange Programme could be improved? How?