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**Rule of Law Institutional
Strengthening Program (ROLISP)**

CONCEPT OF INITIAL TRAINING OF JUDGE AND PROSECUTOR CANDIDATES AND OTHER JUDICIAL PROFESSIONALS

Rule of Law Institutional Strengthening Program (ROLISP)

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*Annex
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CONCEPT OF INITIAL TRAINING OF JUDGE AND PROSECUTOR CANDIDATES AND OTHER JUDICIAL PROFESSIONALS

Introduction

Judge and prosecutor candidates as well as other judicial professionals are trained to ensure that these professionals acquire the necessary professional competences and certifications.

Since the initial training of future judicial professionals has become a priority of judicial policies in all European countries, and since judicial reform in Moldova cannot be tackled in fragments, this initial training ensures the coherence, consistency, and sustainability of judicial reform efforts. These efforts strengthen a judicial sector that will be accessible, efficient, independent, transparent, professional, and accountable to the society; will meet international and European standards in the field; and will ensure supremacy of the law and observance of human rights.

The concept of initial training of judge and prosecutor candidates and of other judicial professionals (hereinafter – Concept) is required in the context of implementation of the Judicial Reform Strategy for 2011-2016, adopted by the Law no.231 of 25 November 2011. This law seeks to enhance the professionalism of persons involved in making justice through modernizing and improving study conditions for the initial training process and through extending the role of the National Institute of Justice (hereinafter – the Institute) in training future judicial professionals.

The term "initial training" used in the context of this Concept refers to the development of new competences and to the development of professional competences that were previously acquired during university legal education. The initial professional training implies a number of directed and concordant training actions. These actions aim to teach certain practical skills and experiences and to develop of set of aptitudes and attitudes necessary for exercising the profession.

Beneficiaries

The beneficiaries of this Concept are:

- ✓ Moldovan judicial professionals, which include judge and prosecutor candidates, court secretaries, judge assistants, chiefs of court chanceries, chiefs of court secretariats, probation counselors, prosecutor advisers, chiefs of prosecutor secretariats, intern notaries, intern attorneys, intern mediators, intern bailiffs, judicial experts, insolvency administrators, and authorized translators/interpreters;
- ✓ Public authorities/institutions and professional organizations that employ judicial professionals.

I. Description of the Situation

The Institute was established by the *Law on the National Institute of Justice no.152-XVI of 8 June 2006*. It is a public institution that has legal personality; administrative, scientific and pedagogical autonomy; and its own property and budget. The Institute is not part of the national education system and is neither subject to legal provisions relating to accreditation and licensing of education institutions nor to those provisions from the areas of science and innovation.

One of the main attributes of the Institute is to budget the initial training of candidates for judicial and prosecutorial offices as well as court secretaries, judge assistants, chiefs of court secretariats, and probation counselors. The Institute may on a contract basis train other categories of lawyers who contribute to making justice in Moldova.

The Institute organizes the initial training based on the syllabi and subject curricula that has been approved by the Institute's Council.

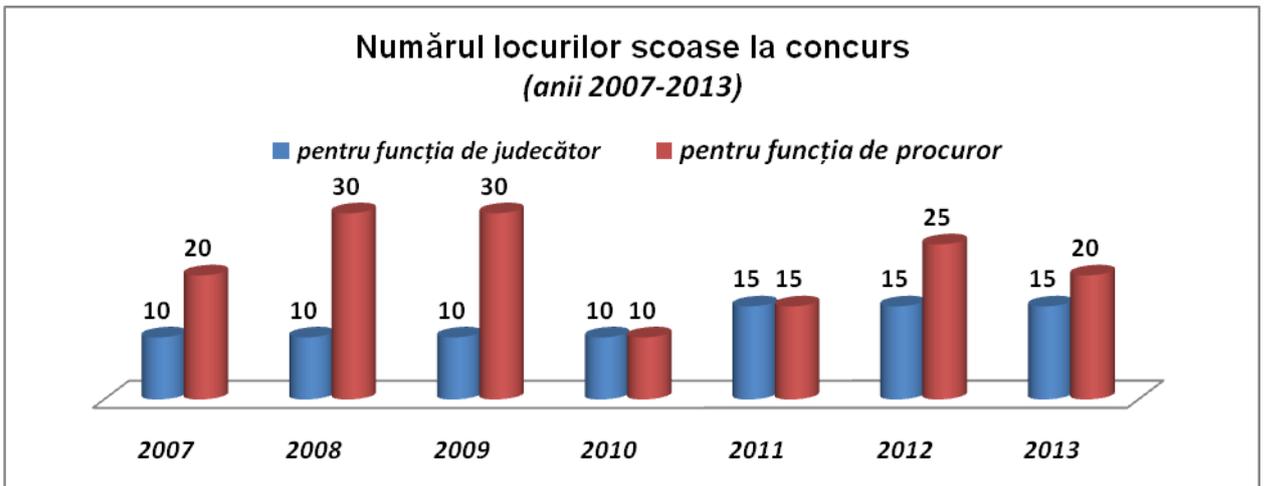
The initial training activity is coordinated with the Superior Council of Magistracy, the Superior Council of Prosecutors, and the Ministry of Justice. Together they coordinate the Regulation on Organizing the Contest of Admission to the Institute; the number of places allocated in the contest for the initial training of judicial and prosecutorial offices; and the composition of the Commission for admission exams as well as the Commission for the graduation exams, syllabi, and more.

The initial training takes into account the professional needs and the dynamics of the legislative process. The training mainly consists of acquiring aptitudes and attitudes for enforcing national legislation; European and international documents to which Moldova is a party; the case law of courts and of the Constitutional Court; the case law of the European Court of Human Rights and of the Court of Justice of European Communities; of compared law; ethical standards for a legal profession; and fluency in foreign languages for developing information communication skills.

The Institute annually organizes a contest for enrolling judicial and prosecutorial candidates in initial training courses. Until 2012 all those having a degree in law, regardless of their length of service, could participate in the contest. Law no.153 of 5 July 2012 on Participating in the Contest for Admission to Initial Training for Judge Candidates set the condition of at least 2 years of service in a legal profession, and the list of candidates is approved by the Superior Council of the Magistracy (SCM).

The number of trainees who may enroll in initial trainings of judge and prosecutor candidates is forecast each year by the SCM and by the Superior Council of Prosecutors (SCP). The first initial training course for judge and prosecutor offices was launched on 1 October 2007. From 2007 to 2013, 85 candidates for judicial offices and 150 candidates for prosecutorial offices were enrolled at the Institute.

Taking into account the development of processes and the institutionalization of regional staff, a second contest was organized in 2012 for five prosecutor positions in the prosecutor's offices of TAU Găgăuzia.



Number of places put up for contest (2007-2013)

blue - for judicial offices

red - for prosecutorial offices

In view of ensuring the execution of Art.20 of the Law on the National Institute of Justice, during 2007-2008 the Institute organized initial training courses for bailiffs. Since 2009, no initial trainings for bailiffs have been held due to the lack of funds. In 2010 the Institute stopped budgeting trainings for bailiffs due to the new Law on Bailiffs no.113 of 17 June 2010, which assigned the status of liberal profession to this category.

Although in accordance with the art.20 of the Law on the National Institute of Justice and Art.14 of the Law on the Status and Organization of the Work of Court Secretaries in Courts no.59 of 15 March 2007, court secretaries must undergo initial training after appointment. However the Institute has not organized initial trainings for the court secretaries in this period for technical reasons, primarily a lack of such requests from the courts.

The Law no.153 of 5 July 2012 made amendments to Art.20 of the Law on the National Institute of Justice, namely that the initial training requirement has been extended to judge assistants, chiefs of court secretariats, and probation counselors. At the beginning of 2013, the Institute's Council approved separate syllabi for each of these four categories of professionals (court secretaries, judge assistants, chiefs of court secretariats, and probation counselors). Curricula have been developed and initial trainings have been organized for all chiefs of court secretariats and for a group of probation counselors. The Institute organized initial training courses in 2008 for a group of probation counselors, and organized trainings in 2008 and 2009 at the request of the Mediation Council for three groups of mediators.

The Institute has organized the training of the chiefs of court secretariats due to assistance from USAID ROLISP and of probation counselors due to support from the Central Probation Office. The Institute does not have space for the initial training courses for court secretaries and judge assistants and there are problems with the accommodation and provision of meals to the trainees.

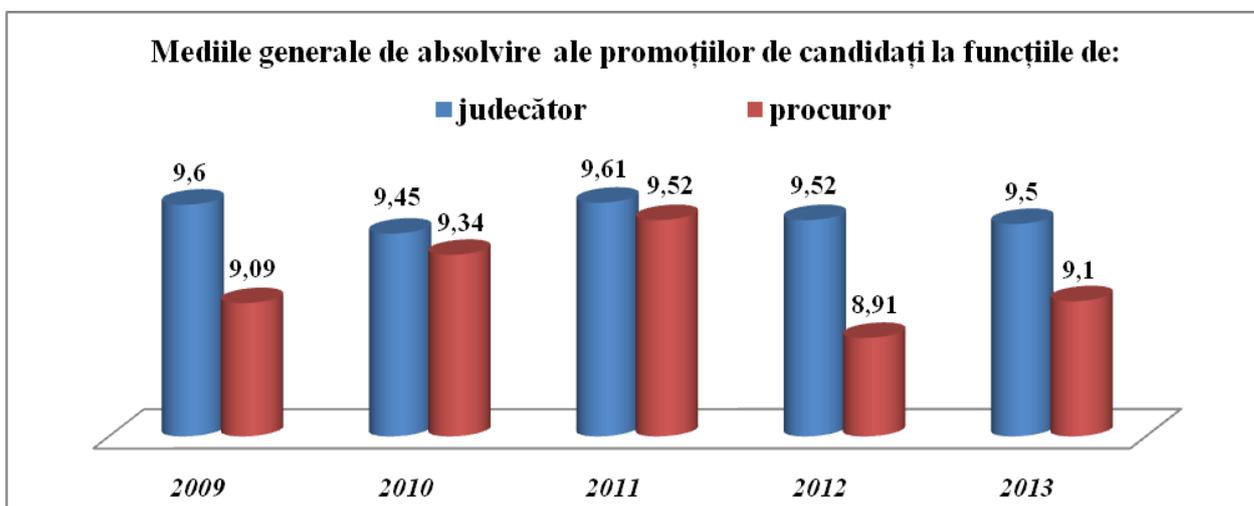
According to the Law on the National Institute of Justice, the initial training of candidates for judicial and prosecutorial offices takes place for an initial period of 18 months, compared to a period of three months for court secretaries, judge assistants, chiefs of court secretaries, and probation counselors.

The training takes place in accordance with the syllabi developed for each category of

professionals, which are coordinated with the SCM, SCP, and the MoJ and are approved by the Institute's Council. The syllabi contents are annually correlated with the new legislative and scientific practices, the judicial practice, the needs for professional training of various categories of specialists, the proposals of Institute's trainers and graduates, and the experience of similar institutions in other countries.

The curricula for the training of judicial and prosecutorial candidates were developed and published in 2007 with the support of UNDP Moldova. In 2013 the curricula were revised and updated and new curricula were developed as necessary. The training methods and techniques comply with the adult training requirements. Different forms of training are used including lectures, seminars, workshops, and moot trials and internships in courts, prosecutor's offices, and criminal investigation bodies. Until 2011 the share between the theoretical and practical classes was 40% to 60%, although now the share is 30% to 70%.

As to the assessment of the initial training of five graduation classes of judicial and prosecutorial candidates, there was a decrease in the general average graduation grade. This is due to an increase in the training requirements and standards.



General average graduation grades for the (blue) judge candidates and (red) prosecutor candidates

The results of 5th training class of judge and prosecutor candidates are as follows:

5th graduation class (2011-2013)	Judge candidates	Prosecutor candidates
Average grade for quarter I	8.64	8.18
Average grade for quarter II	9.54	9.22
Average grade for quarter III	9.47	9.24
Average grade for quarters I-III	9.22	8.88
Average grade at graduation exam, writing	9.71	9.09

Average grade at graduation exam, oral	9.85	9.55
Average grade at graduation exams	9.78	9.32
General Average Grade of NIJ	9.50	9.10

The initial training courses for judge and prosecutor candidates end with a graduation exam, and those of court secretaries, judge assistants, chiefs of court secretariats and probation counselors - with a capacity exam made up of theoretical and practical tests. The Institute issues diplomas to the training graduates who have successfully passed the graduation/capacity exam.

Until 31 December 2012, 28 of the 38 judge candidates who had graduated the initial training courses and all the 103 prosecutor candidates had been hired. The statistics of employment in judicial offices of Institute's graduates denotes a flaw in the regulations in the area. According to Art.18, para.(3) of the Law no.152 of 8 June 2006: "The graduates who have not passed the contest for filling judge and prosecutor offices are required to participate in the contest within five years from graduating the Institute. Upon expiration of the five-year term the graduates cannot participate anymore in the context based on the general average grade obtained at the graduate exams at the Institute." Therefore the state invests in training future judges and prosecutors but does not guarantee them work placement.

The Judicial Reform Strategy for 2011-2016 as well as the Strategy for Developing and Strengthening the Institutional, Managerial, and Teaching-Scientific Capacities of the National Institute of Justice for 2012-2016 extend the Institute's attributions. These must become a center for the initial training of several categories of judicial specialists including judges, prosecutors, court secretaries, judge assistants, chiefs of court secretariats, probation counselors, and legal professions related to the judiciary such as attorneys, notaries, mediators, bailiffs, court experts, insolvency administrators, translators, and interpreters. The aim is enhancing and making uniform the initial training of respective categories of professionals that must ensure a fair and quality judiciary including sustainable development of the country, increased accountability to the trial participants, and with zero tolerance for corruption.

II. Policy Papers and other Relevant Legal Acts

The Institute is part of a national agenda for efficient and effective justice, able to generate a fair and transparent act of justice that is performed within a reasonable timeframe and at an accessible cost for the country's citizens. The Institute cannot serve the judicial system if its programs stray from this agenda.

The following documents show a place for the Institute in the national judicial agenda and establish conditions that the initial training at the Institute must meet:

National Legal and Regulatory Documents

- *Moldovan Constitution of 29 July 1994*, which establishes the general principles of justice, including:
 - Moldova is a democratic state governed by the rule of law in which human dignity, rights and freedoms, and the free development of human personality justice and political pluralism represent supreme values and are guaranteed

- (Art.113);
- In the Republic of Moldova the legislative, executive, and judicial powers are separated and cooperate in exercising the prerogatives assigned to them by the constitutional provisions (Art.6);
 - Justice is made only in the name of the law and only in courts of law (Art.114);
 - Justice is made through the Supreme Court of Justice, courts of appeals, and district courts (Art.115 para.1);
 - The judges of courts of law are independent, impartial and immovable, according to the law (Art.116 para.1);
 - The prosecutor's office represents the general interests of the society, defends legal order as well as the rights and freedoms of the citizens, conducts and exercises prosecution, and represents the accusation in courts as provided by law (Art.124).
- *Law no.231 of 25 Nov 2011 on the Judicial Reform Strategy of Moldova for 2011-2016;*
 - *Law no.152-XVI of 8 June 2006 on the National Institute of Justice* that regulates the initial training of judge and prosecutor candidates, court secretaries, judge assistants, chiefs of court secretariats and probation counselors, as well as contract-based initial training of other categories of persons who contribute to making justice;
 - *Law no.544-XIII of 20 July 1995 on the Status of the Judge* that establishes graduation from the National Institute of Justice as one of the conditions for acceding to the judicial office. The law also stipulates that persons who serve for five years as prosecutor, attorney, judge assistant, court secretary, assistant judge at the Constitutional Court, or professor at accredited higher education institutions take an exam before the Graduation Commission of the NIJ, according to the procedures and conditions established by Law no.152-XVI of 8 June 2006 on the National Institute of Justice (Art.6). This law stipulates that a judge may be temporarily transferred from his office, with his consent and through a decision of the Superior Council of Magistracy, to perform a function at the National Institute of Justice for a period of up to 18 months with a possible extension for another period of 18 months (Art.24¹ of the Law).
 - *Law no.294-XVI of 25 Dec 2008 on the Prosecutor's Office* that establishes that candidates must graduate from NIJ initial training courses of prosecutors in order to accede to the prosecutorial office (Art.36, para.1, letter d of the Law). This law also provides for the possibility to deploy the prosecutor from office, with his consent, to perform a function at the National Institute of Justice, for a period of up to 18 months that can be extended for another period of 18 months (Art.64 para.3 of the Law).
 - *Law no.154 of 5 July 2012 on the Selection, Performance Assessment and Judge Career* that stipulates that, in selecting candidates for appointing them as judges for the first time, the selection college is required to take into account the results of the exam taken before the Graduation Commission of the National Institute of Justice (Art.5 para.2 of the Law).
 - *Law no.59-XVI of 15 March 2007 on the Status and Organizing the Work of Court Secretaries* that requires an appointed secretary to take initial training courses of three months at the National Institute of Justice and to take a capacity exam after completing these courses (Art.14 of the Law).

- *Law no.1260-XV of 19 July 2002 on the Legal Profession* that requires an intern attorney to take initial training courses of not less than 80 hours during the professional internship (Art.15, para.6, letter b of the Law);
- *Law no.198-XVI of 26 July 2007 on State-Guaranteed Legal Assistance* that provides that the competences of the National Council for State-Guaranteed Legal Assistance also include the assurance of initial training, including training through the National Institute of Justice, of persons engaged in the system for providing state-guaranteed legal assistance (Art.29 para.5 of the Law);
- *Law no.134-XVI of 14 June 2007 on Mediation* that requires persons who wish to perform the profession of mediator to complete initial training courses for mediators as organized by higher education institutions and the National Institute of Justice (Art.13-14 of the Law).
- *Action Plan for implementing the Judicial Reform Strategy for 2011-2016* as approved by Parliament Decision no.6 of 16 Feb 2012.

The Strategy provides as objective that enhances the professionalism and accountability of persons involved in making justice.

In this sense, the following are provided as measures for achieving this objective relevant for the initial training within the Institute: "unify the conditions for acceding to the judicial profession, modernize the training process, annually revise syllabuses to bring them in compliance with the training needs of judicial professionals, implement initial training of representatives of professions related to the judiciary, etc."

The following are provided in the Strategy as specific areas for intervention that are relevant for the initial training at the Institute:

- Reform and enhance the operation of the Institute;
- Improve the initial training activity of the Institute;
- Revise the Institute's programs to bring them in compliance with the training needs of judges, prosecutors, and other judicial actors;
- Identify means for unifying initial training activities;
- Create a system for permanent assessment of the quality and efficiency of initial training programs;
- Create tests for assessing the knowledge acquired during the initial training;
- Initial training of chiefs of court secretariats, judge assistants, probation counselors, attorneys, notaries, mediators, and other persons with professions related to the judicial area;
- Amend the legal framework that would regulate initial and continuous training from the Institute to representatives of professions related to the judiciary;
- Prepare training plans and curricula for each category of persons;
- Initiate and produce modern training programs such as online long-distance learning programs; create a training of trainers program in long-distance learning; create a common informational network of the Institute and courts, prosecutor's offices, and other judicial institutions that conduct long-distance training; and create the Center for Legislative Information and Documentation;
- Develop training of trainers programs in adult training methodology and in view of

updating specialized teaching knowledge, especially in the area of international law, human rights, and internal case law;

- *National Action Plan on Human Rights for 2011-2014, approved by Parliament Decision no.90 of 12 May 2011;*
- *National Action Plan for implementing in Moldova the Convention on the Access to Information, Justice and Public Participation in Environmental Decision Making (2011-2015), approved by Government Decision no.471 of 28 June 2011;*
- *Action Plan for implementing the National Anticorruption Strategy for 2011-2015, approved by Parliament Decision no.12 of 17 Feb 2012;*
- *Action Plan for implementing the Concept for Funding the Judiciary for 2010-2013, approved by Government Decision no.803 of 7 Sept 2010.*

Institute's internal legal acts:

- Regulation on Organizing the Contest for Admission to Initial Training of Judges and Prosecutors at NIJ of 29 June 2011;
- Regulation on the Initial Training and Graduation of 21 June 2007;
- Regulation on Organizing and Holding of Internship by Trainees of the National Institute of Justice who are candidates for judicial and prosecutorial offices of 26 June 2009;
- Regulation on Organizing the Contest for Filling in Teacher Positions and Work Retribution of 6 June 2007;
- Strategy for Developing and Strengthening the Institutional, Managerial, and Teaching-Scientific Capacities of the National Institute of Justice for 2012-2016, which was approved by *Decision of NIJ Council no.7/2 of 25 May 2012.*

The Strategy, developed by taking into account the requirements of the above documents, stipulates the following objective *in the area of initial training*:

- Improve the initial training of candidates for judicial and prosecutorial positions by:
 - Streamlining the organization and execution of the admission contest;
 - Strengthening the status of the trainee;
 - Revising and improving the syllabus and training materials in view of stressing the practical training of the trainees;
 - Organizing extracurricular activities;
 - Strengthening the internship process;
 - Developing and implementing interactive teaching methods.
- Ensure the initial training of judge and prosecutor candidates have a length of service;
- Ensure the initial training of court secretaries, judge assistants, probation counselors, court managers;
- Ensure contract-based initial training for other categories of lawyers who contribute to making justice.

Documents defining judicial training standards at European and international levels

The NIJ strategic development directions must take into account the agendas of international and European organizations in the initial training of future judges and prosecutors:

- *European Charter on the Status of the Judge*, adopted by the Council of Europe in 1998, which in pt.2 establishes general principles for judicial recruitment and training;

- *Advisory opinions of the Consultative Council of European Judges (CCJE)*, which include several essential documents on judicial training:
 - Advisory Opinion no.4/2003 on the initial and continuous training at national and European levels;
 - Opinion no.9/2006 on the roles of national judges in ensuring the effective application of international and European law;
 - Advisory Opinion no.10 (2007) on the Council of Justice in the Service of the Society, which includes a number of recommendations on judicial training and the relation between the training institution with other authorities. (In each state, the responsibilities for organizing and monitoring the judicial training should not be of the Ministry of Justice or another authority subordinated to the legislative or executive powers, but should be of the judiciary itself or preferably of the Council of Justice. The associations of judges can also play an important role in this regard. In addition, the conception and application of training programs should be entrusted to a specific autonomous body such as a training center; should be endowed with its own budget; should function with the contribution of the judges; and should exist under the authority of the judicial power or preferably under the Council of Justice. A clear distribution of tasks between the Judicial Council and the training centers, if they exist, should be encouraged. If the Judicial Council is competent to train, appoint, or promote, a clear separation among the various departments entrusted with such tasks should be provided for. Excessively close links with the Ministry of Justice, including the appointment of trainers and the allocation of budget, or with the Ministry of Education, including accreditation or the recognition of diplomas, should be avoided. The evaluation reports and statistics on the judges and courts, which are annually prepared by the Judicial Council, should include information about the crucial problems they should focus on in the training such as case management, time management, budget provisions, improving work techniques, public relation techniques, communication techniques, legal research, and the like. In general, the Judicial Council should also follow the implementation of the program and assess its effects on the quality of the judicial work.);
 - Advisory Opinion no.11(2008) on the quality of judgments related to judicial training as one of the quality factors of court judgments;
 - Advisory Opinion no.12 (2009) of CCJE and the Advisory opinion no.4 (2009) of CCPE in the attention of the Committee of Ministers of the Council of Europe on the Relations between Judges and Prosecutors, according to which there should be organized international professional training courses for judges and prosecutors. (The highest level of professional aptitudes is one of the prior conditions of public trust both in judges and prosecutors, and on which in principle the public bases their role and legitimacy. Adequate professional training plays a crucial role once it permits improving the work of these two categories of judicial protagonists, thus enhancing the quality of the act of justice as a whole. When considered adequate, joint trainings for judges, prosecutors, and attorneys on common interest issues can contribute to making the best quality justice. This joint training must make possible the creation of a basis for a joint legal culture according to

para.10 of the Declaration. International professional training courses for judges and prosecutors should be organized. In all cases, the autonomous character of the institution entrusted with organizing this training is essential as a safeguard to ensure cultural pluralism and independence. The courses must include not only such areas as protection of individual rights and freedoms but also modules on management practices and a reflection on the tasks of judges and prosecutors. At the same time, the additional contribution of attorneys and academics is essential to avoid a narrow approach. Finally, the quality and efficiency of training must be assessed regularly and objectively.);

- Opinion no.13 (2010) on the role of judges in enforcing judgments according to which European systematic training for all judges and prosecutors should be secured, particularly in training initiatives or exchanges with other countries. (Moreover, e-learning programs and joint training material should be developed to train the legal professions in regard to how they should interact with the European mechanisms, particularly in relation with the Court, CJUE, the use of mutual acknowledgment and judicial cooperation tools, compared law, and the like.);
- Opinion no.14(2011) "Judiciary and Information Technologies (IT)," which stipulates judges and the auxiliary staff have both the right and the obligation to undergo initial and continuous IT training in order to fully and adequately utilize IT systems.
- Opinion no.15(2012) on the specialization of judges, which stresses the need for the specialized training of judges as well as the risks of joint training with other legal practitioners for the appearance of judicial independence and impartiality;
- The Bordeaux Declaration "Judges and Prosecutors in a Democratic Society" stipulates in point 10 that "the training, including in management matters, is a right and at the same time an obligation for judges and prosecutors. (...) Where is the case, a joint training of judges, prosecutors and attorneys in issues of common interest can contribute to making high quality justice."
- Magna Carta of Judges (Fundamental Principles) that synthesizes and codifies the main conclusions of the already adopted Opinions/Advisory Opinions.
- *Agenda of the European Network for the Exchange of Information among the responsible parties and institutions entrusted with the training of judges (The Lisbon Network), component of the program of the European Commission for the Efficiency of Justice (CEPEJ), which includes a number of very important documents on judicial training such as:*
 - Report on the Contribution of Structures on Judge Training to specifying Advisory Opinion no.4(2003) of CCJE of 11 Oct 2006;
 - Minimum Corpus of the Council of Europe standards, developed in October 2008, which is one of the most important documents that establishes joint standards in human rights both for centralized and decentralized initial and continuous training.
- *Agenda of the European Union on Judicial Training at European Level.* Although Moldova is not an EU member, it should adhere to the European standards on training and the Initial Training Concept. These standards are defined by the following:

- The Stockholm Program "An Open and Reliable Europe in the Citizen's Service and for Their Protection";
- European Parliament Resolution of 17 June 2010 on Judicial Training;
- Recommendation no.12/2010 of the Committee of Ministers of member states on judges: independence, efficiency and responsibility. (This tackles the initial and continuous theoretical and practical training aimed at guaranteeing the independence of judges, which is fully funded by the state as a component of the status of the judge and must be ensured by the state through adequate funding.);
- Resolution of the Council and of representatives of governments of member states reunited in the Council for the Professional Training of Judges, Prosecutors and Judicial Staff within the European Union. (This was adopted within the reunion of the Council of Justice and Internal Affairs that took place on 24 Oct 2008 in Luxembourg. It is the program document that has guided the establishing of training objectives for judicial schools at European level.);
- Parliament resolution of 9 July 2008 on the role of the national judge in the jurisdictional system of the European Union. (This requires a European component in the training process at the national level of all members of the judicial body to be introduced systematically during the professional training and in contests for entering legal professions. This refers to methods of interpretation and legal principles that may be unknown in the internal legal order but that play an important role in the *acqui communautaire*.);
- Communication of the European Commission to the European Parliament and Council on the judicial training, 2006, includes recommendations for developing the training at national and European levels as well as for increasing cooperation with the Council of Europe.
- *Agenda of the European Judicial Training Network*. EJTN has developed a full range of documents as a result of consultation at the European level, among which the most important are curricular recommendations by area. The Manual of the European Civil Forum includes training methods and techniques in European law, European Labor Law, criminal law, foreign languages, training of trainers, European Law on Consumer Protection, and curriculum in the areas of European Civil and Civil Procedural Law. The NIJ must use the manuals developed within the network as benchmarks;
- *The Bangalore Principles* include judicial training in one of the values of the judicial profession (Competence and Aspiration) as premises for the correct exercise of judicial attributions.

III. Defining the problem

A number of problematic factors have been identified that have determined the need to develop the Concept. This is a result of analyzing the actual situation, the national legislation, and the European and international documents that regulate the initial training of judicial professionals, and then taking into account the provisions of the Judicial Reform Strategy for 2011-2016 and consulting the public authorities and institutions and this sector's organizations and unions:

- 1) The practice of initial training at the National Institute of Justice in the period from 2007 to 2013 reveals that the current 18-month initial training period plus the internship period for

judge and prosecutor candidates is not sufficient to cover all training areas. Moreover, as a result of the amendments made at the end of 2012, courts consider all types of cases in first instance, except for insolvency-related cases.

- 2) The real situation shows that, after completing the initial training, some of judge candidates have not secured employment and are not subject to the SCM contest alongside candidates with work experience who have priority. Judge candidates who have graduated from the Institute should be appointed in a priority manner immediately after graduation, while openings for judge candidates with a requirement for length of service should only be allowed in exceptional cases. This typically occurs when the Institute does not graduate enough candidates to fill vacancies, when certain positions must be filled in in a short period of time, or when it is difficult to fill those positions.
- 3) The law on the status of the judge stipulates that persons who serve for five years as prosecutor, attorney, judge's assistant, court secretary, law professor at an accredited higher education institution, or judge's assistant at the Constitutional Court level be required to take an exam before the Graduation Commission of the National Institute of Justice. This is according to the procedure and conditions stipulated in the Law on the National Institute of Justice no.152-XVI of 8 June 2006. However, the procedure and conditions for these categories of persons to take exams before the Graduation Commission of the National Institute of Justice are not stipulated.
- 4) According to the Law on the National Institute of Justice, the initial training of court secretaries, judge assistants, chiefs of court secretariats and probation counselors is conducted after appointment in office. However, the law does not regulate how the training of these professionals should be ensured. The requirement for the initial training of appointed court secretaries was to take place since 2007. This has not been possible since courts have not delegated these appointees to three-month initial trainings due to the excessive workloads of those appointees and to the difficulty of replacing them for that time period. Because qualification is a condition for acceding to the profession, the legislator was to specifically define this concept. In order to accept these appointees into function without having them undergo initial training *a priori* requires revising the concept of initial training in favor of the continuous professional training of court secretaries, judge assistants, chiefs of court secretaries, and probation counselors after hiring them. This would also include the requirement of having the appointees undergo continuous training of three months within the first year of work based on a special curriculum.
- 5) The Judicial Reform Strategy for 2011-2016 includes court staff in the initial training program. It does not however include related professions within prosecutor offices in the category of beneficiaries of trainings at the Institute, which includes advisers to the prosecutor and chiefs of secretariats of prosecutor offices who also contribute to enhancing the act of justice.
- 6) At the same time, organizations and professional unions stressed the lack of training needs for and the impossibility for initial training for some categories of professionals including judicial experts, insolvency administrators, translators, and interpreters. It was also stressed that professionals from these categories must only undergo continuous training and retraining at the Institute in the area specifically related to their professional work.
- 7) Also, the Law on State Guaranteed Legal Assistance stipulates that the competences of the National Commission for State Guaranteed Legal Assistance ensure initial training,

including through the National Institute of Justice, of persons involved in providing state-guaranteed legal assistance. However, the implementation of this legal provision is impossible due to the fact that lawyers who provide state-guaranteed legal provision are persons with degrees in the area who can undergo continuous professional training.

- 8) According to Art.4, para.2, letter a of the Law on the National Institute of Justice no.152-XVI of 8 June 2006, the Institute can also provide initial training on a contract basis to other categories of lawyers that contribute to justice making. The law does not however list out those categories of lawyers nor does it regulate the mechanism for enforcing this provision. This includes means of access to initial training of representatives of liberal professions; duration and forms of training; form of graduation; organizational framework; organizational framework; financial-budgetary aspects; and the like.
- 9) The Judicial Reform Strategy for 2011-2016 establishes the categories of professionals for whom the Institute must organize initial training on a contract basis, which includes attorneys, notaries, mediators, bailiffs, judicial experts, insolvency administrators, translators, and interpreters. However, the legal framework that regulates their status and activity does not stipulate the mandatory character of their initial training as a whole and their initial training at the Institute in particular. Due to the lack of compliance between the legal provisions invoked *supra* - a mechanism for interconnecting, coordinating, and monitoring the respective institutions - some categories of professionals listed in the Strategy cannot benefit from initial training at the Institute and remain outside the process in the absence of a requirement.
- 10) The Judicial Reform Strategy for 2011-2016 considerably increases the attributions of the Institute in the area of initial training, which must be provided to a higher number of categories of lawyers who contribute to justice making.
- 11) The quality efficiency and cost-effectiveness of initial training will depend on the quality of the syllabi, the subject curricula, and the trainer performance. These are conditioned by the Institute's possibility of providing modern study conditions, including crime labs, language rooms, a legal resource center, study rooms that have the necessary teaching equipment for using modern training methods, and the like.

Purpose of the Concept is to formulate a coherent and modernized system of initial training at the national level for all categories of lawyers who contribute to making justice.

The general objective of the Concept is to enhance the initial training of judge and prosecutor candidates as well as of other categories of lawyers. These professionals contribute to justice making with a goal of ensuring independence, transparency, efficiency, accessibility, and accountability to the society. This justice making would comply with European standards, ensure the rule of law, observe human rights, and contribute to strengthening the society's trust in the act of justice.

Specific objectives of the Concept are derived from the general objective as follows:

- Enhance the initial training process, in view of enhancing the act of justice as a whole;
- Improve the institutional framework and regulate the mechanism that ensures the effective access to professions that are related to and interdependent with the judicial sector, in view of establishing a moderated balance of the curriculum content and training programs for these categories of professionals;

- Modernize programs and update training forms and the system of assessing training outputs;
- Develop and strengthen the network of trainers;
- Improve the organizational framework and some aspects related to ensuring the technical-material and financial bases of training;
- Enhance the process in promoting and efficiently observing human rights, and implement a zero tolerance policy to corrupt actions in the judiciary;
- Coordinate, establish, and delimit the tasks and responsibilities of decision-making bodies in conceiving and implementing training programs;
- Reform access means to initial training;
- Train trainers in adult training methods and implement modern teaching methods and techniques;
- Improve mechanisms for planning, organizing, monitoring, and assessing the initial training programs.

The above-established factors have made possible identifying the general objective and the specific objectives of the Concept.

IV. Problem Solving Tools and Means

The Concept identifies the following tools and means for solving the problems tackled:

- 1) The fact that the duration of the initial training of judge and prosecutor candidates does not cover all training areas, and that the internship period is especially insufficient, makes it necessary to extend the duration of training to 24 months including 12 months for the internship. At the same time, it is necessary to implement and fund extracurricular activities such as open classes, internship abroad, essay contests on legal topics, and the like.
- 2) The fact that judge candidates who have graduated from the Institute do not have a secure workplace makes it necessary to amend the concept of acceding to the judicial office. This can ensure that NIJ graduates will be appointed in a priority manner immediately after graduation, while those attracting judge candidates who have served for a certain period must aim to filling those vacancies only in exceptional cases. This may occur when the number of Institute's candidates is insufficient for filling in vacancies, when certain positions must be filled in in a short period of time, when it is difficult to fill the positions, and the like.
- 3) The legislative gap created by amending the Law on the Status of the Judge in regard to accession to the judicial office by persons having length of service of 5 years in the position of judge assistant at the Constitutional Court, prosecutor, law professor at an accredited higher education institution, attorney, judge assistant or court secretary by taking an exam before the Graduation Commission at NIJ can be solved by amending and completing the Law on the National Institute of Justice in view of regulating the procedure and conditions for taking the exams before the Graduation Commission of the NIJ for all respective categories of persons.
- 4) The impossibility of initial training for court secretaries, judge assistants, chiefs of court secretariats, and probation counselors once they are appointed in office, along with the lack of a viable mechanism for assuring the training of these professionals before appointment, makes it necessary to revise the initial training concept in favor of continuous professional

training after employment, including mandatory attendance in three-month continuous training courses based on a special syllabus within the first year of work.

- 5) Taking into account that the Judicial Reform Strategy includes court staff in the initial training program but does not include related professions from prosecutor offices (advisers to prosecutors, chiefs of prosecutor office secretariats) in the category of training beneficiaries at the Institute, it is necessary to amend the law to extend the circle of beneficiaries of continuous training from budget sources.
- 6) Because it is impossible for judicial experts, insolvency administrators, translators, and interpreters to take initial training, continuous training and retraining must be assured, but only to observe the court procedure directly related to performing their professional work.
- 7) Due to a lack of initial training for attorneys who provide state-guaranteed legal assistance, and who are persons with a degree in that specialty, it is necessary to amend the Law on state-guaranteed legal assistance in view of continuous professional improvement of the persons involved in providing state-guaranteed legal assistance.
- 8) In order to correct the situation of legislation that does not list who fits in the concept of "other categories of lawyers who contribute to justice making", as well as the lack of regulation of the mechanisms for applying these provisions such as access ways to initial training of representatives of liberal professions, duration and forms of training, form of graduation, organizational framework, financial-budgetary aspects, and the like:
 - Amend and complete the provisions of the Law no.152-XVI of 8 June 2006 by specifying/listing the categories of lawyers who contribute to making justice and who must attend initial training at NIJ, namely intern attorneys, intern notaries, intern mediators, and intern bailiffs;
 - Amend and complete the law that regulates the work of related professions that contribute to making justice;
 - Approve and regulate by Government Decision the Classifier of paid works executed and services and related tariffs provided by NIJ, as well as of the Regulation on the Manner of Creation and Use of the Special Means of the NIJ.
- 9) At the same, taking into account that the Institute's attributions must thereby be extended, it is also necessary to strengthen the Institute's institutional capacities in order to cover the paid initial training needs of this category of professionals.
- 10) In order to eliminate the situation in which the laws that regulate the status and work of professionals who receive initial training from the Institute on a contract basis do not stipulate the mandatory character of their initial training, and the situation relating to the lack of a mechanism for interconnecting the respective institutions, coordination and monitoring, it is necessary to mandate the duration of initial training of intern notaries, intern attorneys, intern mediators, and intern bailiffs.
- 11) By extending the mandatory initial training for several categories of lawyers who contribute to justice making, the attributions of the Institute are extended and thus require strengthening its institutional capacities in order to cover the paid initial training needs of this category of professionals. In this sense, it is necessary to ensure the implementation of this process of reformation as well as extend its material/logistical capacities.
- 12) In view of ensuring the quality, efficiency, and cost-effectiveness of initial training, it is necessary to ensure the quality of syllabi and curricula as well as to enhance the performance of trainers. As a result it is necessary to strengthen the capacity of the

Teaching-Methodical and Research Division, to establish a methodological-scientific council, and to provide modern study conditions such as crime labs, language rooms, a legal resource center, study rooms that have the necessary teaching equipment for using modern training methods, and the like. The Trainer's Charter shall be developed to establish the priorities and principles in matters of recruitment and training of trainers; to establish the tools to be used to assure the coordination of the trainer's network; to establish a periodical training of trainers as well as the training of newly recruited trainers who have not yet begun work, and the like.

V. List of relevant legal and regulatory acts to be amended in view of implementing the Concept

In view of successfully implementing this Concept it is necessary to amend certain legal and regulatory acts in force, as follows:

- 1) Law no.152-XVI/08.06.2006 on the National Institute of Justice that, in addition to the initial training of judge and prosecutor candidates, should also provide for the initial training on contract basis of intern notaries, intern attorneys, intern mediators, intern bailiffs, and of other categories of lawyers who contribute to justice making. At the same time the Law must regulate the continuous training of court secretaries, judge assistants, chiefs of court secretariats, advisers to prosecutors, chiefs of prosecutor office secretariats, and probation counselors. The law should also make mandatory a three-month continuous training during the first year of work.
- 2) Law no.294-XVI/25.12.2008 on the Prosecutor's Office, which should regulate the mandatory character of continuous training of advisers to prosecutors and of chiefs of prosecutor office secretariats with the duration of three months during the first year of work.
- 3) Law no.59/15.03.2007 on the Status and Organization of the Work of Court Secretaries, which should regulate the mandatory character of initial training of court secretaries with the duration of three months in the first year of work.
- 4) Law no.8/14.02.2008 on Probation, to regulate the mandatory character of initial training of probation counselors with the duration of three months in the first year of work;
- 5) Law no.1453/08.11.2002 on Notaries, to regulate the mandatory character of the initial training of intern notaries and its duration;
- 6) Law no.134-XVI/14.VI.2007 on Mediation, to regulate the mandatory character of the initial training of intern mediators and its duration;
- 7) Law no.113/17.06.2010 on Bailiffs, to regulate the mandatory character of the initial training of intern bailiffs and its duration.

To ensure the implementation of the concept of paid initial training for other categories of lawyers who contribute to making justice, it is necessary that a government decision will pass the Classifier of paid works that are executed and services that are provided by the National Institute of Justice and their tariffs, and that the Regulation on the Manner of Formation and use of special means of the National Institute of Justice.

The specific proposals for amending laws and regulations related to the mandatory character and duration of initial training should be made by the professional institutions and organizations that will benefit from this Concept. This should take into account that these professionals have the

competence to improve the legal-regulatory framework that regulates their work.

VI. Analysis of risks and opportunities of implementing the Concept

The successful implementation of this Concept depends on the number of factors. The primary factor relates to the personal involvement and dedication of judicial professionals and on the firm will of the public authorities and institutions and professional organizations and unions, especially in undertaking the adoption and implementation of legal amendments and policies proposed in this Concept. In relation to the implementation of the Concept, consider the following major risks and related opportunities for avoiding or reducing them:

Risks

Stakeholders involved in initial training may be resistant to change. Due to the underestimation of initial training, avoidance to undertake responsibility, and expenditures for training the future professionals, the professional organizations or unions might be unmotivated to implement the Concept.

Trainees may become reluctant if the initial training is not relevant for the specifics of their work.

In the absence of monitoring mechanisms for certain categories of professionals, the latter will not be motivated to undergo initial training.

Delaying or even refusing to amend the legal framework that regulates the work of professionals in view of promoting the compulsory character of the initial training.

Institutional capacities of the Institute to organize initial training have been exceeded and resources have been allocated inadequately.

Opportunities

Amend the legal framework in view of regulating the initial training of professionals, including its duration/amount.

Sign cooperation agreements between the Institute and the professional organizations and unions whose members will benefit from initial training at the Institute.

Develop assessment methodology and initial training programs.

Assess the trainer's performance.

Develop a legal mechanism for initially monitoring all categories of professionals in order to motivate them to attend initial training courses.

Initiative can be taken by the Ministry of Justice to make changes to the legal framework that regulates the work of judicial professionals on the compulsory character of initial training.

Extend the institutional capacities of the Institute (modern study rooms, crime lab, language lab, legal resource center, etc.).

Fund long-distance training and blended-learning.

Allocate the financial means necessary for improving and managing the database for tracking the entire process of initial training of the beneficiaries, the trainers' works, and the like.

The diversification of the categories of professionals to be trained by the Institute considerably increases the number of trainees, which may exceed the capacities of the initial training including human resources (trainers, methodologies) and financial resources as well as materials such as training rooms, teaching materials, hotels, etc.

Draft the regulatory framework for conducting initial training on contract basis.

Draft syllabi, subject curricula, and other teaching materials for each category of professionals.

Extend the number of methodologies.

Attracting more contract trainers and permanent trainers.