

# The Training of Judges and Legal Practitioners

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**The Training of Judges and Legal**  
**Practitioners - Ensuring the Full**  
**Application of EU Law**

**WORKSHOP**  
**12 April 2017**

**Compilation: Three Briefings and One In-Depth**  
**Analysis**

**Abstract**

The workshop, organised by the Policy Department for Citizens' Rights and Constitutional Affairs upon request by the Committees on Legal Affairs and on Civil Liberties, Justice and Home Affairs of the European Parliament, provides an opportunity to discuss about the training of judges and of other legal professionals in EU law and in the law of other Member States. The European Commission, in its 2011 Communication on "Building trust in EU-wide justice", set the objective of enabling half of the legal practitioners in the EU to participate in European judicial training activities by 2020. The workshop will be a forum to discuss to what extent this objective is being attained, as well as to understand the existing challenges and good practices that have been developed in the training of several categories of legal professionals.

## **ABOUT THE PUBLICATION**

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## **LIST OF ABBREVIATIONS**

<b>BAs</b>	Bar Associations
<b>CCBE</b>	Council of Bars and Law Societies of Europe
<b>CfP</b>	Call for Proposals
<b>CJEU</b>	Court of Justice of the European Union
<b>CoE</b>	Council of Europe
<b>CPD</b>	Continuing Professional Development
<b>ECHR</b>	European Convention of Human Rights
<b>ECtHR</b>	European Court of Human Rights
<b>EJTN</b>	European Judicial Training Network
<b>ELF</b>	European Lawyers Foundation
<b>ESC</b>	European Social Charter
<b>HELP</b>	Council of Europe training programme “Human Rights Education for Legal Professionals”
<b>MS</b>	Member States
<b>NTIs</b>	National Training Institutions
<b>ToT</b>	Training of Trainers

## **HUMAN RIGHTS EDUCATION FOR LEGAL PROFESSIONALS: HELP PROGRAMME OF THE COUNCIL OF EUROPE**

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### **KEY FINDINGS**

- **HELP is the Council of Europe's educational platform on human rights for judges, prosecutors and lawyers.** It is the driving force in Europe when it comes to legal education on the European Convention on Human Rights (ECHR) and fundamental rights.
- **HELP's 3 components are:** a **network** of schools for the Judiciary and Bar associations in the 47 member states of the Council of Europe (CoE); an **e-learning platform** with a catalogue of free courses merging knowledge, skills and values; and a **methodology**.
- Building on the ECHR, **HELP courses** now also cover the European Social Charter and, since 2015, increasingly, the EU Charter on Fundamental Rights and other relevant EU laws (e.g. data protection and anti-discrimination), as well as the case law of the Strasbourg and Luxembourg Courts. Courses are developed "by legal professionals for legal professionals", taking into considering their busy schedule and the difficulties of balancing learning and working. HELP courses combine European standards with national legislation and are translated into national languages.
- While being the only genuinely **pan-European Programme of legal education on fundamental rights**, HELP has adopted a regional approach to be more effective:
  - Joining forces with the EU: the **EU-funded "HELP in the 28"** has been the largest training project within the EU on fundamental rights for judges, prosecutors and lawyers.
  - Running programmes on **strategic regions for the EU**: Russian Federation, Turkey and Western Balkans.
- The CoE's own resources are insufficient to cope with Europe's challenges such as rising xenophobia, radicalisation, unresolved economic crisis or privacy breaches, all of them with negative impact on Europeans' fundamental rights. A new approach is needed in the **EU-CoE partnership to extend more systematically the benefits of HELP to EU countries and EU legal professionals** and make them sustainable on a multi-year framework. This will contribute to building the very much needed **European Judicial Culture** and reinforce **mutual trust among European legal professionals**.

## **1. INTRODUCTION**

The aim of this briefing is twofold. First, to present the CoE's HELP Programme and its added value in training legal professionals on fundamental rights in the whole continent. Secondly, to call for the European Parliament's and its relevant Committees' backing of the scaling up of the HELP benefits to a larger number of European legal professionals, with emphasis on those working in EU Member States (MS).

In the current and complex European context, the EU and the CoE need to join forces and reinforce their common work to build a stronger culture of fundamental rights and values. This is the more urgent in order to ensure harmonisation of European standards and mutual trust not just among EU legal professionals but in the whole continent.

## Human Rights Education for Legal Professionals

National courts are at the forefront of human rights' protection and that role is of an even greater importance at times of (political and economic) crisis when judges, prosecutors and lawyers have a greater responsibility in ensuring that public policies do not erode the protection of fundamental rights.

In this context, it is indisputable that adequate legal training of judges, as well as other legal professionals, is necessary to ensure that all fundamental rights are effectively protected and implemented at the national level. This is a priority for both the CoE and the EU.

Education on all human rights is an uninterrupted journey that should start in school, continue at university and throughout a professional career. Education means acquiring knowledge, skills and values and all the actors of the justice chain are concerned.

## What is HELP?

HELP is the CoE's main **educational platform for legal professionals**. HELP supports the CoE member states in effectively implementing the European Convention on Human Rights (ECHR), the European Social Charter (ESC) and other relevant European standards at the national level.

The **objective of HELP is to provide high quality education on human rights to judges, lawyers and prosecutors throughout Europe**. Law enforcement authorities such as police and prison staff are also targeted by HELP. This education means that legal professionals can better protect human rights on a national level and keep up to date with the ever-evolving standards and case law of the European Court of Human Rights (ECtHR).

HELP's birth certificate is the [CoE's Committee of Ministers Recommendation \(2004\) 4](#) on the ECHR in university education and professional training. At the time when this recommendation was adopted, the success of the Strasbourg Court and the accompanying massive influx of cases were almost causing it to collapse and it was necessary to launch some key reforms to lighten the burden on the Court and to ensure faster access to justice by victims. Professional training was also seen as crucial to safeguard fundamental rights and ensure the implementation of the ECHR system at the national level, without resorting to Strasbourg.

Other Committee of Minister's documents have reinforced HELP's position and role, notably the [2015 Brussels Declaration](#) that called on States to *"increase efforts at national level to raise awareness among members of parliament and **improve the training of judges, prosecutors, lawyers and national officials** on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integral part of their vocational and in-service training, where relevant, including by having recourse to the **Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe...**"*

Apart from the **ECHR**, HELP covers other instruments such as the **European Social Charter** or CoE Conventions in areas such as data protection, bioethics, or human trafficking. Furthermore, and **with EU support**, since 2015, **the EU Charter of Fundamental Rights and relevant EU law** are also included in the courses specifically developed for EU countries in areas that respond to the serious challenges that Europe is facing on many fronts. HELP courses contain practical examples and case law from both the ECtHR and the Court of Justice of the European Union (CJEU).



## The 3 components of HELP

- 1) HELP is first of all a **pan-European network** of the National **Training Institutions for Judges and Prosecutors** (NTIs) and **Bar Associations** (BAs) of the CoE's 47 member states<sup>1</sup>. Their representatives, national experts appointed to be the link between the respective training institution and the HELP Secretariat, support the implementation of concrete HELP courses/activities in their countries.  
With its peer-to-peer approach, the HELP Network shares best practices in the Annual HELP conference, provides advice and adopts a roadmap with priority topics to be developed in future HELP courses. 2017's conference title will be "HELP for friendly justice".
- 2) Secondly, HELP is an **e-learning platform** on human rights.  
Online courses and training resources on European human rights standards are available on the [HELP e-learning portal](#). In contrast with other legal training platforms, HELP offers all their courses **for free, ensuring access for all** interested legal professionals ready to invest time, regardless of their financial capacities.

The CoE is indeed in a unique and privileged position to develop practical training content, because, taking CoE standards as the basis, it can also factor in its case law and the results of its monitoring bodies. It is in a position to also mobilise CoE expertise for the design of HELP courses, be they lawyers or judges of the ECtHR or experts from relevant CoE bodies (Human Rights Commissioner's Office, Execution Department, Committee for the Prevention of Torture, Data Protection Unit, etc.). This is a guarantee of the high-quality and practical approach of HELP educational resources. Examples of videos produced jointly by HELP and the ECtHR include topics as varied as [asylum](#) or [counter-terrorism](#).

The **catalogue of HELP courses** covers, among others, the following topics:

1. Introduction to the ECHR and the ECtHR
2. Admissibility criteria (ECtHR)
3. Asylum
4. Family law
5. Child-friendly justice and children's rights
6. Anti-discrimination
7. Hate crime/hate speech
8. Community sanctions and alternative measures to detention
9. International co-operation in criminal matters
10. Business and human rights
11. Counterfeiting of medical products and crimes against public health
12. Transitional justice
13. Property rights
14. Trafficking of human beings
15. Pre-trial investigation in the light of ECHR
16. Reasoning of judgments in criminal cases
17. *Fight against racism, xenophobia and homophobia\**
18. *Data protection and privacy rights\**
19. *Labour rights\**
20. *Right to the integrity of the person (bioethics)\*<sup>2</sup>*

Other courses currently under development include topics such as violence against women and domestic violence, internally displaced people, fight against drugs and access to justice.

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<sup>1</sup> NTIs (National Training Institutions) and Judiciary Schools are used indistinctively throughout this paper.

<sup>2</sup> These four courses have been developed under the EU/CoE 'HELP in the 28' Programme for EU countries.

Proposals have been submitted for EU funding for new courses concerning Radicalisation Prevention and Procedural Safeguards in Criminal Proceedings. The latter in particular covers areas where the CoE has produced substantive law and work such as the Protocol to the CoE Convention on the Prevention of Terrorism or the CoE contributions to EU Directives on procedural rights and victims' rights.

The HELP platform gives legal professionals the opportunity to learn about what they want, when they want, by giving them free and easy access to self-learning materials.

There are **two main types of HELP training resources** available on the HELP platform:

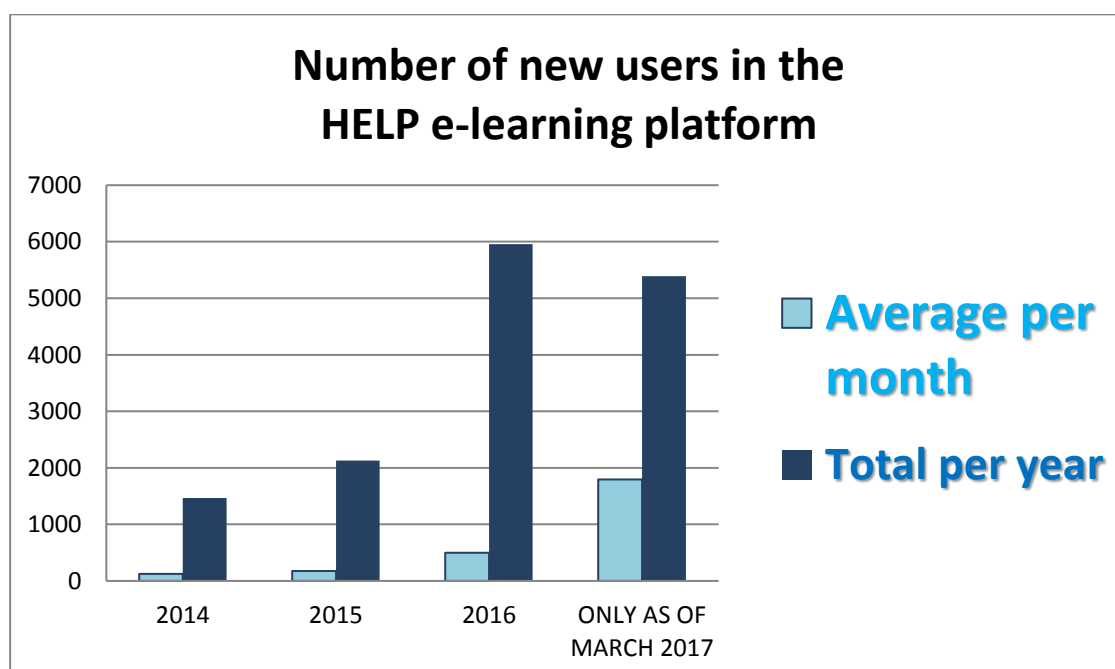
- **Self-learning resources** are available to any user who opens an account on the HELP online platform (<http://help.elearning.ext.coe.int/>).

These resources include self-learning courses on the above-mentioned topics, as well as training manuals and other resources on different ECHR Articles. Increasingly, since 2015, the EU law and case law dimensions are also being considered.

While the model courses are available in English, HELP strives to gradually translate them into national languages and adapt them to national legal orders, a colossal task considering the CoE's 47 MS. However, the CoE's available financial and human resources are insufficient to respond to increasing demands from NTIs and BAs for the adaptation and launching of courses.

Anyone who successfully completes an online course has the opportunity to print a statement of accomplishment (different from the certificate described below).

- **Distance-learning courses** are available for groups of legal professionals selected by the NTIs and/or BAs to participate in pilot courses moderated by certified national tutors. Completing a distance-learning course leads to each participant getting a joint certificate issued by the respective national training institution and the Council of Europe. It can also lead to appropriate accreditation for the participants.



HELP e-learning courses are unique in their content and format. They cover the relevant CoE and EU legislation and include references to the case law both from the ECtHR and the CJEU. Decisions and conclusions of the European Committee of Social Rights are also

included when relevant, for instance in the course on labour rights or anti-discrimination. The courses are interactive, with a wide range of visuals, exercises and case studies. HELP is adapted to all needs through the use of modern technologies.

The aim is to make sure that participants will gain a practical understanding of when and how to apply the European system of protection in each of the areas covered. The objective is not to make of every single judge, prosecutor and lawyer an expert on human rights; it is rather to create a “reflex” among them that they can recognise a human rights issue in any case they have to deal with and to give them the tools to address it adequately.

3) The third pillar is HELP’s human rights training **methodology** for legal professionals.

The HELP methodology, based on the principle of open education, takes into consideration the busy schedules and heavy time pressure imposed on legal professionals in their daily work. The **curricula are tailor-made to meet participants’ specific training needs and learning pace**. On average, a HELP course requires an investment of 3 real learning hours per 1-2 weeks over a period of 2 to 4 months, depending on the course and if it is followed as self-learning (shorter, between 8 to 20 hours) or moderated by a tutor (longer, as it then includes the adaptation to the national legal order, which can lead to up to doubling the time of the self-learning version).

The HELP methodology is **cheap and flexible** while ensuring top quality educational materials. **Courses and materials** are usually designed by international experts from different and complementary backgrounds, and are then translated and adapted to the national legal order of each country, with the ultimate goal of the course being included in its continuous education programme. The adaptation to the national legal order by a national tutor will ensure that the course is relevant to the audience and that the European perspective is integrated into national law, so that it is not perceived as something alien.

**Training of Trainers (ToT)** are organised to prepare participants to fulfil the role of HELP trainers and to increase ownership by national training institutions. Successful participants are inserted in a list of certified HELP trainers so that national training institutions can involve them into activities on European Human Rights standards.

After the course completion, an **evaluation** of the course materials is carried out, on the basis of the participants’ and trainers’ feedback. This allows HELP to constantly improve its products and afterwards offer them as **self-learning resources** of high quality, available to any legal professional/user of the HELP platform.

The HELP methodology and resources are systematically used in all CoE capacity building activities on the ECHR organised in the Member States, including within the framework of EU/CoE Joint Programmes.<sup>3</sup>

## 2. HELP REGIONAL OR COUNTRY-SPECIFIC PROJECTS

While being the only genuinely pan-European Programme of legal education on fundamental rights, HELP has adopted a regional/country-specific approach to be more effective, particularly when working in complicated contexts. This approach could also be applied to other regions such as the Caucasus if resources were mobilised.

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<sup>3</sup> More information on the methodology is available online, at <http://www.coe.int/en/web/help/help-training-methodology>.

## HELP in Russia

"HELP in Russia" supports judges, lawyers and prosecutors from the Russian Federation to acquire the ability and skills to apply the ECHR and the ESC in national proceedings and effectively use the legal principles and methods established in the ECtHR and the European Committee of Social Rights' case law. Law students also benefit from the activities.

Benefitting from the existing methodology, network and courses, "[HELP in Russia](#)" reinforces the work of HELP and specifically adapts material to the national context. Follow-up activities for 2017-2018 include the training of more national trainers; the organisation of activities for mixed groups of legal professionals (bringing judges, prosecutors and lawyers together); the development/adaptation of new courses on areas such as the length of procedures in criminal cases, data protection or property rights; the systematic inclusion of more target groups such as civil servant, students and staff of regional ombudsperson's offices; and the extension of "HELP in Russia" to more regions of the Federation.

## HELP in the Western Balkans and Turkey

"HELP in the Western Balkans and Turkey" enhances the effectiveness of the ECHR and of its implementation at the national level in Albania, Bosnia and Herzegovina, Montenegro, Serbia, the former Yugoslav Republic of Macedonia and Turkey.

This regional approach establishes a strong network and promotes the exchange of good practices among target countries. HELP activities have intensified in the region since 2016. An example is the first [regional ToT](#) in March 2017 or the launch of the HELP course on [Hate Speech and Hate Crime in Bosnia and Herzegovina](#).

## HELP in the EU

Joining forces with the EU, the EU-funded "HELP in the 28" (1.6 M EUR) has been the largest training project within the EU on fundamental rights for judges, prosecutors and lawyers.

"HELP in the 28" supports **legal professionals in the EU MS** in acquiring knowledge and skills on how to refer to the Charter of Fundamental Rights of the EU, the ECHR, and the European Social Charter. It also reinforces the HELP Network of national training institutions and bar associations in the EU.

Under this programme, **four new HELP courses** have been developed in line with priorities that matter for Europeans. The content of these model courses in English has been developed by consultants and CoE experts. The on-line versions are available in the e-learning [platform](#).<sup>4</sup> Up to 25 courses have been launched covering 16 EU MS (national adaptations to legal orders and languages) reaching directly more than 750 legal professionals, who have participated in tutored courses, and a larger audience under self-learning (the HELP platform has 6.000 active users). The courses include the following topics (you can click after each course to watch its short introductory video):

Data protection and privacy rights: [video](#). Its content was updated in light of the EU Reform Package adopted in April 2016.

Fight against racism, xenophobia, homophobia and transphobia: [video](#).

Labour rights: [video](#).

Right to the integrity of a person (bioethics): [video](#).

An existing HELP/UNHCR course on asylum saw its EU dimension reinforced with the inclusion of the recent case law from both the Luxembourg and Strasbourg Courts. Additionally, the course has been tailor-made to the needs of Greek legal professionals, targeting new needs

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<sup>4</sup> You need to register and log in to access the courses.

arising from massive arrivals of the last years, as well as the [EU-Turkey statement](#). The on-line versions of the courses are available in the [e-learning platform](#); the 25 national versions of the courses (translated and adapted to legal orders) will be accessible for any user in Spring 2017.

**The development of the courses has taken as a basis available EU materials on EU law, case law and practices, particularly handbooks produced by the Fundamental Rights Agency (e.g. on non-discrimination and on data protection and privacy).** CoE relevant Units (European Commission against Racism and Intolerance/ECRI; Data protection Unit; Committee of the European Social Charter; or Bioethics Unit) have been involved in the development of the courses, together with, when relevant, Programme partners such as the European Judicial Training Network (EJTN) or the United Nations Interregional Crime and Justice Research Institute (UNICRI).

The EU National Training Institutions and Bar Associations became very proactive in the HELP Network, thanks to the boost of 'HELP in the 28'. In the 28 EU MS, there are now 25 contact points for EU NTIs and 23 for BAs (increasing from merely 9 EU contact points in January 2015). **It has to be noted that until the start of "HELP in the 28", HELP had attracted much more interest in non-EU countries, particularly pre-accession, candidate or Eastern Partnership countries.**

Approx. 750 legal professionals have directly benefitted from the Programme as participants of tutored courses. The cost per direct beneficiary is ca. €1.900, which ensures best value for money (best price/quality ratio). In addition, 5 European Seminars covering the thematic topics of mentioned courses were organised gathering 250 participants and mobilising top CoE experts, at an approximate cost per participant of €700. The courses are free for participants - costs are borne by the organisation (CoE with EU financial support).

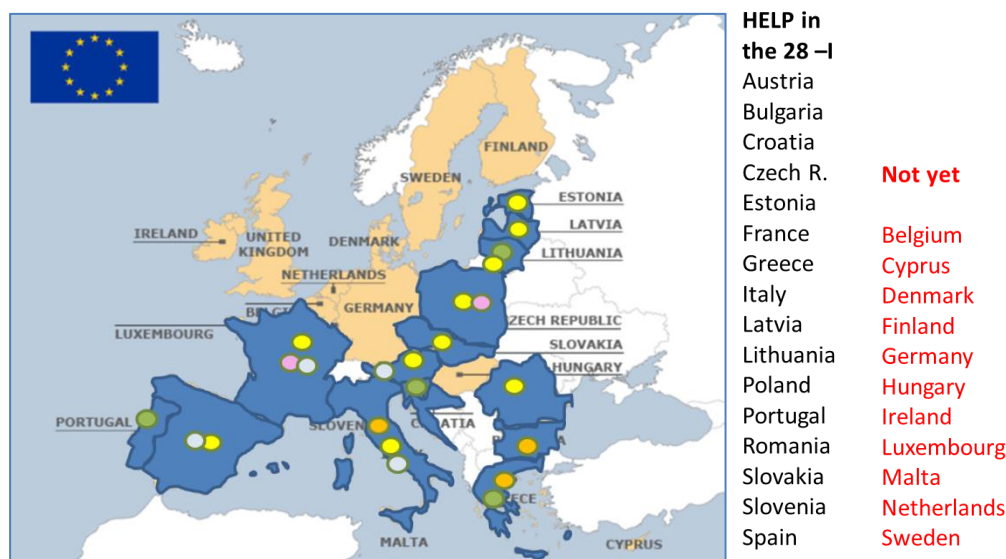
**Partnership with European alliances**, such as the Council of Bars and Law Societies of Europe (**CCBE**) or **EJTN** has been an asset for the project. In the case of EJTN, the complementarities reinforce each institution's impact. While EJTN exclusively focuses on (mainly traditional) training of judges and prosecutors in the 28 EU MS and in nearly all branches of law, HELP in the 28 focuses on e-learning of judges, prosecutors and lawyers in the specialised field of human rights. The creation of a EJTN sub-working group on human rights is seen by HELP as a timely and powerful venue to optimize HELP resources.

**Table 1: The table below shows the 25 tutored courses provided by HELP in 16 EU Member State for more than 750 legal professionals who have directly benefitted from the Programme.**

Country	Partner	Course
<b>Austria</b>	Training Department for Judges and Prosecutors at the Federal Ministry of Justice	Racism, xenophobia, homophobia
	Bar Association	Data protection
<b>Bulgaria</b>	National Institute of Justice	Asylum
<b>Czechia/Slovakia</b>	Bar Associations	Data Protection
<b>Croatia</b>	Judicial Academy	Racism, xenophobia, homophobia
<b>Estonia</b>	The Supreme Court of Estonia	Data protection
<b>France</b>	Ecole Nationale de la Magistrature	Data protection
	Institut de Droits de l'Homme du Barreau de Paris -CNB	Integrity person -bioethics
	Conseil National des Barreaux	Racism, xenophobia, homophobia
	Service Juridique Ligue Int'l contre le Racisme	Racism, xenophobia, homophobia
<b>Greece</b>	School of Judges	Labour rights
	School of Judges	Asylum
<b>Italy</b>	Bar Association	Racism, xenophobia, homophobia
	Bar Association	Data protection
	Italian School of Judiciary	Asylum
<b>Latvia</b>	Bar Association	Data protection
<b>Lithuania</b>	Bar Association	Data protection
	National Court Administration	Labour rights
<b>Poland</b>	National School of Judiciary and Public Prosecution	Integrity person -bioethics
<b>Portugal</b>	Centre for Judicial Studies	Labour rights
<b>Slovenia</b>	Judicial Training Centre	Labour rights
<b>Spain</b>	General Council of the Judiciary	Racism, xenophobia, homophobia
	Spanish Bar Council	Data protection
<b>Romania</b>	Romania Institute for Magistracy	Data Protection
	Romanian Bar Association	Data Protection

Still, as shown in the map below, not every EU country has benefitted from all HELP courses developed specifically for the EU and there are still EU countries not covered.

**Map 1: "HELP in the 28" is one example of the activities conducted as part of the HELP programme. It covers the 28 Member States of the European Union and offers 5 courses**



## Future strategy for the expansion of “HELP in the EU”

HELP’s **plans for the future** include the expansion of existing courses on fundamental rights (as mentioned above) and the development of new courses on pressing challenges in the EU (e.g. fighting radicalisation leading to violence, crime victims’ rights). The latter are areas where the CoE has worked – closely with the EU – on crafting law, both under the CoE or the EU systems (i.e., Protocol to the CoE Convention on the Prevention of Terrorism or the EU Directives on procedural rights and victims’ rights).

The natural partner for HELP’s requested and needed expansion in the EU cannot be but the EU itself. The backing of all EU institutions to such intensification of HELP work in the EU is needed: the European Parliament, the European Commission and the Council.

Alongside CoE limited resources, external funding support is currently actively sought whereas, again, the most natural partner would be the EU. A two-pronged strategy could be contemplated, for the short and medium-long term as follows:

- **Short-term:** HELP plans to develop a multi-country course on Fighting Radicalisation and an expansion of Judicial Training via HELP courses. In November 2016, the CoE submitted two proposals to relevant EU Calls for Proposals (CfP) by DG Justice.
- **Medium/long-term strategy:** While the CfPs launched by DG-JUST can be vital financing opportunities for HELP’s work in the EU (allowing it to go beyond the mere survival mode it would be forced into if only counting on CoE’s own resources), these CfP are becoming increasingly more atomized, less well-resourced financially, and more appropriate for national institutions or NGOs than for supranational or international ones such as the CoE. In this context, HELP would suggest it would be essential to adopt a more strategic approach and enhanced partnership between HELP and the EU, in order to attain their common objectives on judicial training. One of them is the EU’s objective of enabling half of the EU legal practitioners to participate in European judicial training activities by 2020. For this, the role of HELP, via an expansion of the “HELP in the 28” programme, can be crucial. But to go from a few to many more legal practitioners trained through this programme, both political engagement and financial resources are vital.

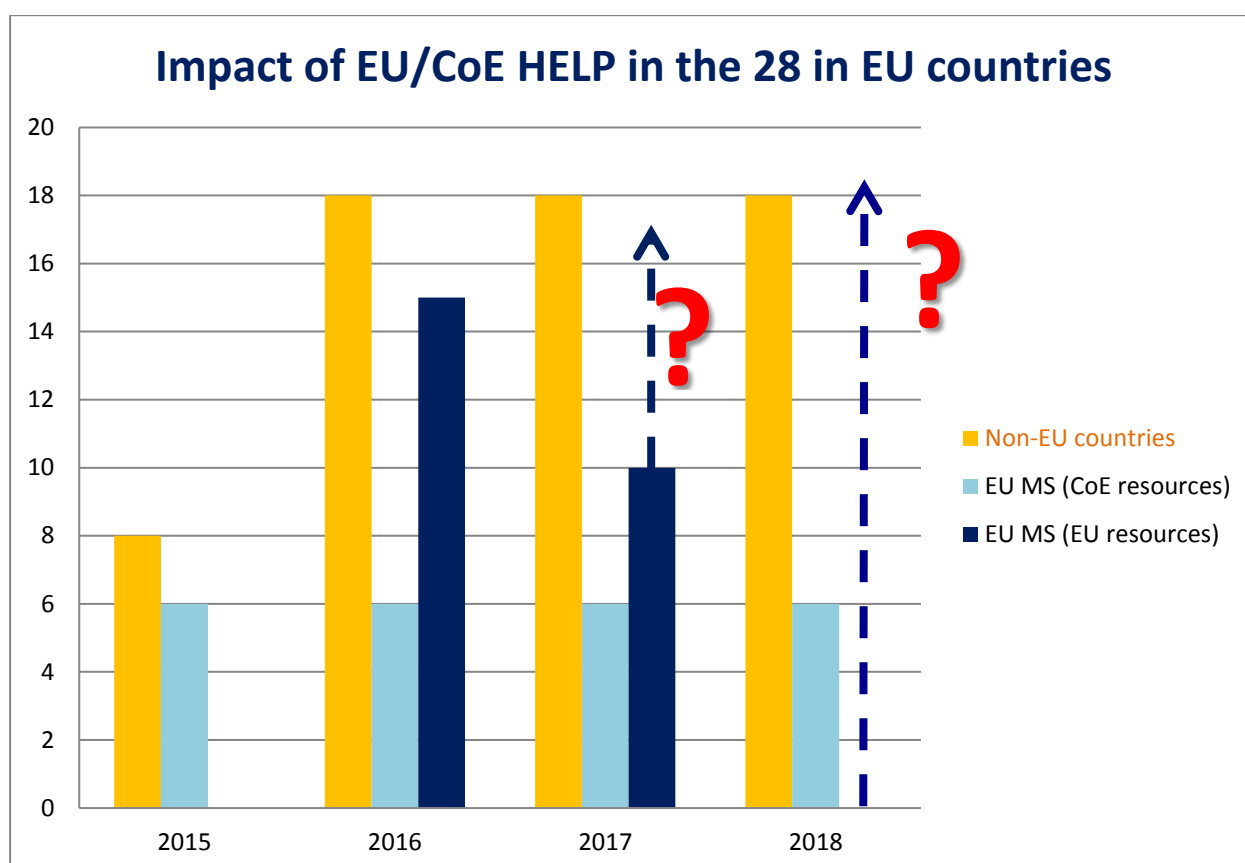
The adoption of an approach similar to negotiations undertaken by the CoE with the EU on geographical areas (Programmatic Cooperation Framework or South Programme) or by other



institutions (European Judicial Training Network<sup>5</sup>) is therefore proposed, **aiming at a long-term strategic support** to achieve **sustainable impact**.

The suggestion from the CoE for the negotiation would be to develop a more solid framework for cooperation, based on multiannual programme cycles. Such framework could contain clear objectives and indicators on judicial training in the EU on human rights, agreed by the EU and the CoE, optimising the HELP network, methodology and courses.

The graphic below clearly shows the impact that EU backing has and can have on implementing courses in EU countries. It even results in a better allocation of CoE efforts to EU neighbouring countries, where the demand for HELP courses continues to grow exponentially.



**The CoE's own resources are insufficient to cope with Europe's challenges** such as rising xenophobia, radicalisation, unresolved economic crisis or privacy breaches, all of them with negative impact on Europeans' fundamental rights. While it is easier for the CoE to obtain external support (including from the EU) for regions/countries beyond the EU borders, **a new approach is needed in the EU-CoE partnership to extend the benefits of HELP to EU countries and EU legal professionals and make them sustainable on a multi-year framework. This will contribute to building the very much needed European Judicial Culture and reinforce mutual trust among European legal professionals.**

<sup>5</sup> It may be worth to highlight differences and complementarities between HELP and EJTN, particularly the main distinctions:

- 1) EJTN covers all areas of EU substantive law while HELP covers those with direct links to **human rights**, and merges the EU and the CoE system.
- 2) EJTN focuses on judges and prosecutors while HELP focuses on judges, prosecutors and **lawyers**.
- 3) HELP prioritises free **e-learning** (using also blended approaches with face-to-face meetings) which enables a larger audience to access HELP courses.

Those differences, however, make the joint work by HELP and EJTN the more relevant, with EJTN experts contributing valuably when designing HELP online courses.



### 3. CONCLUSIONS

HELP has become the umbrella for all human rights capacity development endeavours undertaken by the CoE. HELP's high-quality courses, developed by "legal professionals for legal professionals", are increasingly more demanded by the NTIs and BAs of the HELP Network.

#### Key Strengths of the HELP Programme

In short, there are five key strengths of HELP:

- 1) It's the only genuinely pan-European Programme of legal education based on a pan-European HELP Network (Judiciary schools and Bar associations of CoE 47 MS);
- 2) "A la carte" and tailor-made approach with a huge potential for development and adaptation to national training system;
- 3) Focus on the enhanced capacity of national trainers (train-the-trainers approach), thus creating a strong national ownership of the HELP Programme;
- 4) Quality of the training modules merging European standards with national law;
- 5) Use of modern technologies including - but not limited to - interactive distance learning, combined with a face-to-face launching when the course is moderated by a tutor.

Good quality human rights training for judges and other legal professionals should generate **national decisions that reflect European standards**. In the current world of unexpected changes, this is valid not only for neighboring countries/regions, but more and more in the heart of the continent, in EU countries themselves.

It is in the **common interest of the EU and the CoE to equip legal professionals with substantive knowledge, skills and attitudes** since they are the key guardians to protect liberties and prevent violations of Europeans' fundamental rights.

Optimising **HELP** benefits (network, courses and methodology) **will certainly contribute to** building the very much needed **European Judicial Culture** and reinforce **mutual trust among European legal professionals**.

While political engagement and adequate resources are crucial for educational actions to have meaningful impact, the HELP Programme – based on the ownership of NTIs and BAs as well as cooperation with its key international partners (EJTN and CCBE) - will strive to support the actors of the judicial chain in **upholding human rights throughout the European space**.

## EJTN GOOD PRACTICES IN JUDICIAL TRAINING

### The European Judicial Training Network (EJTN)

#### KEY FINDINGS

- As recognised in the 2014 Council conclusions *Training of legal practitioners: an essential tool to consolidate the EU acquis*, **EJTN is best placed to coordinate**, through its members, national training activities across the European Union and to develop a cross-border training offering for judges and prosecutors.
- Focussing on its core mandate of judicial training, EJTN efficiently administered its various training programmes in 2016. Utilising the **best available expertise and unique training methodologies**, offering **initial and continuous training** opportunities, addressing traditional and topical issues and offering both face-to-face and distance learning, EJTN presented a truly comprehensive judicial training offering **addressing nearly 5,600** judges, prosecutors, trainers and trainees in 2016.
- The **challenges in European judicial training** have been identified by EJTN whilst performing its activities. They include in particular the lengthy internal procedures for the appointment of participants to be trained abroad, insufficient dissemination of information about the trainings that are available, lack of recognition of participation in training abroad, absence of international components in the national training curricula, workload, language barriers, lack of correlation between training attended and tasks assigned, and national training schemes/procedures making participation virtually impossible.
- Having identified presidents of courts and heads of prosecution offices as the key actors, and at the same time as potential addressees of its training activities, steps were undertaken to tailor training activities for this group as a way to overcome the above-mentioned challenges. One of these specific activities is the **exchanges dedicated to judicial leaders**.

## 1. EJTN IN BRIEF AND CURRENT ACHIEVEMENTS

### EJTN in brief

Judges and prosecutors, as well as other legal practitioners, play a fundamental role in guaranteeing respect for the law of the European Union. Justice, including judicial cooperation, has become a mature EU policy with the entry into force of the Lisbon Treaty, and training is a key tool to ensure that the rights granted by EU legislation become a reality, that the effectiveness of the justice systems in the Member States increases and that legal practitioners trust each other's justice systems. This in turn should help to ensure smooth cross-border proceedings and recognition of judgments.

At a time when increasing attention is paid to the role and significance of the judiciary, the question of the training of the judiciary is of particular importance. Judges have a duty to perform judicial work professionally and diligently, which implies that they should have great professional ability, acquired, maintained and enhanced through training.<sup>1</sup>

<sup>1</sup> Opinion no 4 of the Consultative Council of European Judges (CCJE) to the attention of the Committee of Ministers of the Council of Europe on appropriate initial and in-service training for judges at national and European levels.

As recognised in the 2014 Council conclusions, EJTJ is best placed to coordinate, through its members, national training activities across the Member States of the EU and to develop a cross-border training offering for judges and prosecutors. As the only association bringing together the national judicial training institutions of all EU Member States, EJTJ, in respecting the independence of the judiciary, is the principal platform promoting the development of competences and the exchange of knowledge for the judiciary of the European Union, thus contributing significantly to the reinforcement of the European legal area by developing and sharing a common European judicial culture.

## Key achievements in networking in judicial training

EJTJ training addresses a high number of judges from all EU Member States and offers diversified training topics in a variety of formats. Seminars aim at developing judges' knowledge, skills and attitudes. Exchanges focus on building mutual trust between judges of all EU Member States as well as on developing their knowledge of national legal systems. All activities are addressed to sitting judges, prosecutors, trainees as well as judicial trainers. They comprise traditional in-class courses, blended seminars as well as e-learning.

Focussing on its core mandate of judicial training, EJTJ efficiently administered its various training programmes **in 2016**. Utilising the best available expertise and unique training methodologies, offering initial and continuous training opportunities, addressing traditional and topical fields and offering both face-to-face and distance learning, EJTJ offered a truly comprehensive programme of judicial training.

Looking at the wide variety of all of EJTJ's activities, **5,556** judges, prosecutors, trainers and trainees, representing all EU Member States, participated in EJTJ's training opportunities.<sup>2</sup> In total, **27,312** individual training days were offered.

More specifically, EJTJ's Exchange Programme for judicial authorities, which was launched more than 10 years ago, was once again efficiently administered in 2016. Over **2,217** judges

and prosecutors from all across Europe took part in the programme's judicial exchanges and study visits.

## Perspectives in judicial training

In line with its current strategic objectives, which will be renewed for the period 2021 – 2027, EJTJ fulfills its role as a major partner in the creation of a European legal area<sup>3</sup> by

coordinating national training activities and developing a cross-border training offering for judges and prosecutors at EU level. EJTJ strives to meet the following strategic goals:

- To continue to foster mutual trust between judges and prosecutors from different European legal systems;
- To increase the level of knowledge of EU law among the European judiciary;
- To assure high standards of quality of European judicial training and promote high standards of quality for national judicial training;
- To foster the early development of a judge's and prosecutor's European profile;
- To strive towards an increased networking function of EJTJ;

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<sup>2</sup> i.e. EJTJ addressing 5% of the number of judges as assessed in CEPEJ's Studies n° 23 "European Judicial systems – Efficiency and quality of justice", Edition 2016 (2014 data).

<sup>3</sup> Regulation 1382/2013 of 17 December 2013.

- To strive towards a more effective external cooperation;
- In the interest of maintaining judicial independence, to reinforce, as far as possible, the primacy of the role of EJTN in all areas of judicial training at the EU level.

## 2. CHALLENGES IN EUROPEAN JUDICIAL TRAINING

### EJTN's Judicial Training Principles

The institutions responsible for training judges and prosecutors of the 28 Member States of the European Union gathered at the General Assembly of the European Judicial Training Network on the 10<sup>th</sup> of June 2016 and solemnly adopted **nine fundamental principles on judicial training**.

These principles acknowledge the importance and specificity of the training from which judges and prosecutors should benefit in democratic societies. A guarantee of competence and professionalism, judicial training is, indeed, essential for legal professionals to perform their duties with efficiency and legitimacy.

- 1. Judicial training is a multidisciplinary and practical type of training, essentially intended for the transmission of professional techniques and values complementary to legal education.*
- 2. All judges and prosecutors should receive initial training before or on their appointment.*
- 3. All judges and prosecutors should have the right to regular continuous training after appointment and throughout their careers and it is their responsibility to undertake it. Every Member State should put in place systems that ensure judges and prosecutors are able to exercise this right and responsibility.*
- 4. Training is part of the normal working life of a judge and a prosecutor. All judges and prosecutors should have time to undertake training as part of the normal working time, unless it exceptionally jeopardises the service of justice.*
- 5. In accordance with the principles of judicial independence the design, content and delivery of judicial training are exclusively for national institutions responsible for judicial training to determine.*
- 6. Training should primarily be delivered by judges and prosecutors who have been previously trained for this purpose.*
- 7. Active and modern educational techniques should be given primacy in judicial training.*
- 8. Member States should provide national institutions responsible for judicial training with sufficient funding and other resources to achieve their aims and objectives.*
- 9. The highest judicial authorities should support judicial training.*

The nine judicial training principles, available in all EU languages, now constitute both the common base and the horizon uniting all the judicial schools of the European Union, beyond the diversity of legal systems and training modes of the judges and prosecutors in Europe.

### Challenges in European judicial training

These principles should also give a strong ground to face existing challenges in European judicial training.

Such challenges have been identified by EJTN whilst performing its activities as well as by

other stakeholders concerned.

A list of such obstacles may be found for instance in the background paper on the follow-up to the December 2014 Council Conclusions on "*Training of legal practitioners: an essential tool to consolidate the EU acquis*" (2014/C 443/04)<sup>4</sup>:

- lengthy internal procedures for the appointment of participants to training organised abroad,
- insufficient dissemination of information about the trainings available,
- lack of recognition of participation in training abroad,
- lack of inclusion of international components in the national training curricula (initial training),
- workload,
- language barriers,
- lack of correlation between training attended and tasks assigned,
- national training schemes/procedures making participation virtually impossible.

On several occasions, efforts have been undertaken to find measures that might help to remove existing hindrances. Below is a list of measures identified in several reports and studies<sup>5</sup> conducted in recent years which could help reduce obstacles to participation.

a) Measures to be put in place to safeguard the right to participate in training activities:

- Ensure that members of the judiciary are allowed and encouraged to participate in appropriate training. (2011 Policy Department Study on "[Judicial training in the European Union Member States](#)", hereinafter EP study 2011)
- Formally recognise continuous training as both a right and a responsibility of judges, prosecutors and court staff. (EP study 2011)
- Set aside a minimum number of hours/days per year for continuous training of judges, prosecutors and court staff. (EP study 2011)

b) Measures to set aside time to participate in training:

- Participants need more free time from work to participate in training(s). Judges should get special leave for participation in training activities. (Minutes of the European Commission expert group on European judicial training, 2010/11)<sup>6</sup>
- Replace judges, prosecutors and court staff who are on training or introduce equivalent measures to ensure that participation in training does not impede the efficient administration of justice. (EP study 2011)

c) Measures to eliminate financial burdens to participate:

- Provide sufficient funding for staff of the judiciary to attend training and allocate it in an equitable and transparent way. (EP study 2011)
- Recognise participation in training of judges, prosecutors and court staff as equivalent

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<sup>4</sup> <http://data.consilium.europa.eu/doc/document/ST-9466-2015-INIT/en/pdf>.

<sup>5</sup> The studies are in particular: the 2011 Policy Department C Study on "[Judicial training in the European Union Member States](#)" (cited as EP study 2011); discussions held during the [first expert meeting](#) on European judicial training, held in November 2010 (cited as EC expert group 2010/11); the 2014 Final Report on "Promotion of cooperation between judicial stakeholders concerned by European judicial training" (lot 4 of the pilot project JUST/2012/JUTR/PR/0064/A4); and the Study on "the state of play of court staff training in EU law and promotion of cooperation between court staff training providers at EU level" (lot 3 of the pilot project JUST/2012/JUTR/PR/0064/A4).

<sup>6</sup> <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=7009&no=1>.

to normal work as a general principle and reward it accordingly. (EP study 2011)

d) Measures to raise awareness of the benefits of training:

- Invite the employers of judges, prosecutors and court staff to regular forums to highlight best practices in judicial training. Adopt a recommendation to this end along the lines of Council of Europe recommendations. (EP study 2011)
- All potentially available partners (i.e. networks of the judiciary) shall undertake by all means available to raise awareness of the added value of participation in training. (2014 [Final Report](#) on "Promotion of cooperation between judicial stakeholders concerned by European judicial training" - Pilot project, lot 4)<sup>7</sup>
- Create awareness among superiors and national authorities responsible for budgets that investing in targeted training saves costs in the long run. (EP study 2011)
- Gather and provide evidence for the cost-saving effect of lifelong learning in the justice sector. (EP study 2011)
- Specifically with regard to court staff: communicate with heads of courts, directors of staff, and all persons managing court staff on a day-to-day basis to raise awareness about the competences needed to ensure a quality level of service of justice, to raise awareness about the EU law aspects of certain tasks and duties and about the usefulness and cost efficiency of training. ([Study](#) on "the state of play of court staff training in EU law and promotion of cooperation between court staff training providers at EU level" - hereinafter Pilot project, lot 3)
- Raise awareness about the existing European online resources. (Pilot project, lot 3)

In order to ensure the effectiveness of the above listed actions, synergies are required between several actors at the national level involved in the management of justice. Most of these steps are beyond the remits of the entities directly responsible for/involved in performing judicial training, which are the members of EJTN. The bulk of such actions is in the hands of other institutions that are not directly involved in judicial training processes. Depending on the national legal systems, these might be ministries of justice, councils for the judiciary, councils of prosecutions, supreme judicial and prosecutorial authorities, associations of judges, presidents of courts and heads of prosecution offices, etc.

Having identified presidents of courts and heads of prosecution offices as the key actors and, at the same time, as potential addressees of EJTN training activities, steps were undertaken to tailor training activities to this group. One of them will be exhaustively presented in the next section.

### **3. EJTN EXCHANGE PROGRAMME FOR JUDICIAL LEADERS (PRESIDENTS OF COURTS AND HEADS OF PUBLIC PROSECUTION OFFICES)**

#### **EJTN Exchange programme**

##### **Aim**

The Exchange Programme for Judicial Authorities is EJTN's flagship activity. Launched at the initiative of the European Parliament<sup>8</sup>, the EJTN Exchange Programme was first implemented

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<sup>7</sup> <https://e-justice.europa.eu/fileDownload.do?id=94aa42a0-ea05-4e22-92cf-b17221be093a>.

<sup>8</sup> European Parliament Resolution (A5-0039/2003) on the guidelines for the 2004 budgetary procedure.

in 2005, with the financial support of the European Union.

The main purpose of the EJTN Exchange Programme is to enhance the European judiciary's practical knowledge of other judicial systems as well as of European and human rights law through direct contacts and exchange of views and experiences between judges, prosecutors and trainers from different EU Member States (EU MS). The EJTN Exchange Programme also aims at developing a European judicial culture based on mutual trust between judicial authorities in the common European judicial area.

## Beneficiaries

The EJTN Exchange Programme is designed for judges and prosecutors at all levels and all courts, future judges and prosecutors as well as judicial trainers.

## Activities

In order to meet the different training needs of the European judiciary, EJTN offers European judges and prosecutors several exchange schemes.

**Short-term exchanges** (1 or 2 weeks) in the courts and prosecution offices of the EU MS allow participants to gain knowledge of other judicial systems and share experiences and judicial practices with their counterparts. Specific exchanges are also organised for judicial trainers allowing them to become familiar with the training methodologies, pedagogical tools, training programmes and best practices in judicial training across EU MS.

EJTN also offers training activities in European courts, EU institutions and agencies. These comprise of **study visits** of a duration of 2 to 5 days at the Court of Justice of the European Union (CJEU), the European Court of Human Rights (ECHR), Eurojust and several EU institutions in Brussels as well as **long-term training periods** (3 to 12 months) at the CJEU, the ECHR and Eurojust. Through these programmes, the beneficiaries receive insight into or acquire in-depth knowledge of the host institution's functioning, proceedings and case-law.

Finally, the **AIAKOS Programme** offers 2-week judicial exchanges specifically tailored for future and early-career judges and prosecutors to raise their awareness of the (future) dimension of their professional life.

## Challenges

The number of participants in the judicial exchanges developed by EJTN has kept increasing over the years. From 170 participants at the time of inception of the programme in 2005, the EJTN exchange programmes nowadays benefit over 2,200 participants each year.

However, the ever-growing number of beneficiaries should not be detrimental to the quality of the Programme itself. The 10th anniversary of the Exchange Programme in 2015 was the opportunity for EJTN to gather the key players within the programme to assess it, identify its strengths as well as the aspects which require improvements. On this occasion, a number of obstacles preventing judges and prosecutors of the EU MS from taking part in judicial exchanges have been identified.

The first obstacle is the **language barrier**. Not all EU judges and prosecutors have sufficient language skills to take part in an exchange. Likewise, many European languages are little known across Europe. To allow for a wider geographical exchange of participants and contribute to spreading knowledge about judicial systems of countries whose languages are less widely known, EJTN developed group exchanges in English and French in which several judges/prosecutors from different countries go on the same exchange, thus increasing the



“cross-fertilisation” aspect of the experience.

Another obstacle is the **limited time** that judges/prosecutors of the EU MS can dedicate to training. Historically, the length of the exchanges was two weeks. Such a length was considered as appropriate for general exchanges where participants are first given a general overview of the judicial system of the host country, followed by a practical training on more specific areas of law. To allow more judges and prosecutors to take part in these programmes, some flexibility was introduced to organise one-week specialised exchanges.

The introduction of such **specialised exchanges** also responded to the necessity to meet the various training needs of the judiciary (depending on their seniority in the career, their specialisation, etc). Relying on a network of associations/networks of specialised judges/prosecutors to better target the audience and identify the most suitable hosts, EJTN is now able to offer specialised exchanges in the following areas: environmental law; asylum and refugee law; labour law; competition law; family law; counter-terrorism; organised crime; and mediation.

**Bilateral exchanges** between courts or prosecution offices of the EU MS are another recently introduced format that allowed to boost participation and to tailor judicial exchanges to the needs of the European judiciary. These one-week exchanges allow groups of judges or prosecutors of the same court/prosecutor's office to spend a week in the court/prosecutor's office of another EU MS and exchange experiences and best practices on a specific topic of common interest. This format allows judges and prosecutors who may not have gone on an individual exchange (due to insufficient language skills, lack of interest...) to benefit from an exchange experience. Additionally, these bilateral exchanges are aimed to be the starting point of a long-lasting and active cooperation between two courts/prosecutor's offices of two different EU MS. It may also convince court presidents and chief prosecutors about the benefits of judicial exchanges.

The reluctance of some court presidents and chief prosecutors to release members of their court/prosecutor's office to go on exchange for one or two weeks is, indeed, another obstacle to the participation of members of the judiciary in judicial exchanges.

EJTN has been striving to overcome this difficulty through the implementation of tailor-made **exchanges for judicial leaders**. Court presidents and chief prosecutors play an exemplary role in their court/prosecutor's office. If we believe that judges should think beyond their national frontiers, this should equally apply to judicial leaders. In other words, judicial exchanges are imperative, particularly for judicial leaders, in order to set an example.

These exchanges have been tailor-made to be as close as possible to the concerns and realities of judicial leaders. They are a platform to exchange best practices on issues such as leadership for professionals, media and their influence over jurisdiction, change management, information and communication technologies, human resources management, financial management, measurement and evaluation of judicial performance.

Improved awareness and publicity of the programme, temporary backfill support so that judges and prosecutors can participate in training activities, increased relevance of exchanges in European training curricula and in the appraisal of judicial professionals, better linguistic training, etc., are all essential factors that could further increase participation.

## **Benefits**

The benefits of judicial exchanges are multiple.

They provide a unique experience from a linguistic point of view, as participants become



directly acquainted with legal terminology in a different European language.

They allow participants to gain knowledge on the judicial systems of other EU MS, on the law of the European Union and EU judicial cooperation instruments and mechanisms.

Most importantly, as a result of the exchange, the beneficiaries feel they belong to a common judicial culture. They can exchange views and experiences with judges/prosecutors of other EU MS, conduct in-depth comparisons on how systems work in practice, reflect on their own practice, get useful contacts, etc. All of these are crucial to foster mutual trust and understanding between the different judicial systems of the EU MS.

The special exchange programme dedicated to future and early-career judges and prosecutors contributes to shaping, amongst the judiciary of the EU, the identity of a European judge by building up from the very beginning of their careers the feeling of belonging to a common European judicial area. Participation in the Exchange Programme should not be considered just a one-off experience, but as an element of a life-long European judicial training.

The impact of judicial exchanges is not limited to those who had the opportunity to go on an exchange. Indeed, the number of beneficiaries can at least be doubled as exchanges also benefit the “tutors”, who welcome European colleagues in their own courts or offices. In the same way, Exchange Programme participants also share their experience with their own colleagues when back in their countries. Further, one should consider the multiplying effect of group exchanges where there is a constant dialogue between colleagues from different countries.

Finally, through judicial exchanges, court presidents and chief prosecutors can observe and exchange good practices that they can implement in their own court/prosecutor’s offices as the result of the exchanges.

As illustrated in the testimony hereunder and in the annexed list of best practices identified through judicial leaders’ exchanges, these specific exchanges of court presidents and chief prosecutors are highly beneficial and remarkable in their outcomes as they pave the way to encourage judicial leaders to enable more judges and prosecutors to take part in cross-border training activities, hence tackling the challenges described above.

## **TESTIMONY – EXCHANGE FOR COURT PRESIDENTS**

**Dr. Holger Schrade, President of the Labour and Employment Appeal Court (Germany) – on exchange, 7 – 9 December 2016, Ljubljana (SI)**

### **Introduction**

For the first time, an EJTN exchange for court presidents and heads of public prosecutors’ offices was carried out in December 2016. In addition to me, a chief prosecutor (Bulgaria) and a President of a Court of Appeal in Spain took part in it.

The organisation of the exchange went very smoothly. Access to the electronic EJTN communication platform is simple and largely self-explanatory. If any information is missing, the EJTN team takes care of this in a friendly and efficient manner.

The support by the contact person at the Judicial Training Centre in Ljubljana was extremely professional, friendly and competent. The event took place mainly at the Judicial Training

Centre, which is affiliated to the Ministry of Justice of the Republic of Slovenia.

### **The course of the exchange**

On the first morning of the exchange a district court judge welcomed the participants. After that, an employee of the Judicial Training Centre explained the tasks and functions of the Judicial Training Centre (JTC), the hosting institution. The JTC is attached to the Ministry of Justice in Ljubljana and is, for example, responsible for the acceptance of the legal state examinations.

A president of a district court gave us an overview of the judicial system in Slovenia. We learned that there is a court system with essentially three levels, which consists of local or district courts, higher courts and a supreme court. In addition, there is an administrative court, which is rather comparable to a higher court. The administrative court is responsible for tax law cases, too. There are also local labour and social courts and a higher labour and social court. The Supreme Court is responsible for all revisions in all cases. There are 31 judges who are supported by other assistants.

A considerable problem in Slovenia seems to be the high number of judges. With a population of about 2 million inhabitants, the country currently employs around 900 judges. Altogether, the judiciary in Slovenia has about 4,000 members of staff - including judges - for judicial purposes. The number of judges in Slovenia is clearly above the EU average. If the number of Slovenian judges was to be applied to German standards, the number of German judges would have to increase from about 21,000 to 36,000. A key objective in Slovenia seems to be to reduce the number of judges by improving the efficiency of the judicial system.

Some of the problems described must be seen against the background of recent Slovenian history. The judiciary was not particularly efficient in earlier years. To some extent, the backlogs were substantial. In order to make the judicial system more efficient, a legal and statistics-based court management system has been introduced, in which the president and the director of the court are involved. It is customary to set timelines for the completion of cases involving certain disputes. At the beginning of each year, the court presidents must also outline the goals they have set for their court in the coming year and in the future.

With the President of the Association of judges and Vice-President of the Commission on Ethics, we discussed the significance of moral norms for the behaviour of judges. It became clear that there are high expectations of the behaviour of judges both in the professional and personal sphere. This seems to be necessary in order to improve the reputation of judges and the judiciary. In Slovenia, confidence in the judicial system appears to be low. The head of the public affairs office at the Supreme Court gave us a presentation on Slovenian court management, media and jurisdiction. It also became clear that considerable efforts had to be made in order to improve public confidence in the functioning of the Slovenian legal system.

On the second morning of the exchange I was received by the president of the Higher Labour and Social Court and three of his colleagues. We talked about typical labour law issues in Slovenia. The main focus was on the handling of the court proceedings. I learned that in Slovenia settlements in labour law cases are much less common than is the case in Germany. My visit to the Higher Labour and Social Court ended with a tour around the premises of the court.

After that I met with the president of the administrative court of Slovenia to discuss the procedure for appointing judges. In Slovenia the court president is granted a right to nominate candidates. However, the appointment of a judge also requires participation of the

Judicial Council. Parliament's approval is also needed. The president of the Court told me that it is quite normal for a president's nominee not to be successful.

I also became acquainted with the work at the office of the court and had the opportunity to look at some files. The president and I attended a court hearing where an asylum case was negotiated in some kind of an urgent procedure.

On the last day of our exchange, we discussed the appointment and selection of judges. The judges are appointed for life. In contrast to the German system, there is no probationary period in Slovenia. However, the judges are subject to an annual review in their first three years of professional service. The underlying criteria are similar to those in Germany. For the purposes of this assessment, the President analyses statistical material. In addition, he obtains an opinion from the Supreme Court. The judges will receive a score of 1 to 5. It is interesting that the level of remuneration is dependent on the achievement of a certain grade. There is a comparable approach for prosecutors.

The general director of the State Prosecutor General gave us some information about the management of courts and prosecutor's offices. Finally, the senior advisor of the Supreme Court gave us the opportunity to become familiar with the means of change management.

### **Difficulties, obstacles and benefits**

Certainly, the language barrier is a problem. My command of the English language is based on what I learned at school. Most judges work almost exclusively in their mother tongue. Command of another European language, especially the English language, is therefore, neither required nor promoted. Against this background, one might assume that an exchange is likely to fail because the language barrier cannot be overcome. I also had this reservation. However, my level of English was sufficient in order to have a profitable exchange.

There were no obstacles that I had to overcome. The Ministry of Justice of my country highly encourages international exchanges. The judiciary in Slovenia has welcomed the foreign court presidents and senior prosecutors very kindly and openly. The colleagues in Slovenia provided their guests with a valuable insight into the problems the judicial system has to solve.

The exchange allowed me to compare my own judicial system to that of another European country in a number of ways, to question my own approaches and to take back new ideas with me to Germany. Particularly profitable were discussions with colleagues, especially where they had experience of other legal systems. Once again I have realised that the problems of justice in European countries are often similar. In the search for solutions to these problems a considerable advantage is afforded by mutual understanding of European judges and prosecutors such that European judicial systems can learn and benefit from each other.

**List of best practices identified by the court presidents and chief prosecutors**  
**Exchange Programme 2016**

<b>Good practices in host court</b>	<b>Are there matters that you intend to implement in your own court/prosecutor's office as the result of this exchange of experience?</b>
Independence of the judges, good contact between judges and court clerks <b>(Italy)</b>	Increase of hospitality towards foreign visitors, increase of independence of the judges in relation to the Ministry of Justice
Telematic process <b>(Italy)</b>	Telematic process
Frequent meetings and interviews <b>(Belgium)</b>	Develop more numerous short interviews with colleagues and clerks
Permanence's magistrate to deal with urgent business. Direct contact between judges and police court that helps to share management of facts <b>(France)</b>	Institution of meetings between office chief and other magistrates on a permanent basis
Communication skills and organizational analysis <b>(France)</b>	I have already implemented a pilot project concerning the amount of time spent in courtroom (the length of public hearing) and for rendering the solution (the time needed to deliberate).
Health day once a year for all court staff <b>(Germany)</b>	Different working days and time model for the staff
ADR <b>(Germany)</b>	Introduction of a mediation room in my court
Possibility for the head of court of prosecutor General to be involved in professional development of judges/prosecutors; DRAGON program enabling judges to save time in drafting procedural documents; flexible schedule; spokesman responsible of the relations with the media, financial resources being the responsibility of specialised department of the MOJ <b>(Germany)</b>	Flexible working schedule, Introduction of DRAGON programme

Computerized programmes for the random distribution of cases to judges, centralised reception and registration of case files <b>(Bulgaria)</b>	Improve performance of centralized services by administrative staff
Good organization of the institution, specialisation of prosecutors, record of files <b>(Estonia)</b>	I saw a very efficient IT system (digital documents, electronic files) used by all the institutions involved in the judicial process
Electronic registration of files <b>(Germany)</b>	Introduce digital way of dealing with files and cases
Calm working environment. Information system connected to all other States agencies <b>(Sweden)</b>	Part of the organisation in the office, working environment, some of the ways to make contact with the police
Taking part in an ongoing complicated case in the field of construction casework and accompanying the judge panel to the actual construction site to better determine certain aspects of the case has greatly enriched my experience as well because in Bulgaria this is generally reserved for court-appointed experts only, while observing the situation first hand broadens the perspective immensely <b>(Germany)</b>	Organising proceedings better and reducing decision time as I was able to observe the process from a legal complaint being delivered, registered, discussed and reaching the agreement between parties first hand. Many templates and good practices were shared in this regards and I intend to implement several of those in the Administrative Court in Dobrich in the coming months.
Specialization of the courts, the distribution of the budget or the digital files that is going to be introduced in Germany in 2018 <b>(Germany)</b>	Digital files, because in Spain we are introducing it in our courts, especially in my own court at this moment and some of the ideas I got in the exchange may be possible to use in Spain. Try to get a higher specialization in my court
Organization of judges' work schedule and timetables. Communication on emergency preventive measures <b>(Germany)</b>	Improving communication on emergency prevention
Motivation system of prosecutors. Romanian system took into account the fact that working as a prosecutor can be very stressful and therefore there's a need for special pension. Another interesting fact that I learned about was how high level prosecutors are chosen in Romania – by estimating their psychological, financial and management skills <b>(Romania)</b>	I will introduce some ideas (for example Romanian system of public defence) to my colleagues in Prosecutor General's Office
Very good IT-Management. All documents are handled in digital form. The court decisions reach lawyers and clients in digital form	Improve IT-Management, use digital documents and accelerate the forwarding of court decisions.

immediately. Excellent and secure organization of electronic signature. <b>(Hungary)</b>	
The fact that the Chief of the Office can monitor the workload of every prosecutor in the Office at any time/ Specialisation of prosecutors in different types of cases within the office <b>(Sweden)</b>	Promote the every-day team building by gathering informally twice a day and discuss both professional and personal issues.
Relations with the media <b>(Slovenia)</b>	Promote our respect with media
As a particularly impressive I would like to notice the system of electronic file of the cases, Land Register – e-filing, e-file, e-delivery, Enforcement – business process re-engineering, Court logistics – dispatch of writs, Judicial administration – judicial dashboards, Civil procedure – triage approach -Reorganising business processes through the Triage project (concept taken from the medicine) <b>(Slovenia)</b>	Use the things I learned regarding the investigative procedure and management of the PO. How to make the difference between leadership (where we want to go) and management (how to get there)
ICT possibilities for management information and organising the hearings <b>(Germany)</b>	Improve ICT possibilities for better efficiency
Using a special software for the evaluation of judges, involving the chamber of judges when laying down the case allocation rules of the Court <b>(Germany)</b>	Laying down the plan for the distribution of cases upon hearing the opinion of a colleague. Fluent dialogue with the media
Excellent organization of the hearing <b>(France)</b>	Relationship with the press, which is regulated by Article 11 of the French Penal Procedure Code, whose principles can also be applied in Italy
Digital Innovations implemented by Supreme court <b>(Slovenia)</b>	Digitalization process
Teamwork judges/administrative staff is very well established <b>(Germany)</b>	Increased teamwork between judges and administrative staff is being pursued at our Court, I intend to take up some of the organizational ideas encountered in Germany
1. Information system of the Swedish Prosecution Authority. This information system is effective because it is linked with the systems of	I have written a detailed report to the Prosecutor General, describing my experience. I intend to implement several things in my prosecutor' office. I liked how Swedish prosecutors communicate with each other, how they organize practical daily work in their offices, how they use

<p>the police, courts, tax authorities, etc. Swedish prosecutors have full and quick access to all the information they need.</p> <p>2. Swedish Economic Crime Authority. Priority areas of this specialized authority are: Organized Crime and Cross Economic Crime, Market Abuse, Recovering Proceeds of Crime and International Collaboration. In my opinion the way they have organized their structure and working process is really an example of a good practice that is worth seeing and implementing. They use multi-disciplinary approach and build effective collaborative teams. Depending on the case these teams consist of prosecutor/prosecutors, skilful police officers and different experts- accountants, auditors, former tax or customs officers, etc. All these professionals work together in an open space area and their only duties are to conduct criminal investigations concerning economic crime of all types. All members' expertise are valued and utilized. Additionally, this comprehensive and collaborative framework is solidified by a united management and control structure. The Swedish Economic Crime Authority works in close cooperation with the Swedish Tax Agency, the Swedish Custom, the Swedish Police Authority /the Financial Police, the Swedish Enforcement Administration, the Swedish Financial Supervisory Authority, the Swedish National Council for Crime Prevention, the Swedish Companies Registration Office and Authorities responsible for the distribution of welfare. <b>(Sweden)</b></p>	<p>their working space, even how they use such an ordinary thing as drinking coffee as a sort of a team building, etc. I believe that human relations are something very important and that is vital to build good relations and trust between the colleagues and to create a good working atmosphere in the office.</p>
<p>Consequent organization of sections in the court with clear responsibilities <b>(Romania)</b></p>	
<p>Self-governance of the judiciary, high standards in digital documents and websites <b>(Spain)</b></p>	
<p>Website and the informative video of the Court make it very easy for a interested citizen to understand the legal process and where to call and search for more information – justice is accessible! The fact that prosecutors wore robes in court <b>(Italy)</b></p>	

How the electronic legal transactions function. The court of Bologna is developing an electronic file and electronic exchange between the lawyers and the judiciary. <b>(Italy)</b>	
The Open Court Programme <b>(Hungary)</b>	
Conciliation by judges <b>(Germany)</b>	
Electronic file <b>(Bulgaria)</b>	
Kindergarten, baby parking, first aid room, trial management, massage room <b>(Germany)</b>	
Giudici onorari: qualified jurists supporting judges in their work <b>(Italy)</b>	
Electronic record of cases and measures of organization of work and activities of individual divisions <b>(Spain)</b>	
Former court presidents after retirement can apply for continuing work as a judge (not in court administration) <b>(Slovakia)</b>	
Human resources management, work environment <b>(Sweden)</b>	
	Day-to-day management of flows: time of deliberation, motivation of the decisions, even though these issues deserve to go through Parliament. <b>(Bulgaria)</b>
	Try to use the dictaphone by the presiding judge at the oral hearing <b>(Germany)</b>
	The idea of wearing capes in court <b>(Germany)</b> is something I will work for in Sweden.



## THE TRAINING OF LAWYERS

Pier Giovanni TRAVERSA, Chairman of the CCBE training committee

Sieglinde GAMSJÄGER, CCBE senior legal advisor

### KEY FINDINGS

- Training of lawyers is crucial in building a European Judicial Culture.
- Support is needed to boost initial and continuous training initiatives.
- Work is ongoing to promote mutual recognition of training, so as to facilitate cross-border training and to build a truly common European judicial culture.
- Two major training projects have been carried out with EU funding:
  - A. The creation of a European Training Platform, and
  - B. The study on the state of play of lawyers' training in EU law.

## 1. INTRODUCTION

### About the CCBE

The Council of Bars and Law Societies of Europe (CCBE), founded in 1960, is an international non-profit association which has been, since its creation, at the forefront of advancing the views of European lawyers and defending the legal principles upon which democracy and the rule of law are based.<sup>1</sup>

CCBE membership includes the bars and law societies of 45 countries from the European Union, the European Economic Area, and wider Europe. The organisation consists of Bars and Law Societies from 32 full<sup>2</sup>, three associate<sup>3</sup>, and ten observer<sup>4</sup> member countries. The CCBE represents, through its members, more than 1 million European lawyers.

### Building a European Judicial Culture

The CCBE supports the efforts of the European Union to create a European judicial culture and an area of shared values and fundamental rights and principles. Lawyers play an essential role in this context. They are the advisors and defenders of citizens and upholders of the rule of law. They are fundamental for the creation of confidence in the European judicial area.

<sup>1</sup> The CCBE's objectives are:

- a) To represent the Bars and Law Societies of its Members, whether full, associate or observer members, on all matters of mutual interest relating to the exercise of the profession of the lawyer, the development of the law and practice pertaining to the rule of law and administration of justice and substantive developments in the law itself, both at a European and international level.
- b) To act as a consultative and intermediary body between its Members, whether full, associate or observer members, and between the Members and the institutions of the European Union and the European Economic Area on all cross-border matters of mutual interest as listed under a) above.
- c) To monitor actively the defence of the rule of law, the protection of the fundamental and human rights and freedoms, including the right of access to justice and protection of the client, and the protection of the democratic values inextricably associated with such rights.

See [CCBE Statutes](#). More information on the CCBE is available [here](#).

<sup>2</sup> 28 EU Countries plus 4 EEA countries.

<sup>3</sup> Montenegro, Serbia, Turkey.

<sup>4</sup> Albania, Andorra, Armenia, Bosnia-Herzegovina, Georgia, Former Yugoslav Republic of Macedonia, Moldova, Russia, San Marino, Ukraine.

The ever-increasing free movement of citizens and businesses in the European Single Market has led to the need for lawyers to familiarise themselves with the legal systems of their neighbours and the different organisations of their professions. Moreover, the impact of EU law on an increasing number of branches of law means that all lawyers across EU Member States need to have a good understanding of (primary and secondary) EU law, as well as of existing tools to ensure that it is fully and correctly interpreted and applied.

The CCBE has always advocated high-quality training for legal practitioners, as well as mutual understanding between the legal systems in Europe.<sup>5</sup>

### **Aim of the briefing paper**

This paper provides an overview of the current state of play of training of lawyers and the main activities carried out by the CCBE since the workshop on European Judicial Training which took place on 28 November 2013.

## **2. TRAINING OF LAWYERS**

### **The role of the CCBE and national Bars and Law Societies**

At the outset, it is important to note that the CCBE is not a training body. However, it has a [Training committee](#), which considers and makes policy recommendations in relation to the training of lawyers in Europe, both in the initial stages of their training and in the continuing stages. The Training committee has 36 members (lawyers and Bar/Law Society representatives in charge of training) from 19 member countries. It meets five times per year.

The training structures for lawyers differ from country to country.

Regulating the admission to the profession and enrolment of lawyers is one of the main competences and functions of European Bars and Law Societies. The aim is to ensure a high standard of legal training and professional competence. All countries have a set of rules and standards about who is able to enter the legal profession. In most countries, it is necessary to hold Masters in law from an EU or EEA country, to have practical legal work experience or to carry out a traineeship, and to pass an Exam<sup>6</sup>. Bars and Law Societies are usually in charge of the initial training of lawyers, but in some countries (Bulgaria, Germany and Slovenia) such training is overseen (all or in part) by the Ministry of Justice.

Continuous training is mandatory in 17 EU countries, but in some cases, only for specialised lawyers<sup>7</sup>. For everyone seeking legal advice, it is important that their lawyer is familiar with the latest developments in the fields in which they practise.

The continuous training market is 'open', in other words lawyers can choose from a variety of continuous training activities offered by Bars and Law Societies (where applicable), accredited (pre-recognised) training providers (such as universities) (where applicable), and other 'free market' providers.

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<sup>5</sup> CCBE, "[CCBE Recommendation on Training Outcomes for European Lawyers](#)" of 23 November 2007:

- *the exercise of the profession of lawyer requires a very high standard of professional competence of their members, and those aspiring to become members of the legal profession. Such a high standard of professional competence of lawyers is a cornerstone for the furtherance of the rule of law and democratic society; [...]."*
- *[substantive knowledge required] "thorough understanding of the principal features and the major concepts, values and principles of the legal system, including the European dimension (including institutions, procedures)."*

<sup>6</sup> See the Commission study on "[The state of play of lawyers' training in EU law](#)" assigned to the Council of Bars and Law Societies of Europe (CCBE) and the EIPA European Centre for Judges and Lawyers published in June 2014.

<sup>7</sup> Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany (only for specialised lawyers), Ireland, Italy, Latvia, Lithuania, Luxembourg, Poland, Romania, Sweden, The Netherlands and UK.

Depending on the different national structures, it may be that the national and/or regional and local Bars are responsible for the continuous training of lawyers.

Detailed information on the types of structures responsible for training in each EU Member State is available in the national factsheets<sup>8</sup> which were prepared as part of the European Commission funded CCBE-EIPA study on the state of play of lawyers' training in EU law, from June 2014 (see below for more information).

### **European Commission Annual Reports on European Judicial Training**

The CCBE has welcomed the efforts of the European Commission and the European Parliament to bring lawyers within the scope of European Judicial Training. Lawyers are traditionally the first persons that users of justice contact, and therefore they are a fundamental pillar for the creation of confidence in the European judicial area.

Through its member Bars and Law Societies, the CCBE has contributed to the yearly data gathering exercise of the European Commission to prepare the annual reports on European Judicial Training. The CCBE is aware that the collection of data from private training providers (non-Bar/Law Society training providers) has been extremely difficult. The latest European Commission 2016 [Report](#) states in this context that "there is still room for improvement as to the completeness of these data, in particular for initial training in general and for training of lawyers by private providers".

Whereas data can be collected more easily for the initial training of lawyers (as the training bodies are known and limited in number), it is different for continuous training. It is important to note that the collection of data on continuous training activities will remain a challenge having regard to the structure of continuous training markets, the huge number of training providers, and taking into account the overall number of lawyers in Europe (there are more than 1 million lawyers within the European Union). The continuous training market for lawyers is open to allow lawyers to choose from a large number of continuous training activities; training activities are offered by Bars and Law Societies (where applicable)<sup>9</sup>, accredited (pre-recognised) training providers (such as universities) (where applicable)<sup>10</sup> and other 'free market' providers; law firms, especially larger ones, also very often provide training. There are hundreds and even thousands of *private* continuous training providers for lawyers in countries across Europe. Some *private* training providers have been identified and contacted about the European Commission exercise, but it seems that few private training providers responded. The Bars/Law Societies cannot 'intervene' at this level as it is up to *private* training providers to provide the data. Several Bars and Law Societies that provide for mandatory continuous training and reporting mechanisms reported that they would need to invest substantial resources to adapt the data collection and/or control process so as to allow for such data to be collected and gathered together in a manner that would enable their use for statistical purposes. In 2015 and in 2016, the CCBE updated its data on national continuous training regimes (see below for more information).

The CCBE and its member Bars and Law Societies will continue to assist the European Commission in the data gathering process, to the extent possible. As far as the collection of data from private training providers is concerned, Bars and Law Societies support is extremely limited for the reasons set out above.

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<sup>8</sup> The national factsheets can be downloaded from the e-Justice Portal, click [here](#).

<sup>9</sup> Not all Bars and Law Societies offer training courses.

<sup>10</sup> Accredited/pre-recognised training providers exist in countries which provide for mandatory continuous training regimes.

## **Study on the state of play of lawyers' training in EU law, June 2014 (EU funded project)**

The one-year project, which was commissioned by DG Justice and assigned to the CCBE and the EIPA European Centre for Judges and Lawyers, ended with the publication of the [study](#) on the state of play of lawyers' training in EU law in June 2014.

The study essentially recommends that the legal profession should develop an EU law curriculum, guarantee mutual recognition of continuing legal education activities across borders, make EU law training more practice-oriented, skills-based and easily accessible, and should organise more educational visits and exchanges. The study also includes [national factsheets](#) on lawyers' training systems in all EU Member States. The national factsheets cover both initial and continuous training.

The CCBE adopted an Action Plan to take forward these recommendations. To date, the CCBE has:

- worked on the mutual recognition of continuing legal education (see below).
- set up the [European Lawyers Foundation](#) (ELF) in August 2014. The main aim of ELF is to implement value-added projects that create services for European lawyers on issues related to justice policies in Europe.<sup>11</sup>
- launched a [Training Portal](#) in September 2014 which gives visibility to European and national initiatives concerning training of legal practitioners and best practices (see below).

## **European Training Platform for Lawyers: inclusion in the e-Justice Portal (EU funded project)**

The aim of the Platform is to remedy the lack of comprehensive information about legal training courses available in the different jurisdictions. For example, a Spanish lawyer, established in France, represents a shipping company in a contract law case where English law is applicable. To be able to perform his/her duties, he/she is interested in following intensive courses in English contract law during the summer months organised by a bar, college, university, or other training provider, in London. At present, this information is scattered, and access presupposes prior knowledge of local training providers. By using the online training platform, the process of finding the right course will be much easier, less time-consuming, and more user-friendly.

The CCBE developed a test Platform in the framework of a European Commission funded project in 2013-2015. In 2016, the CCBE and the European Commission began to work towards the inclusion of the Platform in the e-Justice Portal. The European Training Platform will contain a centralised training catalogue and give access to training material. Users (for the most part lawyers) will be able to search for training courses throughout the European Union with predefined search fields such as title of the course, venue, date, language, and practice area. Training providers from any EU Member State will have the possibility to offer

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<sup>11</sup> Projects of the European Lawyers Foundation within the borders of the European Union:

- [Find-A-Lawyer 3](#)
- [EAW-Rights](#)
- [Videoconferencing](#)
- [EU litigation for lawyers](#)
- [TRALIM](#)
- [TRAVAW](#)
- [E-CODEX](#)
- [TRAINAC](#)
- [Find-A-Lawyer 2](#)
- [European Training Platform](#)

For more information on ELF, click [here](#).

their courses on the platform and can so reach out to lawyers beyond their own jurisdiction/country. They will also have the possibility of uploading training materials.

The Training Platform should be up and running for lawyers in the second half of 2017.

## Other Activities

- **Continuous training**

In 2015 and 2016, the CCBE updated its information on national continuous training rules, first gathered in 2011.

19 CCBE full member countries have a specific mandatory continuous training regime.<sup>12</sup> In most of these countries, the regime has been introduced in the past 15 years, with a few exceptions of an earlier adoption.<sup>13</sup>

12 full member countries have no specific mandatory continuous training regime; however, in all of these countries various continuous training opportunities exist.

Of the 13 CCBE associated and observer members, at least one (Georgia) has a mandatory continuous training regime, and at least one has no mandatory regime (Andorra).

In most countries, the extent of the training obligation is counted in hours, credits or points, though in some States it is counted in events or days. The average extent of the training obligation is approximately 14 hours/points/credits per year. Most member countries have opted for 'regular control' which means that lawyers are obliged to submit a record of their training activities to the Bar/Law Society on an annual basis. In some member countries, compliance is exclusively monitored via 'random control' which means that only a certain number of lawyers/law firms are checked. There are also member countries in which both 'regular control' and 'random control' are carried out.

The CCBE has prepared a [brief layout](#) and a [summary](#) detailing the regimes.

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<sup>12</sup> It should be noted that, in Switzerland, the mandatory continuous training regime applies only to accredited specialist lawyers who have expertise in certain fields of law. As for non-specialised lawyers, the Code of Conduct provides that they have to carry out their profession with care and diligence, which is considered by the doctrine as encompassing an obligation to undergo continuous training. In Germany, a specific legally-sanctioned training regime only exists for specialist lawyers; however, all lawyers are legally required to undergo some form of continuous training (but no specific regime is in place). In Austria, all lawyers have the obligation to undergo continuous training, but no specific legal regime is in place.

<sup>13</sup> E.g. The Law Society of England and Wales in 1985, the Law Society of Scotland in 1993, Germany in 1994, Finland in 1995 and the General Council of the Bar of England and Wales in 1997.

Introduced (19)	Not introduced (12)
<ul style="list-style-type: none"> <li>• Belgium (<i>Avocats.be / OVB</i>)</li> <li>• Bulgaria</li> <li>• Denmark</li> <li>• Estonia</li> <li>• Finland</li> <li>• France</li> <li>• Germany (<i>Only for specialized lawyers</i>)</li> <li>• Ireland (<i>Bar / Law Society</i>)</li> <li>• Italy</li> <li>• Latvia</li> <li>• Lithuania</li> <li>• Luxembourg</li> <li>• Norway</li> <li>• Poland (<i>Bar / National Council of Legal Advisors</i>)</li> <li>• Romania</li> <li>• Sweden</li> <li>• Switzerland (<i>Only for specialized lawyers</i>)</li> <li>• The Netherlands</li> <li>• UK <i>England and Wales (Law Society / Bar)</i> <i>Northern Ireland (Law Society / Bar)</i> <i>Scotland (Law Society / Faculty of Advocates)</i></li> </ul>	<ul style="list-style-type: none"> <li>• Austria</li> <li>• Czech Republic</li> <li>• Cyprus</li> <li>• Germany</li> <li>• Greece</li> <li>• Hungary</li> <li>• Iceland</li> <li>• Liechtenstein</li> <li>• Malta</li> <li>• Portugal</li> <li>• Slovak Republic</li> <li>• Slovenia</li> <li>• Spain</li> </ul>

### • Mutual recognition of continuous training

Mutual recognition of continuous legal education has been a key issue that the CCBE has been working on in the past years. In November 2013, the CCBE adopted a [Resolution on continuous legal education](#), which provides among others that: “the realization of joint training courses by lawyers of different countries, in particular, training in European Union law and European comparative law is a very positive step to establish a legal culture in Europe and to generate confidence in the respective legal systems. For this reason, providers of such training courses should not be required to ask for recognition of these training courses in every Member State. Likewise, lawyers who receive such training should not have to undergo a recognition process unless the applicable national system also provides such recognition for national training courses (...)” and that “the competent authorities of the Member States which establish systems of compulsory continuing legal education should implement an easy mechanism for the recognition (...)” of training received abroad.

In February 2017, 40 Bars and Law Societies signed the [CCBE Memorandum on Mutual Recognition of Lawyers' Cross Border Continuing Professional Development](#). The aim of the Memorandum is to promote and facilitate the free movement of lawyers within CCBE member countries where Continuing Professional Development (CPD) is mandatory or recommended. The Memorandum does not suggest any change to existing CPD standards of quality. By signing the Memorandum, the signatory Bars and Law Societies have agreed that “the number of CPD course hours attended or CPD credits of the training courses obtained by lawyers enrolled in a Bar or Law Society of a member country should be considered in their signatory jurisdiction of origin to help fulfil their requirements of CPD obligations, in accordance with national, regional or local rules or regulations and without prejudice to each national, regional or local evaluation system”.

- **Specialisation**

In 2015, in order to develop a better understanding of how lawyers' specialisation works throughout the European Union, the CCBE collected information about specialisation regimes from its members, 44 European jurisdictions. The survey showed that most European jurisdictions (34) do not have a specific specialisation regime, however lawyers can often indicate their preferred areas of practice. Ten jurisdictions have a specialisation regime: Belgium (*Ordre des barreaux francophones et germanophones*), Croatia, France, Germany, Italy, Portugal, Slovenia, Switzerland, and the United Kingdom (solicitors in both England and Wales, and Scotland). Such jurisdictions tend to have precise rules regulating the bestowing and use of a specialist's title, usually including minimum prior practice in the field, theoretical expertise, and obligations of continuous training. The number of specialisation fields varies, but it usually is around 20. Across all the jurisdictions surveyed, the most common fields for specialisation are family law, criminal law, commercial law, labour law, social law, intellectual property law, tax law, IT law, banking law, administrative/public law, and the law of insurance. The CCBE has published on its website a [Comparative Note on national regimes of specialisation](#) and [National rules of specialisation](#).

- **CCBE Public Training Portal**

In September 2014, the CCBE launched a Training Portal which can be accessed at <http://training.ccbe.eu/>. The Portal provides information on the one hand regarding European developments which have an impact on the training of lawyers, and on the other on major national developments. The Portal also includes a section on the Council of Europe HELP programme (Human Rights Education of Legal Professionals) and on Legal Clinics<sup>14</sup>.

- **Professional Qualifications Directive**

The CCBE has started gathering information on the implementation of Article 55a of the Professional Qualifications Directive 2005/36/EC, as amended by Directive 2013/55/EU, which provides for the recognition of traineeships across borders.

- **2017 Justice Work Programme**

The CCBE Training committee will consider the recently published Commission Implementing Decision of 13 March 2017 concerning the adoption of the work programme for 2017 and the financing for the implementation of the Justice Programme.<sup>15</sup> The Justice Work programme contains numerous proposals to support and promote European Judicial Training which will be of interest to lawyers in Europe.

- **European Commission Services Package (DG Growth)**

The CCBE Training committee will be assessing the recently published Services Package, as an important part of the Package relates to the initial and continuous training of lawyers.<sup>16</sup>

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<sup>14</sup> The CCBE has established contacts with the [European Network for Clinical Legal Education](#) (ENCLE): ENCLE is a European Network of persons committed to achieving justice through education. It aims to bring together persons from different countries, who exchange perspectives and work collaboratively from a variety of legal, educational and organisational settings in order to promote justice and increase the quality of law teaching through Clinical Legal Education (CLE).

The aim of the CCBE cooperation is to see how Bars and Law Societies can be better linked to legal clinics in their respective countries. The Training Blog provides examples of two local Bars which cooperate with law schools/universities on the training of law students (click [here](#) for more information).

<sup>15</sup> Commission Implementing Decision of 13.3.2017 on concerning the adoption of the work programme for 2017 and the financing for the implementation of the Justice Programme, C(2017) 1544 final

<sup>16</sup> European Commission, [Press Release](#), 10 January 2017



- **Forthcoming events**

CCBE Training Conference, on 7 or 14 December 2017 (date to be confirmed), in Brussels:

The conference will discuss "Training of Lawyers – Challenges and Opportunities". Topics will include: The Future of training of lawyers; Innovative training methods; Training in EU law: A. Challenges and opportunities, B. Support tools; Cooperation amongst training providers at European level. By the time of the conference, the European Training Platform will be up and running.

ERA-CCBE Young Lawyers Contest: Competition on EU law in practice 2017:

The main aim of the competition is to bring together future lawyers from different European countries at a time when they are undergoing initial training to enable them to share common values, to exchange new experiences, and to discuss new perspectives in areas of common interest. The tasks will reflect the specific professional needs and interests of legal practice. The contest may include a moot court-type scenario, a negotiation exercise, or even a project-based challenge. The topics covered will be chosen from a range of areas of EU law, including judicial cooperation and the four freedoms of the Single Market, data protection, migration, etc. It is hoped to organise a first Contest in 2017, and that it becomes an annual event.



# THE TRAINING OF COURT STAFF AND BAILIFFS AT THE EUROPEAN UNION LEVEL

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## KEY FINDINGS

- **Aspects of EU law are becoming more important as more and more EU legislative instruments are being adopted.** A practical understanding of the relevance and impact of EU legislation on the daily work of court staff and bailiffs is essential to ensure good quality of justice in the European Union.
- **Different methods of training have been implemented during continuous training of court staff and bailiffs,** such as e-learning, blended learning and face-to-face activities. In addition, tailor made activities to train the trainers in EU law is an optimal solution to guarantee sustainable cross-border cooperation.
- Recommendations addressed to the different structures that are responsible for setting the general context and organisation of training of court staff and bailiffs aim to develop national and cross-border cooperation among training providers. **To strengthen judicial training in order to guarantee the uniform application of EU law in the European Union,** new initiatives must be supported by national judicial authorities as well as European programmes.

## 1. INTRODUCTION

On 12 July 2012, the European Commission - DG Justice published a call for tenders "implementation of the pilot project – European judicial training". This was in response to a European Parliament amendment to the 2012 EU budget which had proposed a pilot project on European judicial training: "A specific pilot project on judicial training can help fulfil the goal of building a European judicial culture, as expressed in the Stockholm Programme and in several resolutions adopted by the European Parliament in 2009/2010".<sup>1</sup>

The contract to carry out Lot 3 of this pilot project, a **Study on the state of play of court staff training in EU law and promotion of cooperation between court staff training providers at EU level** was awarded to a consortium consisting of the European Institute for Public Administration (EIPA) Luxembourg, as well as partners based in France, Spain, Germany, Poland and the UK.<sup>2</sup>

The study involved the participation of training providers from all EU Member States - except Cyprus – who answered three questionnaires and participated in regional meetings and European conferences, showing that the topic at hand is of high interest throughout the EU.

<sup>1</sup> European Commission, Final report – Tender JUST/2012/JUTR/PR/0064/A4 on the implementation of the Pilot Project – European Judicial Training – Lot 3, [Study on the state of play of court staff training in EU law and promotion of cooperation between court staff training providers at EU level](#), 2014, p. 13.

<sup>2</sup> In particular: Justice Cooperation International (FR) representing the French National School of Procedure and the National Chamber of Bailiffs, the Centre of Judicial Studies (ES), Saxony Ministry of Justice and European Affairs (DE), the National Institute for the Judiciary and Public Prosecution (PL) and the Scottish Court Services (UK).

Many training providers expressed a thirst for cross-border cooperation and for access to more information and support at the European level.

Through the study, court staff discovered that their profession is a priority at EU level and that their contribution to an efficient and professional justice service for the benefit of citizens and enterprises is visible and of great importance.

These are positive outcomes and in terms of monitoring the current state of play, the study can be considered a benchmark for future developments regarding training in EU law for court staff and bailiffs.

## **Main objectives of the study**

The objectives of the study were to:

1. Establish a state of play of training on EU law of court staff working in the (then) 27 Member States and Croatia;
2. Map out the categories of court staff with a view to establish succinct descriptions of each court staff category in each Member State and determine which categories are concerned by the implementation of aspects of EU law and contact with other national legal systems;
3. Determine which aspects of EU law are relevant to specific roles and tasks; and
4. Promote European cooperation between national training structures.

## **Variety of court staff**

As expected, the study provided a very detailed description of categories of court staff and of the different functions performed by them in the different legal systems: assisting judges or prosecutors, management of courts, responsibilities in certain procedures, providing legal advice, etc. Depending on the country, they must have obtained a law degree based on which they are selected for an internship, or they are admitted to a specialised education which combines theory and vocational training, or they are recruited and trained on the job without having undertaken legal studies.

For the first time, 133 factsheets were drafted, presenting the state of play and work of different categories of court staff in all Member States, providing a tool to be used in the future for cross border comparison or possibly joint training activities on common EU law topics. While some court staff categories may still be missing, as some Member States provided information only about court staff with legal backgrounds, the results of the research are nevertheless an important step forward for the visibility and recognition of the various professions.

The factsheets on court staff categories include information about:

1. The legal texts organising a category/profession;
2. The rules on access to the profession;
3. The general responsibilities;
4. The list of tasks and roles carried out by court staff which have a link to EU law;
5. The institution in charge of organising the category;
6. The relevant training provider(s).

In the framework of the study, it was not possible - due to the variety of systems at stake - to try to establish averages and comparative statistics between categories of court staff in the Member States.

According to the information received, the number and detail of categories can vary from one (for example England & Wales, which submitted one reply covering all non-magistrate staff

as 'court and tribunal clerks' irrespective whether they have administrative tasks, process court documents or are typists), to 21 (this extreme example is from Scotland). Furthermore, the answers from the 3 jurisdictions from the UK (England & Wales, Northern Ireland and Scotland) show big differences in the organisation and training of court staff. Additionally, the study took into consideration the differences in the answers from the German Länder by proposing a few regional factsheets. The country factsheets are available in the European e-Justice Portal.<sup>3</sup>

## Main achievements of the study

The main achievement of the study was to provide an understanding of the similarities and differences between the national court staff systems, how many court staff have been trained and the extent to which – as well as how – EU law is integrated in the training programmes.

Contrary to other professions involved in the justice system, court staff, in its diversity, is not directly represented at EU level when it comes to training. Furthermore, the national training providers are not currently in regular contact with each other across borders.

The training in EU law that is made available through continuous training is so limited that it cannot be considered to compensate the lack of EU law training during the induction period (see section 2 below).

Yet, in each Member State there are court staff who need a thorough training in EU law in order to be able to fulfil their tasks and duties (see section 2 below).

The recommendations drafted in the **study underlined the need for overall awareness of the EU law aspects of court staff duties and tasks as well as for training on specific cross-border judicial cooperation instruments.**

As a direct spin-off from the study, a number of institutions involved in the organisation and training of court staff established a common project to train court staff and trainers of court staff in EU law, EU judicial cooperation instruments and legal English. The project was co-financed via a DG Justice action grant, namely **European Judicial Training for court Staff and Bailiffs**. The project involved co-beneficiaries and consortium partners based in Belgium, France, Luxembourg, Portugal and Spain (see section 3 below).

## 2. CATEGORIES OF – AND EU LAW TRAINING FOR – COURT STAFF: DETERMINING RELEVANT TOPICS

As noted above, one of the important outputs of the abovementioned study was 133 fact sheets, each one describing different types of court staff and staff involved in enforcement of court decisions. The study thus showed that **each EU Member State has its own court system** with very different:

- **categories of court staff,**
- **titles, roles and functions for the various categories of court staff,**
- **educational requirements for the different categories, and**
- **way of organising the court staff as well as the training of such staff.**

Moreover, there may even be very different systems or court staff from one region to another within a given Member State (e.g. the UK and Germany).

For example, some countries consider the legal assistants to judges as court staff while others consider them junior or trainee judges. Another example is that some EU Member States consider only court officers/*greffiers* as court staff, while purely administrative staff (e.g. typists, receptions, archivists) are not included in their replies to the questionnaires sent out as part of the abovementioned study. A third example is that in some countries, certain

<sup>3</sup> [https://e-justice.europa.eu/content\\_court\\_staff\\_s\\_training\\_systems\\_in\\_the\\_member\\_states-408-en.do](https://e-justice.europa.eu/content_court_staff_s_training_systems_in_the_member_states-408-en.do)

categories of court staff can issue judicial decisions, while in others the court staff have purely administrative and managerial functions. A last example is that bailiffs are part of the judiciary in some EU Member States, while in others they are considered as court staff, or the services provided by bailiffs have been outsourced to private businesses functioning under governmental licence, similarly to notaries.

For these reasons, it was – and remains – not possible to develop one or more common definitions or categories of court staff.

Having said this, **it is possible to propose three broad categories of court staff, not based on title or education, but on functions, the performance of which tends to be affected by EU law.** Such a categorisation will not be 100% correct or complete, but at least it will give a “flavour” of the type of work done by court staff as well as help to identify categories of court staff functions where training in EU law should be prioritised.

**The three proposed categories are court staff (and bailiffs) performing:**

Functions related to the administration and management of Courts	Judicial functions	Procedural functions
<ul style="list-style-type: none"> <li>– General management</li> <li>– HR</li> <li>– Facility management</li> <li>– E-justice</li> <li>– Organisation of legal registries</li> <li>– Providing information about access to justice and legal aid</li> <li>– ICT system and maintenance</li> <li>– Budget and bookkeeping</li> <li>– Court programming</li> <li>– Secretariat</li> </ul>	<ul style="list-style-type: none"> <li>– Enforcement of court decisions</li> <li>– Service of judicial and extra-judicial documents</li> <li>– Assistance to judges</li> <li>– Judicial and/or procedural decisions in specific cases (e.g. under a value) and/or fields of law</li> </ul>	<ul style="list-style-type: none"> <li>– Cross border judicial cooperation in               <ul style="list-style-type: none"> <li>o civil,</li> <li>o commercial,</li> <li>o criminal and</li> <li>o family cases (e.g. completing requests to courts in other countries or receiving such requests from other countries)</li> </ul> </li> <li>– Observance of procedural rights in criminal cases</li> </ul>

**The main fields of EU law where training for court staff is relevant are the following:**

1. Law and Procedures
  - **Cross-border civil procedures** (including family law matters)
  - **Cross-border commercial procedures**
  - **Cross-border criminal procedures**
  - **Procedural rights in criminal procedures** (such as access to interpretation and translation, access to a lawyer, access to information, etc.)
  - **Service of judicial and extra-judicial documents**
  - **Enforcement of court decisions**
  - **Administrative law and procedures**
  - **Competition law and procedures**
  - **Environmental law and procedures**
  - **Access to justice**
  - **Rights of the victim**
  - **Rights of the child**
2. Court management
  - **E-justice** (organisation of Information and Communications Technology, videoconferencing)
  - **Data protection**
  - **Authentication of judicial and extra-judicial documents**

Aspects of EU law are becoming more important as more EU legislative instruments are being adopted, although EU law training remains optional during both the induction period and in continuous training of court staff.

### Training of court staff on EU law during the induction period

In some EU Member States, certain categories of court staff must have successfully completed a specialized education before taking up their position (e.g. *Rechtspfleger* in Germany) or undergo a formal induction training, combining on the job training with formal vocational studies (e.g. *greffier* in France), while in other Member States newly recruited court staff receive on-the-job training, supplemented by short training courses based on needs identified by the President or the Head of Administration of the individual courts (e.g. in Denmark).

Overall, the survey undertaken as part of the abovementioned study showed that the induction period for newly recruited court staff generally combines two or more induction training methodologies such as on-the-job training, internship, mentoring or coaching. Ultimately, the study narrowed its focus to formal training activities, such as lectures, workshops, simulation, distance learning, etc.

During the induction period, it is important for court staff to undertake training activities on **cross-border judicial cooperation in criminal, civil and commercial matters, procedural rights in criminal proceedings, fundamental rights and in particular rights of the child**, as well as court management. Experiences from the previously mentioned project pointed out that a **general introduction to the legal instruments and general principles of EU law** is also necessary to improve the understanding of the EU cross-border cooperation instruments.

However, contrary to other professions involved in the justice system, recruitment of court staff may not be happening each year as it is subject to authorisation by the executive power and budget availability. As a consequence, many countries do not organise training on EU law on a yearly basis due to budgetary freezes or reductions which stop new recruitment.

### Training of court staff on EU law during continuous training

Although the majority of Member States offers training on EU law aspects and/or on the law of another Member State for the different types of court staff, it appears that budgetary constraints or reductions were – and remain – the main obstacle for further development of training in EU law for court staff.

Besides, it should be noted that a vast majority of court staff participated in one or more face-to-face training activities. The trainers indicated that **contacts between trainees during face-to-face training allow for sharing of experience and discussions between trainees, which are part of the training activity and beneficial to all**.

Training through e-learning is also an alternative to be considered during periods of budgetary constraints, notably to introduce the general aspects of EU law for court staff, such as the hierarchy of sources of EU law, the main effects of the EU legal order in national legal systems, preliminary rulings, etc. For example, since the publication of the study, Portugal has developed e-learning for court staff.

Lastly, blended learning has been implemented in a few Member States (Ireland, Scotland, Sweden and France). Blended learning is a term increasingly used to describe the way e-learning is being combined with traditional classroom methods and independent study to create a new, hybrid teaching methodology.

### 3. STRENGTHENING JUDICIAL TRAINING IN THE EUROPEAN UNION

In its Communication "Building trust in EU-wide justice - a new dimension to European judicial training,"<sup>4</sup> the European Commission fixed the target of 700 000 legal practitioners participating in European judicial training by 2020, which represents no less than half of all legal practitioners in the EU.

In response to this challenge, the new European Judicial Training for Court Staff and Bailiffs project, co-funded by a DG Justice action grant within the scope of the EU Justice Programme 2014-2020, was launched in September 2015 with the objective to improve and develop court staff and bailiffs' training in EU law. The co-beneficiaries and consortium partners in the project are the Centre for Legal Studies (Centro de Estudios Jurídicos – CEJ) in Spain, Institut de Formation Judiciaire (Judiciary Training Institute – IFJ) in Belgium, Directorate-General for the Administration of Justice (Direcção Geral da Administração da Justiça – DGAJ) in Portugal, European Institute of Public Administration's European Centre for Judges and Lawyers (EIPA) in Luxembourg and European Chamber of Judicial Officers/Bailiffs (Belgium, France, Luxembourg, Italy, Scotland, Hungary, Poland) (CEHJ).

#### Main objectives of the project

The project was implemented over 18 months and was co-financed by the European Union, with an innovative approach involving all training levels and training stakeholders.

**The aim was to offer the participants a professional, linguistic and cultural immersion based on the daily practices of clerks in terms of cross-border cooperation in civil, commercial, family and criminal law.**

For this purpose, the **consortium developed common training courses, practical face-to-face staff exchanges, an e-learning module on EU regulations in civil and commercial matters and an e-learning module on legal vocabulary in English.**

The development of legal linguistic skills of court staff and bailiffs is indispensable to European exchanges. Linguistic courses, the design of an e-learning platform on English terminology and the translation into English of another module dealing with cross-border issues are among the most important outputs of the project.

Those activities have strengthened cooperation between training providers in different EU Member States and have showcased **best practices developed within the project lifetime.**

Finally, the project has also **created a real European area of court staff and bailiffs' training by favouring a common understanding of the application of EU legal instruments and procedures, notably in matters related to the mutual recognition of judgments and authentic acts among Member States.**

#### The project's added value

**More than 110 trained court staff will correctly and more easily apply cross-border procedures** thanks to improved operational and linguistic skills.

**The project will allow 50 trainers to disseminate their knowledge in EU law and will contribute to circulate efficient tools to teach EU law.** With regard to this particular training, EIPA – Luxembourg organised 2 training sessions with the objective to train the trainers on specific regulations/directives in civil, commercial and criminal matters and on the use of the e-justice tools.

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<sup>4</sup> Commission Communication [COM\(2011\) 551](#), 13 September 2011.



**Through its training of trainers activities, the project provides an opportunity to ensure the training on EU law at national level** (snow-ball effect) and to guarantee the sustainability of the project by:

- improving trainers' training in EU law;
- providing practical tools to disseminate EU law and facilitate cross-border cooperation in Member States;
- developing common methodologies in EU law training;
- deepening the trainers' knowledge of practical aspects of cross-border cooperation and of the use of e-justice tools;
- fine-tuning their practical understanding of the relevance and impact of EU legislation on the daily work of court staff;
- increasing awareness of the importance of learning EU law and Legal English terminology;
- increasing awareness of the importance of Court Staff and Bailiffs amongst decision makers;
- establishing a set of documents which can be disseminated and used for future actions;
- creating a group of fully engaged trainers; and
- providing a platform for the exchange of experiences, information sharing and professional networking.

As a result, **training providers of the project partners benefit directly from the specific training modules and the materials for trainers**, which were produced/used by the project.

#### **4. RECOMMENDATIONS**

Both the study on the state of play of court staff training in EU law and the European judicial training of court staff and bailiffs project have enhanced cooperation among court staff and bailiffs and strengthened their knowledge of EU law. Both projects undeniably constitute landmarks in terms of recommendations to improve the training offered to court staff in the EU.

##### **Recommendations addressed to individual Court Staff and Bailiffs:**

- individual court staff and bailiffs should strive to participate regularly in training activities, in order to enhance their competences and to keep up-to-date with legal and organisational evolutions;
- individual court staff should inform themselves on the EU law aspects of their tasks and duties; and
- court staff should inform themselves on the way judicial systems are organised in other EU Member States.

##### **Recommendations to groups of training providers to establish cross-border projects - according to their capacities, resources and objectives:**

- either bilaterally or multilaterally;
- develop common e-learning modules on the EU law aspects of certain court staff tasks and duties;
- organise common "train the trainers" activities;
- develop common training contents on EU law matters which could be used in face-to-face, distance or blended learning activities at national, regional or even local level;
- evaluate how to lower financial burdens by sharing IT resources or human resources;
- build the basis of an informal EU network of court staff; and
- develop more activities in legal English terminology for trainers, court staff and bailiffs.

**Recommendations to the European Parliament to continue to support the development of training of court staff and bailiffs in EU law by:**

- highlighting the importance of such training in their resolutions relative to the European Area of Justice;
- ensuring that EU funds are made available to support EU law training also for these professions;
- having MEPs visit the national and European level training providers of court staff to give those institutions more visibility and status and to bring Europe closer to court staff.





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## Abstract

The workshop, organised by the Policy Department for Citizens' Rights and Constitutional Affairs upon request by the Committees on Legal Affairs and on Civil Liberties, Justice and Home Affairs of the European Parliament, provides an opportunity to discuss about the training of judges and of other legal professionals in EU law and in the law of other Member States. The European Commission, in its 2011 Communication on "Building trust in EU-wide justice", set the objective of enabling half of the legal practitioners in the EU to participate in European judicial training activities by 2020. The workshop will be a forum to discuss to what extent this objective is being attained, as well as to understand the existing challenges and good practices that have been developed in the training of several categories of legal professionals.

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