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EXPERT GROUP ON EUROPEAN JUDICIAL TRAINING

Minutes of the videoconferences of Monday 23 March 2020, Wednesday 25 March 2020 and Thursday 26 March 2020

NATURE OF THE MEETING

The 3 videoconferences were restricted to the members of the Expert Group on European Judicial Training and to guest external experts (see the list of participants at the end of these minutes).

They replaced the meeting that was to take place on Monday 23 March in Brussels and was cancelled due to the COVID-19 epidemic. They were organised as follows:

- Monday 23 March 2020 on training for judges, prosecutors and court staff;
- Wednesday 25 March 2020 on training for lawyers and notaries;
- Thursday 26 March 2020 on training for bailiffs, prison staff and probation officers.

These minutes consider the 3 videoconferences as one meeting.

POINTS DISCUSSED

The aim of the meeting was to consult the Expert group to prepare the 2021-2027 European judicial training strategy.

The discussions were based on a concept paper and covered the main take-aways of the 2018 consultation and the 2019 evaluation, and what should be the main features of the new strategy (who, what, were, how).

I. The past: opinion on the main take-aways of the 2018 consultations and the 2019 evaluation

The experts praised both documents as honest on the achievements and informative on the role played by all actors. The evaluation process was considered

transparent and the consultation showed that the demand for judicial training on EU law is still very high.

The experts agreed on their main take-aways. For example, it is remarkable that quantitative objectives were all attained. Cross-border seminars and exchanges are indeed very useful, as stated in the evaluation. The focus on increasing mutual trust as a qualitative objective was an essential one, and it should be linked to the Rule of Law in the new strategy.

Yet, according to the experts, some take-aways of the 2019 evaluation cannot be directly translated into proposals for change in the new strategy. For instance, the problem of the continuous training activities' duration was discussed. According to the evaluation, its duration is still quite short on average (about 2 days), implicitly calling for longer training activities. However, the experts recalled that, from experience, it is difficult for justice professionals to attend training activities that take them away for long. The fact that some practitioners make no money when not at work, for example, impede them to attend training activities longer than a weekend. The risk with training longer than 2 days is that attendance would drop.

Another issue, mentioned in both the consultation and the evaluation, should be put into perspective according to one expert: the lack of language skills, considered in the 2019 documents as a barrier preventing some practitioners to attend training activities in English. According to this expert, this is a widespread excuse not to attend a training. Yet, other experts testified that, sometimes – if not often – trainees are unable to understand the training material because of their lack of legal English skills, or even basic English. Hence, legal language skills are an important remaining challenge.

On the evaluation pointing out that the training is lagging behind for some professions, the experts wanted to remind that there has been some progresses made regarding lawyers and notaries. Since 2017 (the period covered by the evaluation of the current strategy), several projects have been supported financially and some of them are still running, such as the exchanges for lawyers, the mock competition for young lawyers by the Academy of European law (ERA), or the Refotra project on mutual recognition of training. Experts called for this to be mentioned in the explanatory memorandum of the new strategy.

Finally, the experts also noted that most of the challenges pointed out in the evaluation and the consultation could not be addressed by the Commission alone: one should not forget the role of all other stakeholders. For example, the commitment of all national training providers is necessary to reach out to the target audience, including for training on topics such as the Rule of Law or fundamental rights. On a broader note, experts recalled the need for complementarity of all stakeholders' action to tackle the challenges ahead.

II. The target audience: *Who?*

➤ The main focus should be kept on judges and prosecutors

When addressing who should be the target audience of the new strategy, some experts considered that the figures of the 2019 evaluation would suggest a shift in priorities, from judges and prosecutors to other professions. In particular, too few lawyers

and notaries are trained. According to those experts, the risk of keeping the focus on judges and prosecutors is also that it could discourage other professions from applying to training.

However, a majority agreed that, considering the foreseeable EU budget constraints on justice, the main focus should be kept on judges and prosecutors. Additionally, even though it is difficult to exclude a profession, it should be clear nevertheless that research academics, law students and public administration staff are not targeted. Hence, the target group should be defined broadly enough to cover the justice practitioners in need, but restricted enough not to support financially professions outside the target audience (academics, law students, staff with a law degree).

All agreed also that, even though the focus is kept on judges and prosecutors, the strategy should pay attention not to discourage the other professions from being committed, especially the ones in great need, such as court staff, and lawyers to some extent.

➤ **The specific needs of other professions should be targeted as well**

Yet, the experts agreed to say that some professions have been neglected for years, such as court staff. It was unclear to what extent the strategy should set ambitious objectives for bailiffs, prison staff and probation officers. In the future, the mapping results of training needs studies for those professions would allow to better assess those specific needs.

However, saying that some professions are in need of more training is not enough. The experts expressed the fact that justice practitioners have different needs, requiring different objectives as well. As a matter of fact, the grants funded by the Justice programme mainly concern training on EU law. Yet, some professions need training on EU law less than others. Those professions (prison staff, probation officers for example) might be interested in EU law but not actually need it on a daily basis in their work. There are also diverse levels in terms of initial training and education: older generations tend to have a lesser knowledge of EU law than new ones. According to the experts, all this advocates for a training better adapted to the various levels and needs, with basic or advanced approaches.

The fact that training should be tailored to the professionals that are trained, does not mean that justice professions from various professions cannot be trained together. Quite the reverse, the experts expressed the need for further developing a cross-professional approach, which the new strategy could foster.

➤ **There is a need for more cross-professional training**

In particular, some activities, reserved to some professions only so far, should be opened to other professions, according to the experts.

From the experts' experience, in the past and as an example, joint training activities for judges, prosecutors and defence lawyers have often resulted in clear successes. It was recalled that HELP courses were initially designed for the judiciary and now more than 50% of participants are lawyers. According to the experts, cross-professional training in some areas, like family and succession law (for notaries and judges) or money laundering (notaries and prosecutors), would be desirable.

Nevertheless, the experts warned that some topics are not suited for cross-professional training, so it should not be encouraged *per se* in all fields. Instead, the strategy should encourage joint training in specific areas, but not as an excluding criteria from the funding perspective.

An example of successful national approach to cross-professional training was given: the Italian national school SSM organizes common training activities for various professions (in Italy, lawyers selected by the bars can attend seminars for judges and prosecutors). It was suggested to replicate this best practice at the EU level.

➤ **The “justice professionals” category should be better defined**

In any case, the new strategy will, some way or another, target “justice professionals.” Defining this broad category was deemed complex by the experts. A fine balance will be needed between a broad enough notion, in order to cover all the ones who need it (for example, during the current strategy, the notion had to be enlarged to include GDPR officers and probation officers), and a definition that allows to rule out the ones that should not be targeted. This is especially relevant in the case of lawyers, whose concept can cover different realities in the Member States, from someone who studied law to an independent lawyer, as was shown in a project application where an NGO wanted to train its staff who had graduated from law faculties. Experts agreed that a clear framework is needed for the new strategy that covers the first priorities and the real needs of the justice professions.

Some experts also reminded that a distinction should be made between the target audience and all final recipients of the EU-funded training materials: those can be reused beyond the geographical scope of the strategy *per se*.

➤ **Setting quantitative objectives per profession was deemed useful**

The experts considered that quantitative objectives would be useful to help further developing the European judicial strategy policy, as shown by the trigger given by the quantitative objectives of the current strategy to its implementation. The experts considered that quantitative objectives per profession would be suitable for the new strategy to reflect their differing training needs. The aim of setting such objectives would be to increase the number of professionals trained in all professions, but experts agreed the goals should be realistic, in line with the current budget possibilities. Experts also reminded the importance of a well-planned monitoring system.

Nevertheless, several experts argued that statistics should be used with caution, as they do not always reflect the reality of a profession’s judicial training situation. For example, it is difficult to assess how many court staff professionals are in need of professional training on EU law. Also, it was pointed out that the data can be collected by EU training providers and/or at the national level, by various stakeholders: there is not a single methodology used by stakeholders.

A specific problem of data collection was evoked regarding lawyers. An expert explained how hard it can be to assess how many lawyers take part in cross border activities organised by private training providers. Those private stakeholders give no feedback, which poses a problem when it comes to setting quantitative objectives for lawyers in the new strategy. The current number of lawyers trained on EU law or the law of another Member State is probably underestimated.

In setting specific objectives, the experts acknowledged the fact that the next strategy will have to find a balance between ambition and realism. The 2011 strategy could be successful because it found this perfect balance.

Setting the objective of 100% of initial trainees trained in EU law in the new strategy was deemed realistic for notaries by the expert group.

Regarding court staff, the results of the ongoing Commission's study on their training needs on EU law is required to be able to set an objective.

Regarding bailiffs, the study on court staff training needs on EU law should help define their training needs as some court staff are in charge of enforcement in some Member States.

➤ **Training of trainers**

The training of trainers was mentioned as a possible way to make sure the training is delivered in the same way to all practitioners.

III. The training activities' content: *What?*

➤ **The focus should remain on EU law**

The focus of European judicial training should remain on EU law, EU policy priorities and cross-border judicial cooperation instruments (both old and new ones, in relation to training needs). Experts agreed that those are never-ending needs.

They also noted that EU law still needs to be embedded in national training: it should be made clear that EU law is no longer different from national law, quite the reverse it is now part of it.

➤ **Other topics, such as training on the rule of law and fundamental rights, should be promoted**

All experts agreed that training on other topics should answer the immediate needs of the practitioners and help bringing solutions to their daily issues. In order to do so, it is essential to efficiently collect their needs and then to take it into account when setting the training offer. Several expert suggested to ask for training needs in the annual questionnaire on data for the annual report on European judicial training.

Even though the priority should be kept on EU law and cooperation instruments, other topics have proven relevant for inclusion in the training offer, which could be reflected in the new strategy, according to the experts.

Some experts argued that a clearer focus should be put on the Rule of Law and fundamental rights. In particular, it should be part of the general normal curriculum in all Member States, at least for judges and prosecutors. Continuous training on the Rule of Law and fundamental rights is important for all professions: the strategy should make it clear.

On fundamental rights more specifically, some experts expressed the need for more training on EU-Council of Europe relationships. There is a need for training on the

case law of both courts, as well as on the interplay between the 3 systems (the EU Charter, the ECHR Convention and the national systems). EU Court of justice procedures is also a topic many practitioners would be interested in.

On the contrary, there was no clear stance on the approach for training on non-legal skills. For some experts, those seem far from the practitioners' needs related to EU law. Yet, others also expressed specific needs that can be considered non-legal skills, such as training on psychology and unconscious bias for lawyers. For some, non-legal skills should also be covered by the strategy, in combination with a legal topic in the context of EU financial support. They encouraged not to consider non-legal skills as a totally different topic from legal ones: consequently, the funding calls should continue targeting legal topics and training on non-legal skills should serve the application of a legal instrument, not be taken alone by themselves.

Finally, as previously evoked, language skills are still an issue for many practitioners.

➤ **There is a need for flexibility on the topics**

On a broader perspective, experts called for continued flexibility on topics: this was deemed essential for training providers to constantly adapt to new situations and training needs while still benefiting from EU funding. Experts reminded that sometimes the needs of the practitioners do not exactly match the current political priorities of the Commission. The grants' applicants should be able to propose projects outside of those priorities, as it has already been possible for a few years in the Justice program judicial training annual calls for proposals (for instance for training on cybercrime, e-evidence, or forensics).

According to the experts, transdisciplinary training (on topics related to the area of law) can also be very interesting when paying attention to the professions and the topics that are combined.

IV. The geographical scope: *Where?*

The experts agreed on the need for providing more coherent support to the Western Balkans, through projects addressing structural weaknesses on justice fundamentals, delivered in a coordinated manner.

More generally speaking, the focus should hence be on the EU, the Western Balkans and the neighbourhood countries willing to get closer to the European standards.

V. Improving the training's quality: *How?*

➤ **Increasing the training offer's quality could involve setting qualitative targets and requires further improving evaluation**

The experts agreed that, if quantitative objectives per profession would be useful, qualitative targets should also be set.

According to the experts, both the practitioners' needs and the way their needs are met should be professionally assessed. They acknowledged that measuring the impact of training is difficult, but it is also essential, in order to assess the concrete effect a training has produced, that is: if participants have used what they have learnt, if they stay in touch with each other, if the training was sufficiently practice-oriented.

The experts expressed the need to promote good evaluation standards, including on impact evaluation, and to promote multipliers to improve sustainability, such as EU law court coordinators.

The experts also reminded that, if increasing the impact evaluation would benefit the training's quality, it also has a non-negligible financial cost.

Finally, according to the experts, networks have an important role to play in improving the training's quality. In particular, they should develop standards or recommendations adapted to the training needs of the professions they represent, and develop special methodologies adapted to the training needs identified.

➤ **E-learning could help improving the training's quality, but it will not replace face-to-face seminars**

On e-learning, experts acknowledged that the tendency for developing this tool was probably unstoppable.

There are many arguments in favour of developing e-learning tools, to both improve the quality of training (best practices were evoked, such as the works of the Council of Europe on human rights) and increase the target audience. E-learning should be of higher quality than face-to-face training activities, because every minute needs to be interesting to make sure that attendees actually follow it. The COVID-19 epidemic context shows even more that distance learning is a useful tool from many perspectives. To enable a broader use of new technologies, networks may need to build infrastructures. Finally, considering the fact that practitioners often need immediate information, e-learning can provide for this better than face-to-face seminars, on condition that they are well designed and updated.

However, experts reminded that training is not only about sharing information: it also allows justice professionals from all Member States to create bonds. Real-life bonds among professionals are crucial to build mutual trust. Experts also reminded that online training can be costly. Its exact cost depends on the format of the chosen methodology, which can go from a simple recording of a presentation to a complex tool based on active learning. E-learning also requires constant updates to maintain its value, either by hiring IT staff or subcontracting. One expert suggested that these budget needs related to developing e-learning tools be reflected in the Justice programme calls. Finally, some professionals do not have access to a learning platform from their work place, so they have to do e-learning from home, which can be a deterrent.

Hence, keeping face-to-face training and developing distance learning was deemed the most desirable way forward by the expert group, being very complementary tools. Some experts also argued that the most relevant method of training depends on target and topic. E-learning may work better for professions who lose time and money when attending training (lawyers), less for judges and prosecutors.

Several experts expressed the fact that it should be possible to use e-learning tools just like you pick up a handbook, which means they have to be topical, easily accessible, and answering immediate needs. This way, e-learning materials would be used and re-used by the practitioners, increasing the training's sustainability.

Just like all EU-funded training material, e-learning materials created thanks to EU funds may be re-used by everyone and should be seen as such by all. In this regard, some best practices were presented, such as the FRA material on data protection.

Some experts advised that e-learning tools work better when not too long: half a day is a maximum, otherwise participants lose interest.

Finally, in order for e-learning to bear as much fruit as possible, the experts mentioned the need to train the trainers on e-learning methodologies.

➤ **The access to information on the training offer should be easier: a centralized platform could be set up**

The experts agreed that, whatever the target audience is, finding information on the training offer should be easier. They suggested that training material, created thanks to EU funds or not, should be advertised in a centralised platform. It could take the form of a central online place where available training material on EU law is easy to find.

➤ **The networks of training providers or justice professions have a central role**

According to the expert group, targeted justice professions, just like training providers, should keep organising themselves into networks. The networks' involvement is essential for a successful implementation of the strategy and to improve the sustainability of its results.

Yet, this does not mean that European judicial training should be centralised or organised around an excluding monopoly: its strength also stems from the diversity of training initiatives and actors.

The experts mentioned the fact that all networks should help promoting the re-use of training materials, advertising projects, encouraging the materials' re-use among their members.

➤ **The exchange programmes**

Some experts recalled that exchanges are not judicial tourism: the strategy could call on strengthening the reporting, for example via a standard form of reporting and evaluating exchange programs.

VI. AOB

The Commission allowed additional written contributions to be sent by 1st April 2020 and said it will be distributed to all members and guests as annexes to the minutes.

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