

CCBE comments on the European Judicial Training Strategy

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The Council of Bars and Law Societies of Europe (CCBE) represents the bars and law societies of 45 countries and, through them, more than 1 million European lawyers. The CCBE acts as a consultative and intermediary body between its Members and between the Members and the institutions of the European Union on cross-border matters of mutual interest. The CCBE always places great emphasis on the respect of the rule of law, democratic principles and fundamental rights.

The CCBE considers that there is a strong need to guarantee the political commitment and to draw the attention of the relevant institutions at a national and EU level to the importance of a regular professional development and continuing legal education, as well as the needs of lawyers and other justice professionals. Therefore, the CCBE welcomes the [Communication of the Commission 'Ensuring justice in the EU — a European judicial training strategy for 2021-2024'](#) published on 2 December 2020.

The CCBE fully supports the need to update and develop the professional knowledge and skills of lawyers and other legal professionals on a regular basis in order to ensure and improve the quality of justice across Europe.

The CCBE fully agrees that the training of justice professionals, including lawyers, about EU law and cross border issues, is essential to ensure the coherent application of EU law and smooth cross-border judicial proceedings and to build mutual trust in cross-border judicial proceedings, thus helping to develop the EU area of justice. Therefore, the CCBE has always promoted high-quality training for lawyers, as well as a better mutual understanding of different legal systems in Europe. This principle is underlined in the [CCBE Code of Conduct](#) (Article 5.8 on Continuing Professional Development) stating that "Lawyers should maintain and develop their professional knowledge and skills taking proper account of the European dimension of their profession."

The CCBE welcomes the efforts of the European Commission to develop further the EU policy on judicial training for justice professionals, especially for lawyers. On 27 April 2020 the CCBE provided its [contribution of the CCBE for the next EU policy on judicial training](#) highlighting the main issues of concern for the CCBE.

These considerations on European Judicial Training aim to supplement and to emphasise the ideas already expressed in the previous contribution as well as to identify the most important elements of judicial training from the point of view of Bars and Law Societies and lawyers.

General comments

The EU and its Member States are facing a number of new developments and challenges that need to be addressed by judicial training, including a deterioration of the rule of law and attacks on fundamental rights in some Member States and the advance of digitalisation in the justice area.

Judicial training can help to promote a common rule of law culture and to uphold fundamental rights, partially through effective application of the EU Charter of Fundamental Rights. Appropriate training also helps justice professionals embrace digitalisation and helps to enable the use of digital tools and technologies whilst at the same time raising awareness and securing an adequate protection of individuals' rights and their personal data in the digital space.

European judicial training supports justice practitioners, including lawyers, to follow and to keep up to date with the development of EU law and case law.

The CCBE agrees with the attempts of the Commission to extend the European judicial training beyond legal education and supports the need to develop non-legal knowledge and professional skills, including soft skills such as foreign legal language skills.

Targeted objective

According to the European Commission, the level of participation in training still differs considerably across Member States and among justice professions.

The CCBE does not consider the quantitative objective as the most important objective when considering the training of lawyers. The priority should always be given to quality over the quantity, although it is important to make sure that professional development and continuing legal education are carried out, where appropriate, on a regular basis by lawyers according to the existing national and applicable legal requirements (for initial, specialised, continuous, or ad hoc legal training).

At the same time the CCBE takes note of the new targeted objectives set by the European Commission, namely that by 2024, continuous training on EU law should each year reach 15% of lawyers.¹

The CCBE agrees that the objective of 15% of lawyers trained is a very ambitious target. However, the CCBE is ready to assist and motivate its member Bars and Law Societies to pay particular attention to the continuing legal education².

The CCBE commits itself to informing its members about training opportunities available for lawyers and to motivating them to circulate the relevant information to their members.

The CCBE calls for full implementation of the [European Training Platform \(ETP\)](#) and for the accessibility of this platform for different training providers. The ETP was started as a project of the CCBE with the support of EU funding and further developed by the European Commission and was launched, in a test phase, in December 2020. The ETP platform allows for the gathering of online information about training courses available throughout Europe for lawyers and other justice professionals. The CCBE believes that this platform could serve as reliable information source on available training courses in

¹Data collected by the European Commission on participation of lawyers in continuous EU law training in the EU (%) within their annual [Judicial Training Reports](#):

2011	2012	2013	2014	2015	2016	2017	2018	2019
1.79%	1.73%	5.04%	5.28%	3.54%	4.11%	4.88%	4.82%	3.36%

²According to the [CCBE resolution on continuing legal education](#).

different Member States and thus could increase the likelihood of lawyers engaging in training courses organised abroad (in presence or online) thus increasing the overall number of trained lawyers.

The CCBE believes that the ETP could serve as an important online source of training material developed within different projects financed by EU funding to multiply their effects for a wider target audience, including lawyers.

In particular, the CCBE as a partner of the [European Programme for Human Rights Education for Legal Professionals](#) (HELP Program) will continue supporting and promoting the training courses available within HELP (especially on its e-learning platform) to enhance the capacities of lawyers to apply European fundamental rights at a national and EU level effectively and coherently.

Monitoring and data collection

It should also be noted that as regards professional development and judicial training, the diverging systems of training under national law must be fully respected since continuous legal training is not mandatory for all lawyers in all Member States. Moreover, many national Bars do not have monitoring systems that count the number of lawyers trained with regard to specific matters.

Since training at national level is carried out by different training providers depending on the Member State (Bars or Law Societies and/ or private training providers), it is impossible for CCBE members to collect data from private training providers on the number of trained lawyers.

The CCBE appreciates that the European Commission, in its Judicial Training Strategy, has made a reference to the data collection difficulties which should be taken into account when monitoring the training of lawyers.

In this regard, the CCBE (Training committee) will discuss the possible ways to improve data collection on national level to try and ensure that the collected data on the number of trained lawyers reflects reality. As mentioned by the CCBE experts, on several occasions, the current numbers of trained lawyers per Member State included in the annual Judicial Training reports do not reflect reality. The figures on trained lawyers collected for the annual Judicial Training reports are too low in comparison with reality since the continuous legal training is mandatory in majority of EU Member States according to the [assessment](#) carried out in the margins of the REFOTRA project.

The ETP could be further considered and assessed as a possible additional instrument to facilitate the data collection in the future.

Understanding of the term training on EU law

When monitoring and collecting data on the number of trained lawyers, another aspect stressed by the CCBE should be taken into account, namely, the understanding of the term training on EU law.

According to the current practice and experience training courses most often contain information about EU law developments or are even fully based on EU law (in some countries there is no standalone course on EU law), even though this is not explicitly stated in the title of the training course.

Since some EU legal acts are applied directly but some are transposed into national law and since most of the national law is already harmonised with EU law, training provided in particular areas does not always refer to the EU law but to particular and concrete changes in national law, which has itself implemented EU law proposals. Therefore, when monitoring of training activities is carried out, such training courses are not counted as training provided on EU law. In this regard, it is suggested to

clarify the definition of "training in EU law" to avoid mistakes and misunderstandings while implementing the European Judicial Training Strategy.

Funding

In order to meet the new ambitious target to train 15% of lawyers on EU law, the adequate funding needs to be provided.

The CCBE therefore calls for adequate EU funding to be made available for the training of lawyers in order to ensure equal access to training opportunities for all legal professionals, which impacts on the application of the principle of equality of arms (under which a fair trial demands that both sides to the dispute, and particularly so in a criminal trial, have equal access to resources to put their case, including training resources).

The CCBE appreciates that there are EU funding possibilities which have been made available for the training of lawyers. In this regard, the CCBE is actively engaged in ensuring that its member Bars are duly informed about these funds and is grateful to the European Commission for providing information to national Bars on available EU funds for the training of lawyers.

However, in view of the numerous administrative requirements involved in applying for EU funds – for instance, a long and separate application process for every single training project, with the specific knowledge and experience that are needed in this respect, the CCBE believes that, in the longer term, other ways need to be found to make EU funds more easily accessible, directly or indirectly, to national and local bars for the training of lawyers. In some Member States, training is provided free of charge, which prevents those Bars from participating in training projects where (when co-funded by the Justice or the Rights, Equality and Citizenship Programmes) an own contribution is requested of up to 20%. Also, some Bars do not have the human resources and logistical capacity to run training projects co-funded by the EU.

The CCBE therefore considers that there is a strong need for easier access to EU funds through a dedicated European structure regarding training lawyers in EU law, including the exchange of lawyers, to mirror the European Judicial Training Network (EJTN). This idea was already included in the recommendations of the [study](#) carried out in 2013 on the state of play of the training of lawyers in EU law in the framework of a project undertaken by the CCBE in collaboration with the European Institute of Public Administration (EIPA).^[2]

[2] According to [the study carried out in 2013](#), where the CCBE was a partner and which included various recommendations, among them (Recommendation 14) a proposal for the creation of a dedicated European structure regarding training in EU law and exchange of lawyers "that mirrors the European Judicial Training Network (EJTN)". The CCBE took steps to address this issue by the creation of ELF. However, and although ELF receives a significant amount of EU funds for its training activities, there are many differences in treatment between EJTN and ELF.

Recommendation 14:

Creation of a dedicated European structure regarding training in EU law and exchange of lawyers

In order to contribute to the EU's objective to train 700,000 legal professionals in EU Law by 2020, the CCBE considers that a structure for lawyers that mirrors the European Judicial Training Network (EJTN) could be very helpful. A structure which favours the exchange of lawyers or which facilitates lawyers' training in EU Law at the European level does not exist at present. Such activities are undertaken for judges and prosecutors by EJTN. The CCBE considers that, with support from the EU (both politically and financially) similar to that which the EJTN receives, the CCBE might be able to develop these tasks on its own or by delegating them to a CCBE-dependant structure. To promote an ongoing dialogue on training:

14.1 It is recommended that the CCBE determine precise objectives and processes for such activities and presents the project to the European institutions for political and financial support.

14.2 It is recommended that such a structure - recognising the principle of subsidiarity - should support the training of lawyers at all levels - European, national and local - with concrete actions supporting the needs of existing training providers, for instance by helping to develop a European pool of expert training and speakers in EU law, how EU law can be implemented into national law, legal terminology as well as comparative law.

The CCBE-EIPA study included various recommendations, among them a proposal (Recommendation 14) for the creation of a dedicated European structure regarding training in EU law and exchange of lawyers “*that mirrors the European Judicial Training Network (EJTN)*”. The CCBE took steps to address this issue by the creating of the European Lawyers Foundation (ELF) in 2014, and which is today a network of Bars, one of the main objectives of which is to train lawyers. Most of this training focuses on EU law and it is carried out through projects co-funded on a case-by-case basis by the EU through action grants. This is an obstacle for bars and lawyers, as time and resources have to be dedicated each time for the preparation of project proposals on specific law topics.

In order to ensure a balance between the training of judges and prosecutors on the one hand, and lawyers on the other, which would ensure an equality of arms between players in the administration of justice, the framework for the funding of training of lawyers in EU law (in partnership with the lawyers’ bars) should be similar to that of the EJTN.

The CCBE believes that the ambitious objective to train 15% of lawyers in EU law is strongly needed, but can only be achieved if it is accompanied by appropriate resources and also appropriate procedures for how these resources are obtained – i.e. not on a case-by-case basis – and how they are to be used – i.e. with the flexibility to train lawyers on their needs at that moment, rather than waiting for a call to be published and then for a project to be awarded.

By applying a similar framework to the one put in place for the EJTN, the training of lawyers could be extended to more Member States which currently have difficulties in participating in EU-funded projects. The CCBE stands ready to further discuss and assist the Commission insofar as possible to ensure that the EU training funds will reach a sufficient number of lawyers in the EU.

Training focus

The training of lawyers should be focused on different topics, including new developments in EU legislation, Rule of Law principles, the Charter of Fundamental rights of the EU, digitalisation of justice, the use of technology and artificial intelligence in the justice area while respecting ethical principles and the data protection requirements, soft skills, including management skills and skills to transform and adapt the management of law firms in the digital era, environmental law, judicial cooperation in civil and criminal matters, mediation, health, family life, migration, EU competition law, etc. The scheme should also be flexible enough to cope with changing circumstances, e.g. as caused by the COVID 19 pandemic.

The CCBE notes that publicity and the live streaming of the ECJ hearings could be useful not only for transparency but also for training and learning purposes of justice professionals, including lawyers.

Finally, the CCBE calls upon its members to promote legal training for lawyers as far as possible according to their national systems in order to ensure that there are more well-trained lawyers and to help reach the ambitious target suggested by the European Commission.

14.3 An annual EU training conference should be organised, in cooperation with the European Parliament and the European Commission, along the lines Final Report –Lot 2 Page 46 of the General Conference of 15 November 2013, in order to maintain the cooperation and engagement of Bars and Law Societies and training providers in the training of lawyers in EU law.

14.4 This training conference should be used as an opportunity to update the statistical and factual picture on training of lawyers in EU law.