

The contribution of the CCBE for the next EU policy on judicial training

27/04/2020

The Council of Bars and Law Societies of Europe (CCBE) is recognised as the voice of the European legal profession and represents the Bars and Law Societies of 45 countries, and through them more than one million European lawyers.

The CCBE also 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 welcomes the efforts of the European Commission to further develop the EU policy on judicial training for justice professionals, especially for lawyers. Therefore, the CCBE is committed to provide its input.

The CCBE strongly supports the need for such policy document to ensure the continuation and building on the principles defined in the long-term strategy on European judicial training adopted by the European Commission in 2011 with specific objectives to be reached by 2020. Such policy document is crucial 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.

The CCBE welcomes the efforts of all stakeholders which led to the successful implementation of the objectives defined in the policy document adopted in 2011.

The CCBE has contributed over the years to the implementation of this strategy, including by coordinating and motivating its members to submit data for the annual Judicial Training reports and promoting participation in EU-funded projects, including the cooperation with other institutions and training providers.

In 2018, the CCBE participated in the public consultation launched by the European Commission on the Training of justice professionals on EU law. This input aims to supplement and to emphasise the ideas already expressed in the previous contribution as well as to identify the priorities for the next policy document on judicial training from the point of view of Bars and Law Societies and lawyers.

The CCBE fully supports the need to regularly update and develop the professional knowledge and skills of lawyers and other legal professionals to ensure the quality of justice across Europe.

The CCBE fully agrees that the training of justice professionals, including lawyers, on EU law and cross-border issues is essential to ensure the coherent application of EU law and smooth cross-border judicial proceedings. Therefore, the CCBE has always advocated for high-quality training for lawyers, as well as the need for 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."

At the same time, it should 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.

Nowadays, while evident threats to the rule of law have been identified on several occasions and strengthening the rule of law is one of the main priorities of the EU, it is important to ensure equal treatment for all justice professionals and to ensure adequate EU funding for professional development and training needs of lawyers and other justice professionals. Therefore, the CCBE wants to highlight that particular attention should be given to professional development and the needs of training for lawyers.

The further development of the **European judicial culture** should still be a priority of the EU institutions to ensure further strengthening of the European judicial area and an area of shared values and fundamental rights and principles, including mutual trust. Lawyers play an essential role in defending citizens and ensuring the rule of law in the European judicial area. This requires the continuing development of lawyers' skills and knowledge, which the CCBE strongly supports.

The CCBE commits to inform its members on a regular basis about training opportunities available for lawyers and to motivate its members to circulate the relevant information to their members.

The CCBE is a partner of the European Programme for Human Rights Education for Legal Professionals (**HELP**) co-funded by the EU and will further support the strengthening of the HELP Network to increase mutual trust between practitioners and to enhance the capacities of lawyers and other legal professionals to effectively and coherently apply European fundamental rights at a national and EU level.

Practical guides with compilations of best practices developed by the EU institutions in close cooperation with practitioners, including lawyers, would ensure a better application and implementation of EU legislation.

The CCBE considers that it is important to meet judicial training needs for lawyers and other justice professionals **not only within the EU Member States** but also in candidate countries, potential candidate countries and neighbourhood countries, and welcomes the efforts of the European Commission to provide funding through the relevant EU instruments.

Multi-professional and joint training courses on general subjects for different justice professionals could be developed on the basis of already existing structures and networks, such as the EJTN for example. Lawyers could be involved in such training courses to further use their gained knowledge following the "train the trainer" model, meaning involving fewer lawyers in common training courses as instructors who will deliver further their new knowledge and training material to other lawyers, their colleagues, adapting to their professional needs if necessary.

The CCBE is also ready to support the European Commission in improving and promoting the awareness amongst lawyers about the European **e-Justice portal**.

The CCBE calls for a faster implementation of the **European Training Platform (ETP)**, a project started by the CCBE with the support of EU funding and further developed by the European Commission. Such platform would allow to gather online (e-Justice portal) information about training courses available throughout Europe for lawyers and other justice professionals. Providing such 'search tool' on the ETP

would make it easier to get information about training courses for professional development in other Member States, which would most likely increase the interest of lawyers to attend training courses abroad. The CCBE considers that attending training courses abroad would not only allow lawyers to gain new knowledge but could also serve as an excellent networking opportunity to share experience and best practice among lawyers.

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

At the same time, it is important that the relevant Bars and Law Societies are able to easily **recognise such training**. In this regard, the members of the CCBE have already committed to promote and facilitate the recognition of training of lawyers within the CCBE member countries by signing the Memorandum on Mutual Recognition of Lawyers' Cross Border Continuing Professional Development in 2017. The Memorandum does not alter the existing requirements at national, regional or local level.

To further develop this initiative and to implement the commitment taken, the CCBE, with the support of the European Lawyers' Foundation, with the help of EU funding, has participated in the **REFOTRA project** with the aim of further facilitating the recognition of training pursued by lawyers in a Member State other than the one where they are registered. Within the project, a certificate template to be issued by training providers was developed and tested by several CCBE members. Currently, the REFOTRA project is at its final stage of implementation and the results of the project should be approved and published in June 2020.

In quantitative terms

The CCBE considers that there is still room for improvement as regards the promotion and advertising of training courses. The European Training platform could play an important role in this regard.

The accessibility of training for lawyers and legal professionals who are not working in capital cities or larger cities should be facilitated. The important role of local and regional Bars (respecting the national particularities of the Member States) could be further considered here. Online courses and webinars could significantly improve the number of lawyers attending a training.

Of course, the geographical accessibility of training courses is not the only aspect to be ensured. The accessibility of training in terms of budget and funding opportunities is crucial for lawyers. Therefore, the CCBE calls for adequate EU funding to be available for the training of lawyers to ensure equal opportunities for all legal professionals in access to training. Moreover, access to EU funding should be simple and understandable for those who do not have experience applying for funding of projects.

It is evident that EU law has an impact on all fields of law, both in public and private law areas. EU law should be part of most training courses, as EU law influences nearly every field of professional life. Therefore, training providers are invited to organise more training courses covering the new developments at national and EU level, including the relevant national and European case law. Every training opportunity on EU law should clearly link to national law or invite participants to prepare the questions and concerns of the national applicability in advance. Such courses could create more interest among lawyers. Undoubtedly, training providers should ensure the attractiveness of training courses using different modern methodologies and tools.

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 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 and/or ad hoc legal training).

Therefore, the CCBE is sceptical about the idea of setting quantitative objectives, differentiated per each justice profession, regarding the participation in training. Moreover, the requirements (hours, credit points and content) may vary considerably in different Member States.

Regarding quantitative data, the CCBE experts have explained that the current numbers of trained lawyers per Member State mentioned in the annual Judicial Training reports prepared by the European Commission do not reflect reality. The figures on trained lawyers collected for the annual Judicial Training reports are too low in comparison with reality.

This is due to the existing **data collection mechanism**. 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 is in a position to invite and motivate its members to provide data on the number of trained lawyers by Bars and Law Societies only.

If any similar monitoring mechanism is planned to be used for the next policy period by the European Commission, this aspect and essential difficulty should be taken into account and reflected accordingly. The European training platform could be further considered as a possible instrument to facilitate the data collection in the future.

An additional challenge, when it comes to data collection, could be a lack of definition and common understanding of the term “training on EU law” in the Member States. Most of EU law is already implemented in national law. Of course, some training courses are fully based on EU law elements. The difficulties for those collecting data could start at the moment when training contains only few EU law elements, therefore it would not always be evident whether such training course could be considered as “ training on EU law” for the monitoring mechanism.

Finally, the CCBE calls upon its members to promote legal training for lawyers as much as possible according to their national systems in order to ensure higher numbers of trained lawyers (in comparison with the 2011-2020 period) for the next policy period considered by the European Commission.

In qualitative terms

The CCBE agrees that the training methodology is important to attract more lawyers to participate in training courses. Mixed learning methodologies could therefore be further promoted, for example by using e-learning together with face-to-face learning opportunities.

Practical guides with compilations of best practices developed by or with the help of the EU institutions in close cooperation with practitioners, including lawyers, would ensure a better application and implementation of EU legislation.

Online training via webinars is helpful to maximise the number of lawyers who can participate. It ensures flexible learning, anytime, anywhere, and would encourage participation thanks to time and cost savings for lawyers. Online lectures and Massive Open Online courses (MOOCs) should also be considered. Together with training, lawyers could be encouraged to participate in discussion forums,

thereby creating a community of practice and peer-to-peer learning. The use of educational technology to create interactive material would result in shifting from passive training to active learning and increased learner engagement, thereby making the training more effective. A ‘flipped classroom’ approach to training providing lawyers with course material in advance (either with paper copies or electronically) and then bringing them to discuss the material and solve case scenarios could be used.

The CCBE is ready to encourage its members to share training methodologies, to develop collaborative learning, and to promote the exchange of best practices.

The future training of lawyers could focus on different topics, including new developments in the EU legislation, the rule of law principles, the Charter of Fundamental rights of the EU, 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. Flexibility to adapt to circumstances should be ensured to respond to relevant challenges, for example the possibility to adapt to the restrictions introduced and the challenges caused by the coronavirus disease (COVID-19).

Most importantly, training providers should focus on lawyers’ needs and on topics of current relevance for society, as well as on development of practical skills where possible (for example, such as pleadings skills before courts at national level and the European Court of Justice). It is also necessary to ensure that provided training courses on EU law are prepared and promoted in a way to be accessible not only for specialised lawyers in that particular field but for any lawyer interested.

Regarding the mutual recognition of cross-border training, the CCBE is committed to continuing its work together with its members to further facilitate and promote the need for the recognition of training carried out abroad by the Bars and Law Societies. Transparency and mutual trust based on the understanding of different mechanisms which already exist in different Member States, as well as the respect of different national systems, are crucial in this regard.