Terms of Reference

Twinning light

Enhancing the Administrative Capacity of the Court System

Phare 2001 National Programme;
Project No ES01.04.02
Twinning No ES2001/IB/JH/02/TL
1. **Background information**

The overall objective of the project is the increase of efficiency and effectiveness of Estonian court system and preparation for EU membership.

Through judicial reform at the beginning of 1990s, a three-instance court system was established in Estonia. The courts are independent in their activities and they administer justice in accordance with the Constitution and the laws. Justice is administered by county, city and administrative courts in the 1st instance, district courts (appellate courts) in the 2nd instance and the Supreme Court in the highest instance. There are 22 courts in the 1st instance (including four administrative courts), 3 courts of appeal and the Supreme Court. Justice is administered solely by the courts, the formation of emergency courts is prohibited by the Constitution. In total, there are 238 judges and approx. 1500 officials working in the courts of 1st and 2nd instance.

For strengthening the court system it is necessary to optimise the workload of judges by carrying out the reform of administrative courts and merging the courts of the 1st instance located very close to each other (see Annex). Both organisational measures provide for specialisation and more efficient use of material resources. It is also important to continue the training of judges and ensure the professional quality of the court personnel.

The priorities listed in the present document are to be implemented by the year 2003. Several of the activities shall be continuously practiced to be effective; some are designed to reach the aim in certain period of time. As the judiciary is an integral part of social relations the principles shall be addressed as living concept liable to changes if necessary. The aim of the reforms is to achieve stability of judiciary guaranteeing democracy and the rule of law.

2. **Description of the Assignment**

2.1. **Beneficiary**

The Ministry of Justice has the competence to draw up the development plans of the institutions within its field of administration and to provide the institutions with financial and other means necessary for their activities. Besides these functions, the Ministry of Justice is responsible for personnel management of the institutions, administration of the registries, supervision of public prosecution, keeping of court statistics and auditing of courts of the 1st and the 2nd instance, as well as the prisons. The international relations of the institutions are organised via the Ministry of Justice.

Most of the functions of judicial administration are performed by the Department of Courts of the Ministry of Justice. Since autumn 1998, the Department of Courts has a special unit – the Development Division. Its main goal is to improve the quality and the effectiveness of the administration of justice. Improvement of the IT system of courts and training of judges and prosecutors are also among the responsibilities of the Development Division.
2.2. Objectives

2.2.1 General objectives

The project provides
- Training for judges and prosecutors on specific issues of EC law
- Advice on planning the future development of court system (Twinning-light)
- Support for development of IT systems.

The Twinning-light part is designed for:
- Elaboration of a strategic plan for the optimal location of courts according to the expected caseload;
- Elaboration of a strategic plan for the optimal division of the functions and co-operation between court departments.

2.2.2. Specific objectives of the twinning assignment:

a. to gain foreign experience in administration of the court system;
b. to gain experience in:
   • Deciding the location of courts;
   • Reorganising the structure of the court system;
   • Merging of courts
   • Establishing new courts;
   • Transfer of judges to another court;
c. to gain experience in court administration;
d. to gain experience in division of functions of the court and interactivity of court departments;
e. to gain experience in division of case-load of the court;
f. to gain experience in automating routine tasks;
g. to gain experience in using judges assistants in case management.

2.3. Requested services

The expert shall:

a) Examine the analysis prepared by the Ministry of Justice of current structure of the court system
b) Analyse legal framework of courts (related to work process)
   - Courts Act
   - Status of Judges Act
c) Map internal co-operation relations in the courts of 1st and 2nd instance between:
   - Judges
   - Managing Director
   - Technical staff
   - Secretariats
   - Bailiffs
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- Registration departments
- Probation supervision departments
- Real Estate Register

d) Advice on management of the court workflow
   - Adjusting the workload
   - Possibilities to reduce the time spent on court proceeding and the no. of pending cases
   - Optimising the use of available means

e) Advice on identification of optimal locations of courts
   - Accessibility to justice and location in regions
   - Ensuring regional development of the court system

f) Prepare a strategy for development of the court system

g) Advice the Courts Department of the Ministry of Justice on the implementation of the development strategy

The duration of the assignment is 6 months, the working schedule of the expert is negotiable. The nature of the tasks requires a lot of travelling in Estonia.

2.4. Expected results

a) Strategy for development of the court system, including plan for the optimal location of the courts and the internal operation arrangements

b) Know-how for the Courts Department, how to implement the development strategy

2.5 Budget

75 000 EUR is foreseen for the assignment of the twinning-light expert.

3. Expert’s profile

An expert shall be provided for executing the tasks described in section 2.3 for a period of 6 months.

The expert shall:

- Have a university degree, preferably law, public administration or business administration;
- Have professional experience in the field of courts administration, minimum 10 years;
- Have excellent knowledge in development of the court system;
- Have knowledge and experience in management, especially in strategic management and planning, risk assessment, evaluation of the programmes;
- Be fluent in English
- Have good communication skills
- Have good computer skills

3.1. Language
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English is the working language.

4. **Location and duration**

The twinning light project will start on March 2002 and the duration of the assignment is 6 months.

The expert will be located in the Ministry of Justice, Tallinn, but will also visit city and county courts.

During the assignment the beneficiary, Ministry of Justice, is responsible for the provision of work place with necessary office equipment (computer, e-mail, telephone, fax, copy machine).

The daily counterpart to the experts is Ms. Egle Käärats, Acting Head of the Development Division, phone: +372 612 7888; fax: +372 612 7811; e-mail: egle.kaarats@just.ee.

5. **Reporting**

The expert will present an Inception Report in English in two months after the signature of the contract and a Final Report in English shall be submitted after seven months from signing the contract.

The Inception Report and the Final Report, signed by the contractor shall be submitted in 4 paper copies for approval to the beneficiary, Ms Egle Käärats, Estonian Project Leader (Acting Head of the Development Division, phone: +372 612 7888; fax: +372 612 7811; e-mail: egle.kaarats@just.ee) and Programme Officer, Mr Enno Loonurm, Head of Courts Department of the Ministry of Justice. Each report should be endorsed and countersigned by the Beneficiary. The Inception Report will be submitted to the Ministry of Finance (Mr Renaldo Mändmets, Deputy Secretary General) and the EC Delegation in Estonia, for information.

The Final Report shall be submitted signed by the contractor shall be submitted in 4 paper copies for approval to the to the beneficiary, Ms Egle Käärats, Estonian Project Leader and Programme Officer, Mr Enno Loonurm, Head of Courts Department of the Ministry of Justice. After the PO has approved the Final Report, it will be forwarded to CFCU and Programme Authorising Officer (PAO), Mr Renaldo Mändmets for approval. The Final report, after being endorsed by all the relevant parties, has to be forwarded to the EC Delegation in Estonia, for information.
1.1.1.1

DEVELOPMENT STRATEGY OF ESTONIAN JUDICIARY

1. The Role of Judiciary

The primary task of the court system is to deliver justice in due time and at a price a citizen can afford and protect the civil rights and fundamental freedoms of each and everyone. Every person is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. It is essential to improve the legal knowledge of citizens and to secure the principle of the rule of law.

2. External Factors Determining the Development of Judiciary

Integration with European Union is the foremost important factor necessitating the strengthening of the court system via optimisation of the caseload of judges and by means of continuous in-service training of judges and other operators of judiciary.

It is important to precisely determine the scope of functioning of public sector. Due to the efficiency of operation several administrative functions can be delegated to the 3rd sector. The principles of legal economics are crucial to achieve efficiency on judiciary.

Building up a new legal order Estonia has very much to improve the legal awareness of the citizens. Today court proceedings are delayed because of the absence of parties. That can and has to be improved by informing people of the importance on their roles in legal relations and advancing the overall legal culture.

Estonia has to promote the use of alternative, consensual resolution services alongside the traditional courts.

3. Short-Term Priorities

For strengthening the court system it is necessary to optimise the workload of judges by carrying out the reform of administrative courts and merging the courts of the 1st instance located very close to each other. Both organisational measures provide for specialisation and more efficient use of material resources. It is also important to continue the training of judges and ensure the professional quality of the court personnel.

The priorities listed in the present document are to be implemented by the year 2003. Several of the activities shall be continuously practiced to be effective; some are designed to reach the aim in certain period of time. As the judiciary is an integral part of social relations the principles shall be addressed as living concept liable to changes if necessary. The aim of the reforms is to achieve stability of judiciary guaranteeing democracy and the rule of law.
1.1.2 4. Reform of Administrative Courts

The overall objective of the administrative courts reform is to enable the administrative judges to specialise solely on complaints on the acts of administration, in order to guarantee the better quality of justice. As a result of the administrative courts reform and the penal law reform, the cases of administrative offences shall be administered by the courts of general jurisdiction and not by the administrative courts. On January 1st, 2000, the Code of Administrative Court Procedure entered into force. The Code provides that starting from the year 2001, all administrative complaints on the acts of administration shall be settled only in regional administrative courts. In addition to Tartu and Tallinn Administrative Court working since 1992, the Pärnu Administrative Court was formed starting on January 1st, 2000. During the year 2000, the fourth administrative court shall be formed in the North Eastern part of Estonia, Virumaa, and all administrative judges shall move from courts of general jurisdiction to the regional administrative courts. By the end of the reform there will be four regional administrative courts of 1st instance with total number 28 administrative judges working in Estonia.

1.1.3 5. Assessment of Administrative Costs of the Court System

Estonia is introducing principles of legal economics to provide cost-effective measures to improve the efficiency of justice. There is an urgent need for the thorough analysis of administrative costs structure. The results of the analysis shall provide information for restructuring the administrative costs of the legal system. The analysis shall also point out the administrative functions which can be delegated to the 3rd sector in order to approximate the administrative costs of legal system and to guarantee the effective delivering of justice.

1.1.4 6. Assessment of the Caseload of Courts

Approximation of the workload of courts demands revision of methods of court statistics to provide more detailed and informative data. Analysis of the court statistics is designed to be used in determining the optimum workload for a single judge as well as the average cost of court proceedings. It shall also enable to take fundamental changes to avoid any type of undue delays of court proceedings.

The court statistics shall also provide data for deciding the allocation of new judgeships or re-allocating the existing judges to another court to relieve the burdens on the specific court.

The workload of administrative judges in general courts is substantially lower than the workload of other judges. For the purpose of approximation of workload of judges, 9 former administrative judges shall continue their work in courts of general jurisdiction, solving civil or criminal cases. It is essential to conduct a systematic analysis of duration of the trial phase of the proceedings to ensure the fundamental right to a fair trial within a reasonable time.
7. Career Development of Judiciary

In order to improve the qualification of judges and court officers, training programs are continuously carried out. In the year 2000, completing the training of trainers program (the “Twinning”) for judges and prosecutors is of vital importance. The second phase of the training program will involve all Estonian judges and prosecutors and is planned to start at the end of 2000. A special training program on the EC law will be carried out for another group of 40 judges and prosecutors. In addition, the traditional supplementary training in the forms of seminars on different areas of law and recent changes will be carried out.

The professional skills of court officers, such as court managers, court clerks, accountants, and court information systems administrators will be improved through training and evaluation.

8. Adjustments of Legislation Regulating the Judiciary

The Draft Courts Act shall be presented to the Parliament in summer 2000. Implementation Acts are planned to be drafted later this year.

9. Development of Court Information Systems

The Ministry has carried out a public procurement for the strategic analysis of the court information systems. The purpose of the analysis is to chart the processes and personnel roles in the courts and to determine the changes necessary for achieving optimal workflow, eventually leading to changes in court procedure. In addition, the analysis will provide the basis for subsequent court IT applications development. The analysis is scheduled to last from May to September 2000, and will require heavy commitment from judges and court personnel.

Several judges have been involved in the development of court IT at the Ministry and it has been possible for them within the framework of bilateral agreements to familiarise themselves with the more advanced court IT systems in Europe in order to facilitate more informed decision-making. These judges will also be able promote the necessity and possibilities of court IT among their peers. Other long-term developments include the application of the Law on Digital Signature in the judicial system in supporting electronic communication to and from the courts.

In shorter term, priority will be given to completing existing projects and the improvement of current applications (office applications, the existing statistical software) and their use in courts, and to projects which the courts themselves consider important such as the database of court decisions, which is currently undergoing a major revision.