



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 29.06.2006  
COM(2006) 356 final

**COMMUNICATION FROM THE COMMISSION  
TO THE EUROPEAN PARLIAMENT AND THE COUNCIL**

**on judicial training in the European Union**

# COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

## on judicial training in the European Union

### 1. INTRODUCTION:

1. The adoption of the Amsterdam Treaty with its reference to the new objective of creating an “area of freedom, security and justice” means that judicial training is a new task for the Union. Admittedly, there has always been a great need for high-level training for the practitioners of justice in the EU because the proper application of Community law depends heavily on the national judicial systems. The familiarity of judges, prosecutors and lawyers with this subject has, from the outset, been essential for the sound application of the Community legislation and full respect for the fundamental freedoms recognised by the Treaty<sup>1</sup>. But justice, which was hitherto only a means of enforcing Community law in the Community, became an objective in its own right under the Amsterdam Treaty. Improvement of judicial cooperation is now an objective to be met. Judicial training is an essential instrument to this end.
2. After several years of development of the area of freedom, security and justice, this question has taken on particular significance. The adoption of a corpus of legislation that has become substantial and must now be implemented by the practitioners of justice, coupled with the development of the mutual recognition principle, which rests primarily on a high degree of mutual confidence between the Member States’ judicial systems, means that judicial training is now a major issue.
3. The Hague programme adopted by the European Council in November 2004<sup>2</sup> stresses the need to strengthen mutual confidence, which requires “an explicit effort to improve mutual understanding among judicial authorities and different legal systems”. As in December 2001, when the Laeken European Council called for “a European network to encourage the training of magistrates to be set up swiftly; this will help develop trust between those involved in judicial cooperation”<sup>3</sup>, the Hague programme considers that the Union must in particular seek support in the European Judicial Training Network. This communication is in response to the request that the Commission “prepare as soon as possible a proposal aimed at creating, from the existing structures, an effective European training network for judicial authorities for both civil and criminal matters, as envisaged by Articles III-269 and III-270 of the Constitutional Treaty”, included in the Action Plan to implement the Hague programme<sup>4</sup>.

---

<sup>1</sup> See COM(1993) 632 final.

<sup>2</sup> OJ C 53, 3.3.2005, p. 1.

<sup>3</sup> SN (2001) 1200.

<sup>4</sup> OJ C 198, 12.8.2005, p. 1.

4. It also underlines the close link between mutual confidence and the constitution of a "European legal culture", which training can help to strengthen. This European legal culture rests on a sense of belonging to a single area shared by practitioners of justice in the Member States. Apart from the wealth and diversity of the national judicial systems, a significant factor in this area is the presence of common fundamental values embodied in instruments such as the Convention for the Protection of Human Rights and Fundamental Freedoms and the Charter of Fundamental Rights of the European Union, and of a shared legal corpus including both Community law and Union law. The development of the mutual recognition principle, which means that judgments given in one Member State can be enforced quickly and simply in any of the other Member States, requires that this common sense of belonging be strengthened and consolidated. The principle of direct contact between judicial authorities, which is asserted in most of the instruments of judicial cooperation, is another of its components.
5. There is a wide range of judicial professions. This communication primarily addresses issues related to the training of judges and prosecutors who come under the direct authority of the Member States and also, although this is a responsibility for the professions, the training of lawyers. It analyses the operation of legal training in the Member States and the way in which the European Union, particularly through financing programmes, has helped to develop it, before considering the components of a future European strategy on judicial training.

## **2. JUDICIAL TRAINING IN THE EUROPEAN UNION**

### **2.1. A situation that varies very widely between Member States**

6. Judicial training systems are closely linked to judicial organisation in the Member States and vary very widely. The decisive factor is the machinery through which judges, prosecutors and lawyers are recruited.
7. The initial training of the judges, and sometimes the prosecutors, varies in its level of detail according to whether they are recruited straight from university or after several years' professional experience. Continuing training exists in virtually all the Member States, but is not equally highly developed.
8. National training structures reflect differences between judicial systems. Depending on the systems, judges, lawyers and prosecutors follow either the same basic curriculum or separate curricula. As regards judges and prosecutors, depending on the Member State, judicial training comes under the Ministry of Justice, the Higher Council of the Judiciary or Justice, or, as appropriate, under the Prosecutor-General, where there is strict separation between judges and prosecutors, or under specialised establishments. In several Member States<sup>5</sup>, a single institution is responsible for training judges and prosecutors, though they may belong to separate professional categories. Lawyers' training is often organised direct by the bar, in many cases in conjunction with the universities.

---

<sup>5</sup> Austria, Belgium, the Czech Republic, France, Germany, Greece, Italy, Portugal, the Netherlands, Poland, Slovakia and Slovenia.

9. Likewise, the judges in the administrative courts, whether or not they belong to the same professional category as the judges in the ordinary courts, must be brought within European debate on training, especially in view of their essential role in matters such as asylum and immigration. Generally, all the judges, including the specialised courts (military judges, neighbourhood judges, justices of the peace, judges in commercial courts, etc.), who may have to apply European law are involved.
10. Although the Commission does not have exhaustive information on this point, major differences seem to exist between the Member States in the duration of training. Only continuing training is in this respect a comparable parameter, given the differences in recruitment systems. There are sometimes major inequalities in access to training as between judges, prosecutors and lawyers. In budgetary terms, the training of judges and prosecutors is almost always financed from public funds, whereas training for lawyers is financed by professional organisations.
11. The European Union has no grounds for interfering in the organisation of national training systems, which reflect the Member States' legal and judicial traditions. But strengthening mutual confidence entails developing training sufficiently and devoting sufficient resources to it. Judges, lawyers and prosecutors must be able to receive training of an equivalent level and quality. The time devoted to training must be sufficient both to ensure high quality standards in the judicial system and to allow a significant European component to be developed in the programmes. European financing can be used only by way of addition to national financing and cannot be used to release the Member States from their responsibility for ensuring an appropriate level of training of the judicial professions.

## **2.2. The European aspects of judicial training**

12. The wish to strengthen judicial training has been clearly affirmed politically on several occasions, and financial support has been forthcoming. In addition to European organisations involved in judicial training, national training structures have set up a network to meet the challenges involved in strengthening mutual confidence.

### *2.2.1. European support for judicial training*

13. After a first debate in the Council prompted by Italy in 1991<sup>6</sup>, France presented a legislative initiative in November 2000<sup>7</sup>. This proposal was not adopted, but it enabled the Commission to take stock of the possible mechanisms for structuring the European Judicial Training Network<sup>8</sup>. It was also the source of Council conclusions in June 2003 stressing the essential character of training for the success of the adoption of the area of freedom, security and justice and asking the Member States and the Commission to support the European Judicial Training Network.
14. The European Parliament, when considering the French initiative, stressed the importance of the training of judicial professionals in Community and Union law<sup>9</sup>.

---

<sup>6</sup> Doc. 9090/91, 31.10.1991, JUR. 107, COURT 13.

<sup>7</sup> OJ C 18, 19.1.2001 p. 9.

<sup>8</sup> SEC(2002) 635.

<sup>9</sup> Report by Ms Evelyne Gebhardt, A5- 0276/2002 (OJ C 273 E, 14.11.2003, p. 999).

More recently, in its recommendation on the quality of criminal justice and the harmonisation of criminal law in the Member States<sup>10</sup>, Parliament stressed “the key role played by training in developing a common legal culture and a culture of fundamental rights within the Union, in particular via the actions of the European judicial training network”.

15. In addition to political impetus, the development of training has been stimulated by financial support. Since 1996, when the first Grotius programme was set up “to foster mutual knowledge of legal and judicial systems and to facilitate judicial cooperation between Member States”<sup>11</sup>, the European Union has contributed to strengthening the training of legal practitioners through a series of general or sectoral programmes<sup>12</sup>.
16. The European Parliament’s wish to support training took practical form in the establishment of a pilot project to boost exchanges between judicial authorities. This programme continues in 2006 and was incorporated into the legislative proposals for the framework programme on fundamental rights and justice for 2007-2013<sup>13</sup> (see below). The civil justice and criminal justice aspects of this programme will further boost the resources devoted to judicial training.
17. In 2005 Union financial support for judicial training enabled professionals to meet on numerous occasions.<sup>14</sup> Nevertheless, the mechanism of the annual calls for proposals can have the effect that priority is given to financing specific projects that do not fall within a generally consistent pattern and can make it difficult to situate training in a long-term perspective.
18. The framework programme on fundamental rights and justice must therefore facilitate an increase in European financing devoted to judicial training and encourage closer correlation between the Union’s priorities and the training schemes organised, thus encouraging projects that are more ambitious and coordinated and that yield genuine European value added.
19. In addition to financial tools, the mechanisms set up by the Union to help cooperation, such as the Judicial Network in Civil Matters, on the one hand, and Eurojust and the Judicial Network in Criminal Matters, on the other, can play an important role in training by disseminating information on the Union’s legal instruments or by organising local training activities. This role could be strengthened in the future.

---

<sup>10</sup> P6-TA(2005)0030 (OJ C 304E, 1.12.2005, p. 109).

<sup>11</sup> Joint action 96/636/JHA of 28 October 1996 (OJ L 287, 8.11.1996).

<sup>12</sup> See STOP programme (OJ L 322, 12.12.1996) and Falcone programme (OJ L 99, 31.03.1998) which were merged in the AGIS programme in 2002 (OJ L 203, 1.8.2002); in civil matters (OJ L 115, 1.5.2001); in competition law (Decision No 792/2004/EC of 21 April 2004) and, since 2004, the Hercules programme for the protection of the financial interests of the Communities (OJ L 143, 3.4.2004). For the record, Action Robert Schuman (OJ L 196, 14.7.1998).

<sup>13</sup> Commission Communication to the Council and the European Parliament establishing for the period 2007-2013 a framework programme on fundamental rights and justice (OJ C 211, 30.8.2005, p. 6).

<sup>14</sup> In 2005, 1000 judges or prosecutors took part in training activities in another Member State under the EJTN.

### 2.2.2. *Organisations with a European dimension involved in judicial training*

20. There are many institutions regularly organising training for practitioners of justice. Apart from the universities, there is the European Institute of Public Administration (EIPA) in Maastricht, which opened the European Centre for Judges and Lawyers in Luxembourg in 1992. And the European Law Academy (ERA), founded in Trier in 1992, seeks to disseminate better familiarity with European law among lawyers and the legal professions. The EIPA and the ERA are supported by the European Union.
21. In 2000 the national institutions responsible for judicial training in the Member States set up the European Judicial Training Network (EJTN) to develop their relations and coordinate their activities. The EJTN brings the national education institutions together within an association.<sup>15</sup> Its aim is twofold: to promote a training programme with a genuinely European dimension and to develop cooperation as regards analysis of training needs and exchanges of experience and in devising common programmes and tool, all for the benefit of members of European judicial bodies.
22. The EJTN is a valuable tool for developing judicial training and coordinating the activities of the various national structures in the field of Union law. It received operating grants from the Union budget in 2003 and 2005. It also coordinates an important part of the judges exchange programme for 2005. As from 2007, the Commission proposes that it be allocated an annual operating grant under the framework programme on fundamental rights and justice (specific programme on criminal justice).

## **3. WHAT ACTION SHOULD EUROPE TAKE ON JUDICIAL TRAINING?**

### **3.1. Objectives and needs**

23. The organisation of judicial training is primarily the responsibility of the Member States, and it is up to them to incorporate the European dimension fully into their national activities. The needs are great. In criminal matters, special attention was drawn to them in the first evaluation exercise devoted to mutual judicial assistance in criminal matters.<sup>16</sup> Eurojust and the Judicial Network in Civil Matters regularly came to the same conclusion.
24. Priority should be given to three types of action:
  - improving familiarity with Union and Community legal instruments, in particular in areas where specific powers are entrusted to the national judges;<sup>17</sup>

---

<sup>15</sup> 23 Member States plus Bulgaria and Romania are represented. Contacts are ongoing with EE and CY. The ERA also takes part and the Lisbon Network, set up by the Council of Europe, is involved.

<sup>16</sup> OJ C 216, 1.8.2001, p. 14.

<sup>17</sup> That applies in specific areas such as competition (see in particular Regulation (EC) No 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, which confers power on the national courts to apply these articles) but also, more generally, as regards civil and criminal justice and especially for the implementation of mutual recognition.

- improving language skills so that judicial authorities can communicate with each other direct, as provided for in most instruments;
  - developing familiarity with the legal and judicial systems of the Member States so that their respective needs can be assessed in the judicial cooperation context.
25. In terms of method, training must stress the practical aspects which enable the instruments that are adopted to be applied correctly. Apart from lectures and seminars, methods allowing broader dissemination of the results of training must be developed. More training courses for trainers should be offered, in particular to encourage them to be more keenly aware of the European dimension of judicial action and to disseminate such awareness. The use of easily accessible, reusable training tools, in particular on-line, must be sought, particularly regarding Union instruments and information on the national legal systems to which practitioners need to have access. In this connection, close cooperation is desirable between national training bodies, European training bodies and the EJTN, on the one hand, and Eurojust and the Judicial Networks in Civil and Criminal Matters, on the other. Moreover, the introduction of a multidisciplinary element in compliance with national traditions should facilitate exchanges of views and experience between, for example, judges, prosecutors, lawyers and police officers.
26. The principle of direct communication between judicial authorities is regularly hampered by practitioners' inadequate language skills. Resolute action is needed here, targeting in particular those professionals who are directly involved in judicial cooperation.
27. Exchanges are an excellent method of developing common benchmarks while respecting national identities. They could be supplemented by periods of training of an appropriate duration at the Court of Justice and at Eurojust, with the details to be worked out with each of these institutions.
28. The Hague programme stresses the importance of incorporating a European component in national training programmes. Distinctions need to be made according to the level of development of initial training in each Member State. Generally, the purpose of initial training can be seen in particular as one of giving future professionals a sense of belonging to the same area of law and values. Continuing training, on the other hand, must enable already experienced professionals to feel at home with the legal instruments adopted in the European Union. It must first target professionals involved in judicial cooperation, without of course ruling out a broader knowledge-sharing objective.
29. The point of strengthening the European component of national training is to achieve more widespread familiarity with Union mechanisms. There is also a need to develop a more fully integrated type of training, conceived and implemented at European level. The Judicial Network in Civil Matters, Eurojust, the Judicial Network in Criminal Matters, and, if it wishes, the Court of Justice should be associated with designing training of this type, in conjunction with the EJTN, with institutions such as the ERA or the EIPA and with academic networks.

### **3.2. Towards a European strategy of judicial training**

30. Strengthening legal training involves developing closer relations between national institutions, organisations operating at European level and the Union institutions, particularly the Commission.
31. At this stage, without ruling out the possibility of a specific legislative instrument, the Commission first wishes to give financial support to the training of legal professions in Union and Community law under the 2007-2013 framework programme on fundamental rights and justice.
32. In its implementation, difficulties identified in previous programmes must be remedied. To ensure that financing for training is actually targeted on essential needs and to facilitate medium- and long-term activity programming, the main actors in judicial training in the Member States and at European level will be consulted regularly in order to devise a European strategy of multiannual training that will subsequently be reflected in the annual programmes.
33. Parallel to continuous support for European organisations such as the EIPA and the ERA, the EJTN must be strengthened to improve coordination between national entities and to develop strong and stable relations between them. Establishing an annual operating grant for it is a major element, though actual payment, of course, will be subject to the conditions laid down in the Financial Regulation. The EJTN should also be able to become involved in devising fully European training schemes in conjunction with the other relevant bodies. It comprises the institutions competent for training judges, prosecutors being included only where they are classed as judicial officers. Prosecutors must be allowed to take part in all the activities developed at European level and managed by the Network, subject to full respect for national traditions concerning the separation between judges and prosecutors. Many cooperation mechanisms, particularly in criminal matters, are based on sound cooperation between the Member States' prosecutors and between them and Eurojust. The question of the participation of the judges from administrative courts and specialised judges more generally (for example, in commercial courts, employment courts and so on) must also be considered.
34. Training for the other legal professions, and particularly lawyers, whose role is decisive, must also be strengthened. Existing programmes already make it possible to finance actions of interest to them. The future framework programme on fundamental rights and justice must provide the means of strengthening them in order to preserve a balance between judicial authorities and the other legal professions.
35. Financially speaking, there will have to be a degree of simplification to target European financing more clearly on projects that make it possible to reach out to audiences of particular importance (judges, prosecutors and lawyers). Account will be taken in particular of the pre-eminent role of national institutions whose direct involvement should make it possible to strengthen the European components in the national programmes. In addition, in order to facilitate the medium-term planning of activities, general partnership agreements could be put in place to stabilise relations with qualified institutions; calls for tender could also be issued on a one-off basis for certain larger-scale projects.



36. Lastly, judicial training should become integrated into a broader international context and should be an area for cooperation beyond the borders of the Union. It should be able to be extended to the Council of Europe (under the Lisbon Network) and, beyond that, to contribute to facilitating judicial cooperation with third countries and to strengthening the rule of law in the world.

#### 4. CONCLUSION:

37. Judicial training is a vital issue for the establishment of the European judicial area in the years to come, as the Hague programme stated. Numerous actors will have to be mobilised to play a role here, with a star role for the framework programme on fundamental rights and justice. Concerning the strengthening of the European Judicial Training Network referred to expressly in the Hague programme, financial support appears the most appropriate solution in the current situation. A different option was taken in police matters, where the Union chose a European agency structure when setting up CEPOL<sup>18</sup>. Although a similar solution does not currently seem necessary in judicial matters. The question of developing European judicial training structures towards other forms could be raised again when the framework programme on fundamental rights and justice comes to an end.
38. The adoption of that programme will be an opportunity to highlight the importance attached by the Union to training for the judicial professions by assuring it of increased financial support. The development of a European strategy for legal training involving national and European players should enable optimum use to be made of the new resources. At the present stage of evolution of the European judicial area, training for practitioners is a crucial factor in making effective and visible to the people of Europe the progress achieved in establishing the area of freedom, security and justice.

---

<sup>18</sup> Council Decision 2005/681/JHA of 20 September 2005 establishing the European Police College (CEPOL) and repealing Decision 2000/820/JHA (OJ L 256, 1.10.2005, p. 63).