



Activities 17011 and 17035

Terms of Reference
Expert in Jurisprudence of
the European Court of Human Rights (ECtHR)

Introduction

The Regional School of Public Administration (ReSPA) is the inter-governmental organization for enhancing regional cooperation, promoting shared learning and supporting the development of public administration in the Western Balkans. ReSPA Members are Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia, while Kosovo*¹ is a beneficiary. ReSPA's purpose is to help governments in the Western Balkan region develop better public administration, public services and overall governance systems for their citizens and businesses, and prepare them for membership in the European Union (EU). Since its inception, ReSPA has contributed to the development of human resources and administrative capacities through training programmes and innovative cooperation mechanisms such as the exchange of good practices, peer reviews and development of know-how.

European Commission (EC) provides directly managed funds for support of ReSPA activities (research, training and networking programmes) in line with the EU accession process. The current EC grant supports the main objective of ReSPA work in 2016-2017: Improving regional cooperation in the field of PAR and EU integration, and strengthening administrative capacities in the beneficiaries. This objective is being achieved through the following three pillars of ReSPA Programme of Work for 2016-2017:

- (1) European Integration Pillar: Increased capacity of public administration in the ReSPA Members necessary for successful conducting of the European Integration process;
- (2) Public Administration Reform Pillar: Facilitated and enhanced cooperation and exchange of experience in Public Administration Reform and European Integration activities in ReSPA Members;
- (3) Governance for Growth Pillar: Ensured effective coordination of the implementation of the Governance for Growth pillar of the SEE 2020 Strategy.

Following consultations and expressed interest of the ReSPA Members, it has been decided that ReSPA should organize activities to contribute towards development of the Administrative Justice in the Western Balkan region.

¹ * This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and ICJ Advisory opinion on the Kosovo Declaration of independence

Purpose

In order to implement its Programme of Work for 2016-2017, and to fulfil expectations of its stakeholders, ReSPA is organising two Study Visits to the Council of Europe (CoE) and to the European Court of Human Rights (ECtHR) in Strasbourg, France. Participants of the Study Visits should learn about jurisprudence of the ECtHR. The Study Visits will focus on the CoE work related to development of justice systems, and to the leading cases of the ECtHR related to administrative disputes, which are of direct relevance for the Western Balkan countries. The aim of the Study Visits is to contribute towards improvement of the judicial control of administration in the Western Balkan region.

Background

Within the European Principles of Public Administration (PAP) related to Accountability, ReSPA's activities contribute towards development of administrative justice in Western Balkan countries, by supporting ReSPA Members (Albania, Bosnia and Herzegovina, Macedonia, Montenegro, Serbia) and Kosovo* in assessment and application of European principles and standards in this field.

ReSPA Members and Kosovo* are already facing significant novelties in the area of administrative procedures and administrative justice. Most of the countries in the region have enacted new General Administrative Procedure Acts (GAPAs): Montenegro in December 2014, Albania in April 2015, Macedonia in July 2015, Serbia in February 2016, and Kosovo* in May 2016. This process is followed by harmonisation of a significant number of sector specific laws, and drafting of amendments or new legislation in the area of administrative dispute, across the region. These developments have significant impact on the structure, importance and work of administrative justice, and public administration in general.

On the other hand, the European Court of Human Rights (ECtHR), established by the European Convention on Human Rights (ECHR), has developed through its case-law important procedural and substantive law standards on administrative justice. As all ReSPA members are parties to the ECHR and have undertaken to give full effect to it, ReSPA believes that it is essential to present and explain the leading ECtHR's cases in administrative disputes with the purpose to bring them closer to the local public agents, administrative court judges and legislators who have an obligation to apply the ECHR on a daily basis.

In order to respond to this need, ReSPA is organizing, in cooperation with the Council of Europe - Human Rights National Implementation Division, Study Visits to the Council of Europe (CoE) and to the European Court of Human Rights (ECtHR). Participants of this activity are: presidents and judges of administrative courts and/or administrative law departments of higher and supreme courts; representatives of the ministries of justice and/or ministries in charge of public administration; representatives of ministries/ governmental offices in charge of European integration who are dealing with human rights and with Chapter 23 (Judiciary and Fundamental Rights) and/or with Chapter 24 (Justice, Freedom and Security) – from ReSPA Members and Kosovo*.

During the Study Visits, ReSPA will organise a number of meetings and sessions in order to discuss topics of importance including: organisation and functioning of the Council of Europe (CoE); work of the Parliamentary Assembly of the CoE (PACE); principles and work of the ECtHR; relations between PACE and the ECtHR; impact of the ECtHR Case-law on national legal systems; status and effect of the European Convention on Human Rights (ECHR) in the Western Balkan countries; jurisdiction and jurisprudence of the ECtHR in administrative disputes; working methods and case management of the ECtHR; work of the Venice Commission - European Commission for Democracy through Law; work of the European Commission for the Efficiency of Justice (CEPEJ); issues of importance in relation to the execution of judgements of the ECtHR, and other relevant topics.

The Study Visits will be organised from 25-28 April 2017 (Activity 17011) and from 11-15 September 2017 (Activity 17035) in Strasbourg, France.

For these Study Visits, ReSPA has to invite one expert in Jurisprudence of the ECtHR. The expert shall prepare and give presentations on the impact of the ECtHR Case-law on National Legal Systems, and on jurisdiction and jurisprudence of the ECtHR in administrative disputes.

Objectives and Scope of the Assignment

The objective of the Assignment is to prepare and deliver two presentations: one on the impact of the ECtHR Case-law on National Legal Systems, and the other one on jurisdiction and jurisprudence of the ECtHR in administrative disputes. The presentations should be tailor-made for the participants of the Study Visit.

Each presentation should be prepared in English language in the format of power point presentation. The presentations should be delivered on 25 April and on 27 April 2017, and on 12 September and 14 September 2017, at the CoE (Agora building) in Strasbourg, France. The expert should be able to answer to questions from the audience and to participate in the discussion. The expert should prepare the report about the sessions and provide recommendations for further activities.

Tasks and Responsibilities

The Expert is expected to perform the following tasks:

- To conduct desk research on the Case-law of the ECtHR related to administrative disputes;
- To prepare and deliver two presentations: one on the impact of the ECtHR Case-law on National Legal Systems, and the other one on jurisdiction and jurisprudence of the ECtHR in administrative disputes.
- To actively participate in ReSPA Study Visits to Strasbourg from 25-28 April and from 11-15 September 2017;

- To prepare the report with recommendations for follow up activities – to be submitted to ReSPA in English language (up to 3 pages), by 5 May 2017 (for 1st Study Visit), and by 20 September 2017 (for 2nd Study Visit).

Within the above framework, the Expert is expected to liaise directly with the ReSPA Programme Manager in charge for organisation of the Study Visits, and to take into consideration the instructions received beforehand.

Necessary Qualifications

The Expert shall possess the following qualifications:

- PhD in Law / Doctor of Juridical Science (J.S.D.), preferably with specialisation in Human Rights and/or Administrative Law;
- Minimum 5 years of experience in cooperating with the European Court of Human Rights (ECtHR);
- Experience in drafting analytical papers, legislation, academic papers or policy documents related to the work of the ECtHR, including published research in the field;
- Excellent written and oral communication skills in English language;
- Advanced computer literacy;
- Ability to work with people of different nationalities, religions and cultural backgrounds;
- Excellent organisational skills, proven communication and presentation skills and ability to work in an environment requiring liaison and collaboration with multiple actors including government representatives, international organizations, and other stakeholders.

The Expert shall possess the following competencies and core values:

- Demonstrates professional competence to meet responsibilities and task requirements, and is conscientious and efficient in meeting commitments, observing deadlines and achieving results;
- Results orientation: plans and produces quality results to meet established goals, generates innovative and practical solutions to challenging situations;
- Communication: Excellent communication skills, including the ability to convey complex concepts and recommendations in a clear and persuasive style tailored to match different audiences;
- Team work: Ability to interact, establish and maintain effective working relations with a culturally diverse team;
- Client orientation: Ability to establish and maintain productive partnerships with regional and national partners and stakeholders, and pro-activeness in identifying the needs of beneficiaries and partners, as well as matching them to appropriate solutions.
- Demonstrates integrity and fairness by modelling ReSPA values and ethical standards;
- Displays cultural, gender, religion, race, nationality and age sensitivity and adaptability.

Time-frame, Level of Effort, and Location

The Assignment consists of two segments: the first is to be completed between 18 April and 5 May 2017; the second is to be completed between 1 and 20 September 2017.

The expert should be engaged for 7 days for the Activity 17011, and 7 days for the Activity 17035. Total engagement should be for 14 working days.

The Level of Effort (LoE) is estimated at 14 (fourteen) working days, as follows:

- 4 (four) days for desk research and preparation of presentations;
- 4 (four) days for participation and presentation at the ReSPA Study Visit to Strasbourg from 25-28 April 2017
- 5 (five) days for participation and presentation at the ReSPA Study Visit to Strasbourg from 11-15 September 2017
- 1 (one) day for preparation of the reports for ReSPA.

The assignment foresees work from home and participation at the ReSPA Study Visits in Strasbourg, France from 25-28 April and from 11-15 September 2017.

Deliverables and Final Documentation

The following deliverables shall be produced and transferred to ReSPA during the Assignment:

- Two presentations: one on the impact of the ECtHR Case-law on National Legal Systems, and the other one on jurisdiction and jurisprudence of the ECtHR in administrative disputes.
- Report on undertaken activities and recommendation for follow up activities;
- Time Sheet for undertaken activities.

Quality Control

The Expert should ensure an internal quality control during implementing of the Assignment. The quality control should ensure consistency and coherence between findings, conclusions and recommendations. It should also ensure that findings reported are duly substantiated and that conclusions are supported by relevant judgment criteria.