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European judicial training strategy 2021-2024

OPINION

European Economic and Social Committee

**Communication from the Commission to the European Parliament, the Council, the European
Economic and Social Committee and the Committee of the Regions**
Ensuring justice in the EU — A European judicial training strategy for 2021-2024
[COM(2020) 713 final]

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Section responsible	Employment, Social Affairs and Citizenship
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1. **Conclusions and recommendations**

- 1.1 Judicial training on EU law has improved the correct and uniform application of EU law and built mutual trust in cross-border judicial proceedings, thus helping to develop the EU area of justice. The strategy builds on the success of previous efforts and seeks to maintain judicial training high on the EU agenda, with a special focus on dealing with emerging challenges such as the green transition or new industrial relations and adapting to the new technological era.
- 1.2 By providing adequate resources, support and training, justice practitioners in all Member States can respond to the needs of citizens, workers and business across the EU. Well trained practitioners play an important role in strengthening a rule of law culture and upholding the rule of law itself, promoting European values and principles such as judicial independence and supporting the effective observation of fundamental rights at EU and national level.
- 1.3 Ongoing developments in the labour market are increasingly raising questions regarding the status and rules applicable to workers and upcoming new forms of work. Courts decisions from the Member States differ in similar or identical situation on this matter, even in cases regarding the same company. In order to ensure an unitary jurisprudence and a proper functioning of the internal market it is necessary to ensure guidelines and training for the judiciary.
- 1.4 The EESC fully understands and acknowledges that the Commission merely has a supporting role in judicial training, while the national stakeholders have the primary responsibility. Nevertheless, adequate strategic integration and financial support for the implementation of the strategy should be a common concern.
- 1.5 Given the EU-level challenge and the growing number of issues with an EU dimension (i.e. protection of the financial interests of the EU in new financial mechanisms, digital and green transition), it is increasingly important to lay down rules for a more homogeneous approach across Member States when it comes to judicial training.
- 1.6 To the same extent, the Committee acknowledges the importance the Commission attaches to regularly monitoring the implementation of the strategy and working with the other EU institutions to secure the requisite political support for delivering on the objectives. The EESC strongly recommends that the Commission find ways in which CSOs and social partners could be included in monitoring the implementation of the strategy, both at EU and Member State level.
- 1.7 In order to protect the EU's financial interests, environmental issues and the Union's rights, the EESC considers that the protection and the rights of whistleblowers, who play a key role in preventing abuses linked to fraud and corruption, as well as any infringement of the Union's rights, should be included in the training of justice practitioners.
- 1.8 European judicial training should go beyond legal education and the Committee particularly welcomes the focus on "judgecraft" as a central element for the efficiency of justice. The EESC supports the development of professional skills in complementary fields, such as ethics, forensics and psychology, and ensuring that legal professionals have the necessary

understanding of technical elements that most of the time are dealt with in various fields of EU legislation, such as the environment, infrastructure or finance/banking.

- 1.9 Similarly, in the context of digitalisation and in particular when using artificial intelligence tools in the judicial system, the EESC recommends specific training. In particular, knowledge and application of the principles of the European Ethical Charter for the Use of Artificial Intelligence in Judicial Systems, should be strongly pursued and recommended.

2. **Background**

- 2.1 The evaluation of the 2011-2020 European judicial training strategy shows that it has helped improve training on EU law for legal practitioners (especially judges and prosecutors), built the capacities of networks such as the European Judicial Training Network (EJTN) and reinforced EU level networks and training providers.

- 2.2 New developments and challenges need to be addressed by judicial training at EU level. They include a deterioration of the rule of law, attacks on fundamental rights in some Member States, new fields of regulation at the EU level but also the digital transition.

- 2.3 The 2021-2024 European judicial training strategy aims to consolidate a common European judicial culture based on the rule of law, fundamental rights and mutual trust. It proposes a framework and a set of key actions to boost the correct and effective application of EU law. Member States, training providers, national and European justice professionals' organisations and the EU are called on to address the following priorities, through shared responsibility:

- judicial training to promote a common rule of law culture;
- upholding fundamental rights and making the EU Charter of Fundamental Rights a reality in people's everyday lives, with an emphasis on protecting victims and vulnerable individuals;
- upscaling the digitalisation of justice;
- keeping pace with developments in EU law, including cross-border judicial cooperation;
- equipping practitioners to address new challenges, especially in the wake of the pandemic;
- training beyond EU law, such as on "judgecraft" and non-legal knowledge and skills;
- creating and implementing a more hands-on, practical, tailored training agenda for justice professionals;
- increased, broader and more targeted training for different categories of justice professionals;
- promoting high-quality, effective training activities, including diverse forms of learning with an emphasis on hybrid and/or e-learning methods and using tried and tested curricula;
- boosting judicial training for young practitioners;
- enhancing the shared responsibility of national stakeholders, networks of EU law experts, the European Judicial Training Network, other EU-level actors and the Commission;
- targeting justice professionals beyond the EU, in particular from the Western Balkans.

3. General comments

- 3.1 The COVID-19 crisis has caused considerable difficulties for the workings of the judicial system but also created several new challenges that justice practitioners must address. The EESC welcomes the attention paid to the need to ensure not only the infrastructure for the digital transition, but also the investment in the skills of practitioners who will have to be part of this **digital transformation**.
- 3.2 There is an important caveat – the implementation of the strategy is impossible without the **participation of all stakeholders**, including justice ministries, councils for the judiciary and prosecution, boards of self-regulated professions, European associations of justice professionals, national and EU-level training providers, and EU institutions and bodies. The EESC joins the Commission in its call for these actors to commit to achieving the quantitative and qualitative objectives of the strategy.
- 3.3 The EESC recalls the conclusions from numerous previous opinions¹ stating that consistency in access to justice across the EU is an essential factor underpinning the single market and the consistent implementation of EU legal rights in the Union, providing necessary clarity and certainty for citizens and businesses, as there still are significant differences in the application of the EU *acquis* between the Member States. To this end, it is essential to support Member States at national level by providing them not only with the necessary complementary funding (including through the recovery and resilience resources), but also with the tools to ensure that all stakeholders and those working in the field of justice are ready to join this effort.
- 3.4 To the same extent, we acknowledge the importance the Commission attaches to regularly monitoring the implementation of the strategy and working with the other EU institutions to secure the requisite political support for delivering on the objectives. The EESC invites the Commission to find ways in which CSOs and social partners could be included in monitoring the implementation of the strategy, both at EU and Member State level.
- 3.5 The EESC agrees that the well trained practitioners play an important role in strengthening a **rule of law culture** and upholding the rule of law itself, promoting European values and principles such as judicial independence and supporting the effective **observation of fundamental rights** at EU and national level. However, we stress the importance of providing adequate resources, support and training as part of a larger effort to ensure that justice practitioners in all Member States can respond to the needs of citizens and business across the EU, with the observation of the same standards and values.
- 3.6 Since its creation in 2018, the EESC Fundamental Rights and Rule of Law (FRRL) Group has paid attention to stakeholders' views on issues relating to the quality and independence of the judiciary. The EESC agrees that well trained practitioners play an important role in strengthening a rule of law culture and upholding the rule of law itself, promoting European

¹ EESC Opinion on *Access to justice at national level related to measures implementing EU environmental law* (Communication), [OJ C 129, 11.4.2018, p. 65](#); EESC Opinion on *EU actions to improve environmental compliance and governance*, [OJ C 283, 10.8.2018, p. 83](#); EESC Opinion on the *Application of the Aarhus Convention - Access to Justice in Environmental Matters*, [EESC, p. 2](#)

values and principles such as judicial independence and supporting the effective observation of fundamental rights at EU and national level.

4. **Specific comments**

- 4.1 We welcome the continuous commitment to essential training for justice practitioners in Member States, particularly through the observation of the EU acquis in the area of rule of law and the effective implementation of Member States' commitments to fundamental rights (including the rights of specific vulnerable groups such as children, persons with disabilities, victims of gender-based violence, racism and discrimination).
- 4.2 Ongoing developments in the labour market are increasingly raising questions regarding the status and rules applicable to workers and upcoming new forms of work. Courts decisions from the Member States differ in similar or identical situation on this matter, even in cases regarding the same company. In order to ensure an unitary jurisprudence and a proper functioning of the internal market it is necessary to ensure guidelines and training for the judiciary.
- 4.3 One other element that is emphasised is the need to continue training activities in the areas considered problematic under the EU security agenda, such as cybercrime, organised crime and financial crimes that impact the EU budget, especially in the new context of creating the EPPO. This should be an ongoing concern for all stakeholders and appropriate resources should be allocated to this end.
- 4.4 On the subject of protecting the EU's financial and environmental interests, the EESC considers that the training of justice practitioners must include the protection of whistleblowers, whose rights are still too little known and who, through their reporting, play a key role in preventing abuses linked to fraud and corruption and any infringement of the Union's rights.
- 4.5 One of the most important issues will be related to taking the justice sector forward in the digital area. However, the EESC notes that there are significant differences in the national contexts and that the judicial systems in the Member States are at different stages of digitalisation. The proposed strategy takes into account the national competences and respects the principle of subsidiarity. At the same time, it is important that all Member States work towards reducing the existing digitalisation gaps not only through ensuring infrastructure investment, but also the skills for justice professionals who will need to make the digital transformation a reality.
- 4.6 Without the digitalisation of justice at national level and investment in the training of justice practitioners to use digital tools and technologies in their daily practice, it will be hard to facilitate closer cross-border cooperation between judicial authorities. Moreover, without adequate and cohesive investment in training not only in digital skills, but also awareness, new challenges will be hard to address (both issues like adequate protection of individuals' rights and personal data in the digital space as well as new issues such as cybercrime).
- 4.7 In the context of digitalisation and in particular when using artificial intelligence tools in the judicial system, the EESC recommends specific training on the issue. Respect of fundamental rights, preventing discrimination, using good quality data in judicial decisions, and respect for

the "human in command" approach are, among other things, contained in the European Ethical Charter for the Use of Artificial Intelligence in Judicial Systems². It is of the utmost importance to make these principles known and respected through training.

- 4.8 The acknowledgement that European judicial training should go beyond legal education and support the development of professional skills is welcome. In particular, we note the focus on training in "judgecraft" as a central element for the efficiency of justice, the relationship of trust between justice systems and members of the public, and trust between practitioners in cross-border cooperation.
- 4.9 Another key point that needs to be addressed is the training of justice practitioners in complementary fields, such as ethics, forensics and psychology, and ensuring that legal professionals have the necessary understanding of technical elements that most of the time are dealt with in various fields of EU legislation, such as the environment, infrastructure or finance/banking.
- 4.10 The EESC also appreciates the focus on a broader range of justice professionals who apply EU law, including – first and foremost – judges, prosecutors and court staff, but also professionals such as lawyers, notaries, bailiffs, mediators, legal interpreters/translators, court experts, and in certain situations prison staff and probation officers. Nevertheless, particular attention should be paid to the highly varied picture across Member States, with a diverse range of specific national circumstances that could make even implementation of the strategy rather difficult.
- 4.11 The EESC also agrees that training should be of a high enough quality to achieve its objectives, that needs assessment is mandatory, but also that justice practitioners need exposure to diverse forms of learning, including a blend of face-to-face residential activities, e-learning tools and on-the-job training. The EESC is concerned, however, that common methodologies and national training providers will not be enough in this regard, and that, although there are currently plenty of resources, good practices and guides at EU level, Member States are not fully committed to using them.
- 4.12 The unique role and results of the European Judicial Training Network is an ongoing experience from which we can learn, and we welcome the focus on the role to be played by EU-level actors in promoting and organising cross-border training activities, while multiplying the training effects.
- 4.13 The role of European judicial training in promoting a common rule of law culture is also present in the focus on justice professionals beyond the EU or the special emphasis on ensuring that new justice professionals are given a grounding in the EU legal system and legal culture in the course of their initial training.
- 4.14 The Commission's efforts to encourage participation of justice professionals from non-EU countries – particularly the Western Balkans region – in training on the rule of law *acquis* or on

² <https://rm.coe.int/charte-ethique-fr-pour-publication-4-decembre-2018/16808f699b>

cross-border judicial cooperation, is also welcomed. The EESC has constantly underlined³ the need to support the rule of law and independent justice for the candidate countries and potential candidates for EU membership.

- 4.15 The EESC also draws attention to the need to acknowledge the post-Brexit challenges that might arise for professionals in the judicial system. This is of particular importance in the context of the EU-UK Trade and Cooperation Agreement that was concluded, but also for law enforcement and judicial cooperation in criminal matters and for making sure that fundamental rights are respected.
- 4.16 Last but not least, with a view to ensuring the sustainability of the proposed actions, the EESC emphasises the need to involve, beyond the stakeholders from the judiciary, CSOs and professional associations of justice practitioners and justice-seekers from particular fields (environment, public procurement, healthcare, consumers protection, workers' rights and industrial relations etc.). Strong involvement by civil society and social partners can make an additional contribution to strengthening democracy, human rights and the rule of law.

Brussels, 27 April 2021

Christa Schweng
The president of the European Economic and Social Committee

³ EESC Opinion on *Enhancing the accession process - A credible EU perspective for the Western Balkans*, [p. 9](#); EESC Opinion on the *EU Enlargement Strategy*, [p. 1](#).