

QUESTIONNAIRE

On the regional cooperation framework of the Regulatory Judicial Authorities of the Balkan Area

Summary of the answers

I. Question 1. (1.1, 1.2, 1.3)

	1. What should be the legal status of the organisation? What should be the directions and the aims to be followed by the organisation?		
	1.1. What should be the legal status of the organisation?	1.2. In the case of choosing the form of an international association, then what organisation do you think should be asked to support it, and in what form (title), in order to guarantee the funds necessary for the operation of this international association?	1.3. What should be the status of the organisation, and what are directions, aims to be followed by it?
<u>Albania</u>	<p>b, Non-governmental organisational model</p> <p>Remark: We support and encourage the reason for the strengthening of the independence of the judicial system and the exchange of information on practices of the countries in the region. We consider as the most appropriate one, the non-governmental organization (NGO) model, which will allow and enable a more fluid activity. The organization should be based on operating practices followed by European Networks of Councils for the Judiciary (ENCJ). In our opinion the other models, would probably hamper the activities of this organization creating difficulties on reaching the goals that the organization aims to achieve.</p>	<p>Remarks: In our opinion, in order to provide the necessary funds in case of choosing the traditional international organization model, it would be necessary to assure the support of EU institutions. It can also be assigned a proportional membership fee according to the economic potentialities (opportunities) of each member of the council.</p>	<p>Agrees with the proposed answer.</p> <p>Remarks: We choose the affirmative answer to this question. In general line, these should be the directions that the organization must follow, based on the idea that the organisation's main goal is the strengthening of the independence of the judicial system, which can be more easily achieved through the exchange of information and experiences among the member countries.</p>
<u>Bosnia and Herzegovina</u>	<p>a, Non-Governmental Organisation (NGO) model</p> <p>The non-governmental organisation model represents an acceptable framework for the continuation of regional cooperation. Cooperation through this Office would allow for more efficient cooperation without complex procedures, at the same time respecting the principle of the independence of the judiciary.</p>	-	<p>Agrees with the proposed answer.</p> <p>-</p>
<u>Bulgaria</u>	<p>B, D,</p> <p>Remark: We appreciate the advantages of the existing model, but we consider that a Permanent Office of the Regulatory Judicial Authorities of the Balkan Area should be established. For this reason, we would like to propose to combine b, Non-governmental organisational model and d, The present model. (See the answer of Question 5 for further information about the Permanent Office)</p>	-	<p>Agrees with the proposed answer.</p> <p>-</p>

	Q 1.		
	1.1	1.2	1.3
<u>Hungary</u>	D Remark: Regarding the legal status of the organisation, primarily the saving of the present model recommended (answer "d"), with the supplement, that as possible alternative solution the non-governmental organisation model is also acceptable (answer "b"), but in that case it shall be examined, in which member state is possible for an organisation without a legal entity (by the provisions of the internal laws) to participate as founder member according to the domestic law.	-	Agrees with the proposed answer. -
<u>Italy</u>	B Remarks: The cooperation between judicial authorities should be based on a common aim regarding the enforcement of judicial independence. We agree that this aim could be realized only with a non-governmental organisation model. A traditional or quasi international organisation model is too ambitious for our project and economic possibilities. The best model is surely a non-governmental organisation (association or foundation), e.g. a system similar to the ENCJ could be recommended. It is also possible to maintain the present model of cooperation, but it seems relatively simple and maybe difficulties could arise in order to achieve interesting results of cooperation.	The E.U. and any other international organization that can support our aims, and especially the main one regarding the enforcement of judicial independence.	Yes. Remarks: These should be certainly the goals to be achieved. First of all, obviously, we must guarantee the enforcement of judicial independence.
<u>Montenegro</u>	b, Non-governmental organisational model -	-	Yes. -
<u>Moldova</u>	b, Non-governmental organisational model -	-	Yes. -
<u>Romania</u>	D The present model. Reasoning: As is also noticed by the initiators of the questionnaire, the classical pattern of an international organization (proposed as the „a” variant for answers) would involve the concluding of a multilateral treaty at national or governmental level. But, besides the disadvantages related to the complex procedure of negotiating such treaty, it should also be considered the major inconvenient of being a body „endorsed” by the Executive branch of power in state, thus having a potential limited independence. If this structure represents bodies such as judicial councils, the establishment of an international organisation of public international law does not seem to be an adequate solution. Also, in our opinion, options „b” and „c” are not suitable because would involve the setting of a new organisation that would operate in parallel the current European Network of the Councils for the Judiciary.	No other answers are necessary for questions 1.2 and 1.3 due to the precedent answer.	No other answers are necessary for questions 1.2 and 1.3 due to the precedent answer.

	Q1		
	1.1	1.2	1.3
<u>Serbia</u>	<p>b, Non-governmental organisational model</p> <p>COMMENT: this answer is in line with a purpose of organizing regional conferences. The main objectives of the conference and responsibilities of the regulatory bodies will be defined at a conference in Rome in 2013. Generally accepted view is that cooperation must be based on full respect for the principle of judicial independence. The same principle is followed by ENCJ and IAJ, so the legal status of the organization should be similar to the NGO model, based on the domestic law of one of the founders, along with legal solutions in the country where the seat is. Such a model would, if needed, facilitate the ability to move the seat, keeping the overall organizational structure.</p>	<p>With respect to the proclaimed principle of judicial independence, prevailing opinion is that the organization should have a model of non-governmental organizations, and the expenses of the organization would be covered from the judicial regulatory body of the founder.</p>	<p>a. Yes. COMMENT: all offered responses cover the essential objective of the existence of the conference, as well as the guidelines by which the conference should be organized.</p>
<u>Slovenia</u>	<p>B Remark:</p> <p>We would opt for (b) non-governmental organisational model since this is a model which works quite well in case of the ENCJ and thereby we would also give priority to the enforcement of judicial independence.</p>	-	<p>Agrees with the proposed answer. -</p>
<u>Turkey</u>	<p>B The non-governmental organization model as proposed in the option b will present the initiative/organization a possibility to take over more active roles in the matters of independence of the judiciary and increasing the efficiency of justice, and to conduct its activities more easily within general principles free from long and complex procedures. Therefore, it is assessed by us that a non-governmental organization model would be the correct choice.</p>	<p>a-A membership fee may be determined to be paid by the related judicial organizations of the member states out of the budget allocated to them. b-International institutions (e.g.: judicial units of EU, Council of Europe or United Nations, &c.) may be requested to deliver funds to finance some of the activities. Furthermore, mutual projects may be conducted in collaboration with these institutions, and financial support may be provided via these projects. c-National institutions or non-governmental organizations of the member states with the same goals may be requested to make contributions for some mutual activities. d-Member councils may be requested to finance some of the activities of the association composed as such (an international association as NGO).</p>	<p>Yes. The main goal of the organization should be the exchange of experience and information of the judicial bodies in the member states, and conducting studies to solve the problems generally faced by them.</p>

II. Questions 2-4.

	2. The organisation has no internal regulation on the workflows and the work conditions. Is it necessary to perform a study on exploring the organisation of the activities and on determining the persons in charge?	3. How to implement the efficient operation of the organisation and how to maintain close contacts between the members during the year? Do we need to maintain such contacts?	4. Would it be more reasonable to meet in smaller groups of the members to discuss special topics and to deliver more detailed studies instead of meeting once a year?
<u>Albania</u>	Yes. Remarks: We choose the affirmative answer to this question. This is an organizational aspect that can be adjusted within the formulation and the adoption of the Statute of this organization.	Yes. Remarks: We are convinced in the affirmative answer to this question. The exchange of information is the main way to achieve the goals that this organization will decide to accomplish. It would be important to establish a postal communication network, in order to update the members on the activities of other members throughout the year.	Remarks: We choose the option c because we evaluate that the two practices are complementary to each other. Our opinion is that in addition to the annually general meeting, during the year small groups can work on certain issues, which results should be presented for discussion at the general meeting.
<u>Bosnia and Herzegovina</u>	Yes A regional Office would be registered in accordance with the regulations of the country of its Seat. Internal regulations are necessary for the operations of the organisation as well as for the appointment of staff who would be responsible for the general operations of the Office and the execution of given tasks.	yes The flow and exchange of information requires the organisation to be fully staffed. The exchange of information between institutions is required all year round.	c, we are for a combined solution incorporating items "a" and "b". a, let's stick to meeting once a year; b, let's meet in smaller groups during the year to discuss special topics; We need to continue with the practice of holding regular annual meetings, where we would define future activities and forms of cooperation. Smaller groups would be established and would meet as required with the objective of analysing specific issues and preparing reports which would be considered at the next annual conference.
<u>Bulgaria</u>	Yes -	Yes -	c, the combined application of options a, and b.
<u>Hungary</u>	No Remarks: The presented questions may be regulated and determined in the constitution.	Yes. Remarks: It is necessary to maintain close contacts between the members during the year.	c, the combined application of options a, and b. Remarks: The combination of the meetings acceptable. Beside the annual conference it is reasonable to meet in smaller groups to discuss special topics.
<u>Italy</u>	Yes. Remarks: A study would be much appreciated since the workflows and work conditions are aspects of fundamental interest for the organisation. However, these are only some of the aspects on which the organisation must focus its attention. Working groups could be envisaged if needed.	Yes. Remarks: We need absolutely to maintain contacts during the year by every mean of communication available, otherwise the organisation would become something lifeless.	c, the combined application of options a, and b. X Remarks: The best solution could be to meet several times during the year in smaller groups to discuss special topics, and to meet once a year all together, in a sort of General Assembly, to present the results of the working groups' activity, to deal with general issues of common interest and to elect the representatives of the organisation.
<u>Montenegro</u>	Yes. -	Yes. -	a, let's stick to meeting once a year;
<u>Moldova</u>	No. -	No. -	a, let's stick to meeting once a year; ✓
<u>Romania</u>	A Yes. This kind of study would be useful and for drafting it could be set up a task force, on voluntary basis. Remark: Using the term of „organisation" for this question and the following ones is not adequate because the International Conference of the Regulatory Authorities from the Balkan Area does not have this status, at least for the moment, since it is only sui-generis structure.	See the remark on question no. 2. For the current operation mode it could be used the electronic communication.	A We should keep a yearly meeting.

	Q2	Q3	Q4
<u>Serbia</u>	<p>a. Yes. COMMENT: The need for the adoption of internal rules stems from the need for efficient information flow among the founders of the conference, which includes determination of the person who will be responsible for carrying out these tasks. Other goals would be able to be fully exercised. In addition, if the Conference accepts to have a model and to be organized as non-governmental organizations, it also includes that its statute can and should regulate these issues.</p>	<p>a. Yes. COMMENT The efficiency of the organization is achieved by staffing the organization, someone who is permanently responsible for contact between members and the flow of information, which in itself is an implementation. This provides institutional information exchange, which does not prevent members from developing bilateral relations.</p>	<p>c. The combined use of options A and B COMMENT The annual conferences and discussions would continue as conferences were doing so far, while ad hoc meetings in small groups would allow more operational discussions on specific topics, and thus improve quality of the study.</p>
<u>Slovenia</u>	<p>Yes. Remarks: Some basic structure and rules of internal organization should definitely be developed. These should not be very comprehensive and complicated.</p>	<p>Yes. Remarks: Without contacts there is no co-operation. Few quick meetings of persons responsible should be advised, of course depending on the resources available. Such contacts would include electronic correspondence as well as meetings in person. On the latter, see below.</p>	<p>c, the combined application of options a, and b. Remarks: One annual meeting as well as additional meetings of smaller groups if needed (basically following the ENCJ model).</p>
<u>Turkey</u>	<p>Yes. First of all, a mutual text (statutes) that regulates the working procedures and principles of the organization has to be prepared. In order to do that, it is recommended to set up a working group immediately which will start their studies as soon as possible. It is also recommended that these matters should be discussed in the meeting to be held in Italy next year, and (if accepted) that the working group should be set up along with a road map to be determined.</p>	<p>Yes. First of all, it is urgent and compulsory to set up an efficient communication system among the member councils, for which it would be useful to set up a mutual mailing-group and an active website. Besides, if a secretariat is to be established, the communication could be conducted via the secretariat. In each annual plenary meeting, it would be most useful to discuss and determine the activities that are to be held in the following year, and how they will be conducted.</p>	<p>c, the combined application of options a, and b. Remarks: First of all, it is urgent and compulsory to set up an efficient communication system among the member councils, for which it would be useful to set up a mutual mailing-group and an active website. Besides, if a secretariat is to be established, the communication could be conducted via the secretariat. In each annual plenary meeting, it would be most useful to discuss and determine the activities that are to be held in the following year, and how they will be conducted. It seems to be absolutely compulsory to hold an annual plenary meeting which is to be attended by all members, during which it would be most useful to discuss and determine the activities that are to be held in the following year, and how they will be conducted. Later on, it is also considered that working groups could be established on the subjects which were determined and authorized by the plenary, and that the reports prepared by these working groups would be delivered at the following plenary meeting. Studies to be conducted on specific subjects in small groups will give the opportunity to obtain more concrete outcomes. Furthermore, it would be useful to hold annual meetings in order to realize and to transform these concrete outcomes into mutual discourses.</p>

Questions 5-7.

	5. Is it necessary to set up a permanent office for performing the work of the organisation? If yes, where the seat should be and in what structure should it operate?	6. With what election procedure and for how long should the head of the permanent office be elected?	7. Would it be appropriate to ask for a membership fee to cover the costs of maintaining the coordination office and the staff cost, in order to facilitate the more effective operation of the organisation and to avoid causing any burden of support for any country? If not, what sources could be used to cover the costs of maintaining the coordination office?
<u>Albania</u>	Yes. We choose the affirmative answer to this question. A permanent office would be required to coordinate and facilitate the organization's practices. The location of this office can be discussed at the next meeting.	Remarks: We think that the term of the head of the permanent office should coincide with the average terms of the organization's board members. For illustration, in Albania, this term is 5 years. Related to the procedure, we think that it should be based on the principles of transparency and voluntary consensus of the members of the organization.	yes, we need a membership fee Remarks: Our opinion is that the organization should have a stable budget and therefore it would be needed a membership fee, proportional to the economic possibilities of each judicial council. In this way, the organization of the permanent office and the following members meetings would be easier to organize.
<u>Bosnia and Herzegovina</u>	a, yes A permanent Office needs to be established which would serve to maintain continued, efficient cooperation. The issue as to the Seat of the Office should be considered at the next conference in Rome.	b, Other. The appointment of a Head of the Office should be carried out by the Member States. The mandate would depend on the positions taken regarding the Seat of the Office and any time-related limitations to its operations in a Member State.	a, yes, we need a membership fee; Proposed maximum annual amount: some small amount (no more than few hundred Euros) b, No, there is no need to introduce a membership fee; What sources could be used to cover the costs of maintaining the coordination office: c, voluntary payments. Remarks: The expenses should be borne by the country that hosts the Seat of the Office or by the Member State that organises the annual conference in the event that the Seat were to change annually. Additional revenue could also be acquired from contributions which would be carried out in accordance with the regulations of the Member State in which the Seat is located.
<u>Bulgaria</u>	Yes Remarks: We would be happy to help by setting up a permanent office with a seat in Sofia, Bulgaria. According to the structure, it would be appropriate if it consists of: 1) a director, an assistant and an accountant or 2) a director, a deputy director and an assistant.	a, This decision falls into the competence of the country undertaking to operate the office; -	b, no membership fee; -

	Q5.	Q6.	Q7.
<u>Hungary</u>	Yes. Remarks: It is necessary to set up a permanent office. Regarding the seat of the office the principle of rotation shall be prevailed. That means, that the office shall be operate by other member state in every, or in every two years. It would be expedient to organise the rotation on the way, that the member state organising the conference next year shall operate the office until hosting the conference.	a, This decision falls into the competence of the country undertaking to operate the office; -	b, no membership fee; -
<u>Italy</u>	Yes. Remarks: Yes, it is absolutely necessary to set up a permanent office for performing the work of the organisation. This is the only way to allow the organisation to improve and to achieve its goals. We need to vote democratically – maybe during the next Conference in Rome – where the seat of the organisation should be settled. It should operate in the structure of the judicial authority of the country where is the chosen seat.	b, Other. X Remarks: These decisions must be taken together. It could be decided in the Conference of May in Rome.	a, yes, we need a membership fee; X Remarks: Yes, we need a membership fee to cover the costs of maintaining the coordination office and the staff costs, in order to facilitate the more effective mission of the organisation. It is unrealistic to imagine to shoulder the costs of the organisation with other sources or with voluntary payments.
<u>Montenegro</u>	Yes. -	a, This decision falls into the competence of the country undertaking to operate the office; -	a, yes, we need a membership fee; Proposed maximum annual amount: 1000 €
<u>Moldova</u>	b, no ✓	N/A	b, no membership fee; ✓ c, voluntary payments. ✓
<u>Romania</u>	A No	Remark: If we remain in the actual framework of an yearly conference and it is not decided upon setting up an organization the question becomes obsolete. Organising and preparing the conference would be the duty of the judicial council or similar body from the state that undertakes this task of carrying out an edition of the conference.	Considering the answers to the previous questions it appears that is not necessary to set up a membership fee and all the costs should be bear, on revolving bases, by the judicial council or similar body from the state that undertakes the task of organising the annual conference. Of course, voluntarily contributions may be accepted.
<u>Serbia</u>	a. Yes. COMMENT A need to form a permanent office stems from commitment to the organization with the status of non-governmental organizations, and from the need of continuous sharing communication. The seat of the office would be determined according to the seat of the conference. Alternative: The seat of the office would be determined by the seat of Conference Chairman. After the structure: office would make one person responsible for communication.	b. something else COMMENT Chairing the conference should be held on an annual basis, taking into account the current practice that the conference is held every year in another Member State, under the principle of early completion of the previous presidency of the conference venue and determining the next conference. In this regard, the seat of the office would be every year in a different member state.	b. No membership fees. Coordination office expenses and staff costs would be borne by a member state who hold presidency in that year. COMMENT This way of financing would enable more rational running of the office.

	Q5	Q6	Q7
<u>Slovenia</u>	<p>Yes. Remarks:</p> <p>The seat of the organization should be where there is the greatest ambition for that. There should be a vote on that by the members but the seat could also rotate (each year in a different country).</p>	<p>b, Other.</p> <p>Remarks:</p> <p>Some proposal should be made and the members should vote on that.</p>	<p>a, yes, we need a membership fee; Proposed maximum annual amount: some small amount (no more than few hundred Euros)</p> <p>Remarks:</p> <p>A membership fee should be set but it should be kept not too high due to the current economic crises in most parts of the area. The fee would guarantee the seriousness of the organization, however its small amount would not be that much burdensome for various judicial councils.</p>
<u>Turkey</u>	<p>Yes. A permanent office could be established in order for the organization to obtain an institutional identity and sustainability, which is bound to bring a certain amount of cost. Also, it would be more appropriate to use the word "secretariat" instead of "permanent office"; and to discuss at the plenary meeting and determine where the seat of the secretariat/office should be and the structure in which it should operate.</p>	<p>b, Other. Remarks: A permanent office could be established in order for the organization to obtain an institutional identity and sustainability, which is bound to bring a certain amount of cost. Also, it would be more appropriate to use the word "secretariat" instead of "permanent office"; and to discuss at the plenary meeting and determine where the seat of the secretariat/office should be and the structure in which it should operate. The composition (of whom and how) of the secretariat/office should be discussed and determined during the plenary meeting which is to be attended by all member states, or it could be regulated in detail in the statute of the association which will be established. By all manner of means, the president of this international association (or initiative) has to be elected by the plenary among the presidents of the councils for the judiciary of the member states, and (if accepted) should be renewed every two years.</p>	<p>b, no membership fee; Membership fee should not be compulsory at the beginning since the members may not always be at the liberty to pay such a fee – not only due to the limits of their budgets but also due to the fact that they might not have their own separate budgets according to the national regulations and legislations. To set out under such a financial burden might prevent or undermine the sustainability of the initiative. It would be better if the cost of the secretariat/office should be provided by the country where it would be located. However, if, in the plenary meeting, it is decided to ask for a membership fee (in order to cover the costs), we, High Council of Judges and Prosecutors of Turkish Republic, are ready to pay such a fee, which might be determined at an amount of maximum €15,000.00 annually per member. c, voluntary payments. The cost of some of the activities of the international association to be established, along with the expense of the secretariat/office, could be covered by the payments or donations to be made by national or international non-governmental organizations.</p>