



Tender JUST/2012/JUTR/PR/0064/A4 –

Implementation of the Pilot Project – European Judicial Training

Lot 2

*"Study on the state of play of
lawyers' training in EU law"*

Executive summary

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Tender JUST/2012/JUTR/PR/0064/A4 – Implementation of the Pilot Project – European Judicial Training

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Executive Summary

A Europe-wide study to understand the context of training of lawyers in EU law

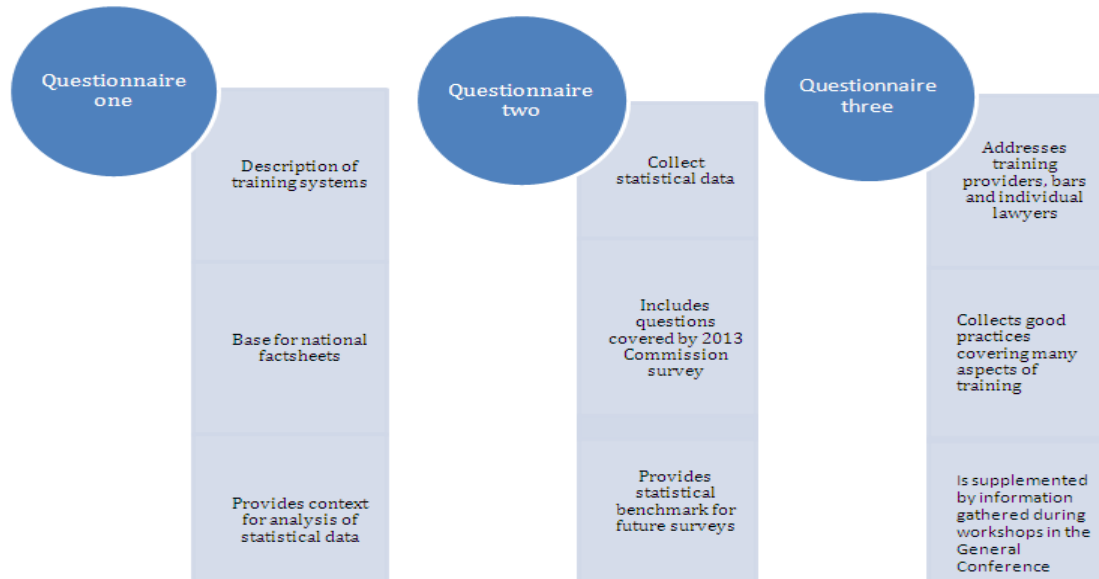
At a very general level, there is a reasonable degree of commonality in how lawyers in the different Member States are trained prior to qualification. Almost all Member States require a law degree or its equivalent as a starting point. All Member States but one also requires some form of Bar registration, examination and induction period prior to full designation as a 'lawyer'.

However, when going beyond this general statement, issues arise where differences show. This is why the first point of order with the national contact points was to establish a common glossary to ensure that terms used in the course of the project were understood in the same manner across Europe. Even the term "lawyer" had to be defined, and the one common ground for that definition is that "a lawyer is a jurist who is registered to a bar or law society in the European Union".

All other matters may vary, from the possibility to be a salaried lawyer or not, to the processes of access to the profession and the organisation of the training system.

The project was built on the basis of collection of data through three questionnaires and desktop research, but also the involvement of contact points from national Bars and Law Societies in all Member States played a vital part in obtaining qualitative information, clarifications and seeking common understanding.

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Due to the variety in the organisation of the national training systems, an analysis seeking to establish Europe-wide averages is not really meaningful.

However, the existence of a training committee within the Council of Bars and Law Societies of Europe (CCBE) and the development of mobility of lawyers have led most Bars and Law Societies, with may be one or two exceptions, to look more closely at the training of their members, or at least to consider that training is an important issue to be discussed and improved upon.

A factsheet was drafted for each judicial system, which provides up-to-date information on:

- conditions of access to the profession (the level of academic requirements to enter the profession being necessary as contextual information when analysing the training obligations during the induction period)
- organisation of the induction period training, including with respect to training contents with EU law aspects
- organisation of continuous training

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This first study on training of lawyers in EU law in the 28 EU Member States creates a benchmark for future evaluation of developments and evolutions

National factsheets with a sell-by date.

Around 10 of the answers to questionnaire one indicated that future reforms of the training system are under discussion or about to be adopted. In general those planned reforms aim to improve the quality of training. Three of the answers mention that the upcoming reform means that training in EU law will be a part of the training delivered during the induction period. The study thus shows that training of lawyers across the EU is a shifting landscape and description of the training system provided in the national factsheets will necessitate regular updates.

Collection of statistical data: a long term objective

34 answers were received from 21 Member States. This is more than was ever previously achieved, but it may still be improved upon.

While the collection of statistical data was quite comprehensive for the Member States where the national bar is directly in charge or monitoring training of its members, it was less representative of the reality in the Member States where solely private sector training providers are in charge and where no accreditation system is in place.

A relatively low level of answers from private sector training providers show a need for continuous action with a view to motivate them to put in place internal processes to collect data about EU law aspects of their training activities and thus improve gathering of data at a European level.

Discussions with stakeholders confirmed that the data collected is representative of the current situation regarding the low percentage of training activities with stated emphasis on EU law, but that it underestimates the overall number of such activities as many training providers did not contribute to the collection of data.

How is EU law integrated into the induction period?

Factsheets and data show the importance of the induction period, during which trainee lawyers build up their practical skills (including non-legal skills necessary to the lawyer's craft and to develop a successful practice) and learn how to implement law in the context of the national procedures. In 27 out of 28 Member States¹, trainee lawyers have to participate in induction period training with an important focus on on-the-job training, which falls beyond the scope of the current study.

¹ Except in Bulgaria.

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EU law (directly applicable regulations, directives transposed into national law, the interpretation of EU legislation by the EU Court in Luxembourg, etc.) represents a growing part of the law of the Member States. Based on the replies received, in 13 Member States, 80 % of the trainee lawyers do follow one or more training sessions in EU law. In 2012, 12.871 out of 15.995 trainee lawyers attended at least one training session in EU law during their induction period. However, these training sessions

- are generally quite short (two days in average, with some Member States providing less than one day), and
- tend to be lectures rather than practice oriented (14 answers mentioned EU institutional law as the main topic).

Apart from not preparing trainee lawyers for the practical use of EU law in their daily practice, whether in cross border cases or in national cases with EU law aspects, this state of affairs can also constitute a hindrance to professional mobility of lawyers.

Online training could be an option to improve the situation, but the study shows that it is seldom used during induction period, with a few national exceptions.

On-the-job training might give the opportunity to trainee lawyers to address real-life cases with EU law aspects. This opportunity is limited, however, in the small practices which constitute the bulk of lawyers' practices across the European Union.

Can continuous training help develop skills in implementation of EU law?

29 answers to questionnaire two included data on continuous training in 28 Member States. In 2012, 89.293 lawyers participated in 2.250 training activities (face-to-face, e-learning, blended learning, self directed learning). The vast majority participated in face-to-face training (2.108 activities).

It was not possible to obtain precise data on the number of participants in training activities with EU law aspects, but it is possible to put in perspective the number of training activities. Out of 2.250 training activities, 167 were about EU law – 7,4% of the total.

The statistics do not provide the full picture as about 10 respondents indicated that they were unable to provide figures about training activities with aspects of EU law.

Among the reasons for the relatively low number of training activities covering EU law issues, respondents referred to "lack of demand", "lack of interest" and/or "lack of expert trainers and training materials". Training providers and trainers should therefore be encouraged to increase their

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own understanding on how EU law interacts with national law and the practical implications of these interactions for the defence – or promotion – of clients' interests, as they are on the front line to convince lawyers of the importance of implementing EU law in their daily practice.

Answers received also showed that existing resources available to training providers and trainers are not widely known (training material, online legal terminology bases, jurisprudence data bases, etc.).

At this point in time it can be considered that continuous training does not support enough lawyers into becoming truly European lawyers.

The project conference and answers regarding good practices in training of lawyers in EU law allowed the project team to envisage various possibilities for improving upon the current situation and answering needs. Recommendations have been drafted to present such possibilities in a practical manner.

Designing recommendations as a path to the future

Recommendations have been developed in a collective process, on the basis of data gathered, comments from stakeholders, information collected during the project's general conference² and revisions by the CCBE's members. These recommendations are addressed to different audiences, but many of them are directly addressed to the CCBE as well as the Bars and Law Societies, noting different means and work path to improve training of lawyers in EU Law. This fact shows the willingness of the profession to tackle the gaps and provide future lawyers with better training and thus citizens and firms with better legal services.

The recommendations concern:

- how the training systems are organized at national level by the professions
- how training activities are organised by training providers
- how Bar and Law Societies can cooperate to develop joint projects
- how training providers can improve on training contents and delivery
- what support is necessary at European level
- how EU training contents can be made available and be improved upon.

The recommendations are not compulsory and provide a sort of checklist that stakeholders can use when addressing the topic of training in EU law. In order to implement the recommendations, various types of

² Brussels, 15 November 2013 – Borschette Center

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stakeholders will need to engage in constructive discussions and actions. Support at European level is also key to their implementation.

One recommendation will need the support of a majority of Bars and Law Societies as it aims at providing a common ground of understanding for achieving comparable levels of training in EU law in the Member States with a view of having European lawyers in all Member States.

Developing a European framework of competences in EU law for all lawyers

Discussions with stakeholders on how to build up lawyers' reflexes in the use of EU law in their practice have led to the understanding that simply developing a common curriculum could lead to some difficulties: in some Member States, the training curriculum during the induction period is covered by a strict legal base, and the level of training obligations put on qualified lawyers varies widely from one Member State to another.

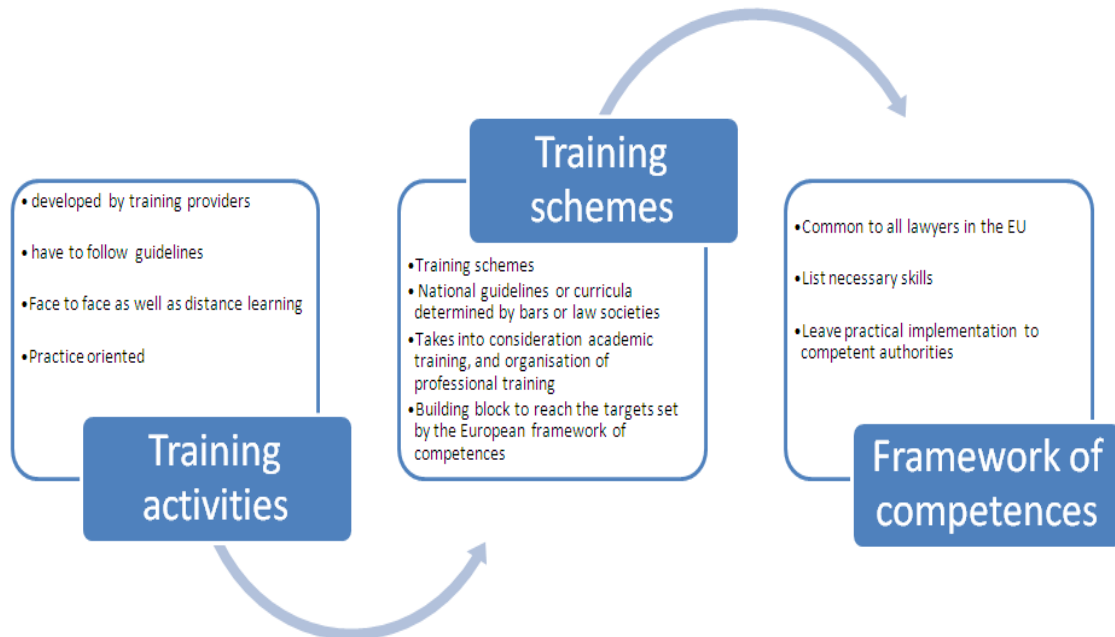
Furthermore, there are some cultural differences in the understanding of what a training curriculum is – this term is sometimes solely used for academic training, which is often simply about the theory.

To avoid those pitfalls and to ensure that any future developments of training in EU law would lean heavily in the direction of interactive and practice-oriented training activities it is possible to propose targets for competences in EU law for all lawyers across the EU. These targets can be reached through different actions at national level, according to need. Obtaining competences within a common framework would ensure better mutual recognition. This is encompassed by the term "European framework of competences".

Bars and law societies or any other competent authorities would then be encouraged to develop regional or national training schemes to ensure that their members would be able to obtain the skills delineated in the framework of competences common to all, taking into consideration knowledge and skills already covered by previous academic training.

Publishing these training schemes would for instance allow training providers to indicate how their training activities on EU law can help lawyers to develop their skills in EU law, whether there is or not at national level an accreditation process.

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This illustration provides a general explanation on how such a framework of competences could possibly work, and as indicated in the project's recommendations, work needs to be done within the CCBE to determine processes, scope and topics.

Practical support can also be provided by the European training platform³ currently under development as a single information point to all training activities available to lawyers in the 28 Member States.

It is now necessary to

- maintain the momentum of the project by the organisation of regular meetings at EU level,
- gather regularly further data on training of lawyers in EU law, and
- share information on new developments as well as the state of play of implementation of the recommendations of the project.

³ http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/ETP_page_EN_webpdf1_1366020262.pdf

