



Rule of Law Challenges to Judicial Cooperation in the Field of European Asylum Law

ONLINE TRANSNATIONAL TRAINING WORKSHOP FOR JUDGES, PROSECUTORS AND LAWYERS

date 3 and 4 June 2021

time 2.30 pm - 5.30 pm, CET

Call for Participants

Framework

The training is offered within the European Commission's funded project *TRIAL - TRust, Independence, Impartiality and Accountability of judges and arbitrators safeguarding the rule of Law under the EU Charter* (Horizon 2020, project no. 853832, JUST-JTRA-EJTR-AG-2018). The TRIAL Project provides training activities and tools for judges, lawyers, prosecutors, and arbitrators on the European rule of law, mutual trust, judicial independence, impartiality and accountability (see the dedicated website [here](#)).

Background

Pursuant to Article 2 of the Treaty on the European Union (TEU), the Union is founded on a set of values, including the rule of law. The Union is based “*on the fundamental premiss that each Member State shares with all the other Member States, and recognises that they share with it, the values under Article 2 TEU*” (Court of Justice, Opinion 2/13, point 168). In turn, “*this premiss implies and justifies the existence of mutual trust between the Member States*” (ibid.). The scrupulous observance of the Article 2 TEU's values is thus a precondition for the correct functioning of EU law instruments based on horizontal cooperation between judicial authorities across the Member States.

Respect for the rule of law requires that national judicial authorities can ensure, in cases pending before them, an effective judicial protection to the individuals concerned, in line with Article 47 of the EU Charter of Fundamental Rights (EU CFR). Since its judgment known as *LM or Celmer* (Case C-216/18, *Minister for Justice and Equality*), the Court of Justice acknowledged that the national court requested to execute a European Arrest Warrant (EAW) coming from a Member State where there are rule of law problems may be under a duty to refuse such an execution. Whilst the Court of Justice has inaugurated this approach with respect to the EAW mechanism, it can be extended also to other EU law instruments entailing horizontal judicial cooperation in the Area of Freedom Security and Justice. Notably, judicial cooperation under the Common European Asylum System (CEAS) constitutes another field where mutual trust and respect for the rule of law are cornerstones. Since its judgement in *N.S.* (Joined cases C-411/10 and C-493/10), the Court of Justice acknowledged that the presumption whereby the Member States comply with EU fundamental rights, which allows horizontal cooperation within the CEAS, is not an absolute one.

Under certain circumstances, which it is up to the national authorities to ascertain, cooperation within the asylum system can be suspended. The Court of Justice has then developed this approach in the following case law (see, notably, the judgements in *CK*, Case C-578/16 PPU; *Jawo*, Case C-163/17; *Ibrahim*, Case C- 310/08).

Interestingly, asylum and criminal judicial cooperation have informed each other on the standards for the application of mutual recognition. However, some divergences exist, in particular as regards the burden of proof requested to the person subject to a transfer under the Dublin Regulation and, consequently, the role of national authorities in assessing the relevant elements in order to suspend horizontal cooperation between Member States.

Provisional agenda

The training will consist of two afternoon sessions (2.30 pm – 5.30 pm, CET), on 3 and 4 June. It will host a combination of short lectures, followed by Q&A/debate sessions, and a group-exercise on a hypothetical case.

The following topics will be addressed by guest speakers:

- *The evolution of the Court of Justice's case law*
- *The implementation of the Court of Justice's case law at the national level*
- *The role of the ECHR and the Strasbourg Court*
- *End of mutual trust? Judicial cooperation with the UK and Northern Ireland after Brexit*

The group-exercise will focus on the application of the NS test before national courts, in situations where the Member State competent to address the request of asylum is experiencing rule of law challenges. Special attention will be devoted to the issue of the burden of proof and to the instruments of horizontal and vertical cooperation available. In order to promote active engagement, participants will be divided in small-groups, hosted in different online rooms, and will discuss the proposed case together with facilitators from the TRIAL project team.

Methodology

You will learn through:

- a 2-half day online workshop, including lectures and discussion sessions on the most relevant European and national case law, and small group works on case studies;
- preparatory materials distributed to registered participants in advance of the training. Notably, you will be provided access to the TRIAL online training platform, which includes a background module on the European rule of law and the mechanisms for its enforcement, a dedicated module on the rule of law challenges to judicial cooperation in the field of EU asylum law, and a data-base gathering a selection of the most relevant European and national case law (each decision is elaborated into case sheet in English).

Who should attend

Judges, public prosecutors and lawyers.

There will be **30 participants**.

The participation is free of charge. Participants will be provided with certificates of participation.

What you can expect after the completion of the training

- You will be able to understand and explain the main legal issues relating to the European rule of law (the training's "core");
- You will be able to identify the standard of effective judicial protection under Article 47 EU CFR and the role of the ECHR and the case law of the Strasbourg Court to determine it;
- You will become familiar with the procedural steps through which the existence of a duty to pursue or suspend horizontal judicial cooperation exists;
- You will become familiar with the allocation of the burden of proof in cases concerning the implications of rule of law problems on mutual trust, as well as understand how that burden can be satisfied;
- You will be able to establish whether the solution of the pending case requires the involvement of the Court of Justice through the reference for preliminary ruling;
- You will be able to find cases decided by the Court of Justice or national courts which can help you solving the pending case or supporting your legal arguments;
- You will understand how to implement the relevant case law of the Court of Justice in your case;
- You will acquire the ability to relate the knowledge acquired to the cases you are dealing with in your legal practice;
- You will be able to create and design new arguments in order to convincingly plead your case where issues concerning mutual trust and the rule of law arise;
- You will become part of a network of legal practitioners and scholars dealing with similar issues that could provide support for future questions.

Selection Process

The workshop is open to **30 legal practitioners** (judges, public prosecutors, lawyers) **from any EU country**.

Applicants are invited to submit their application, in accordance with the requirements as specified below, by **9th of April 2021** to alessandra.favi@unifi.it (cc: nicole.lazzerini@unifi.it).

Judges from Italy and lawyers from Romania are kindly asked to send their applications, by the same deadline, to their reference institutions.

For **Italy**, the email address for submitting application is internazionale@scuolamagistratura.it
contact person: Gianluca Grasso from the Italian School for the Magistracy (SSM)

For **Romania**, the contact for lawyers is Veronica Morecut from National Association of the Romanian Bars (UNBR), email address: veronica.morecut@unbr.ro or raluca.bercea@e-uvr.ro

Application requirements

1. A full CV in English;
2. A brief motivation letter in English explaining the candidate's reasons of applying, how he or she would benefit from and contribute to the project. This letter should not merely restate the candidate's CV.

Applicants will be notified about the result of the selection process by 19th of April 2021.

Selection criteria

The selection process aims to identify participants who will effectively and substantially contribute to dissemination of project results.

Thus, candidates are expected to have:

1. An excellent knowledge of English language;
2. A general knowledge of and experience in the topic of the workshop.

The selection will ensure the following criteria:

1. Single participation principle: applicants that already took part to TRIAL training activities cannot be selected. Exceptions are at the discretion of the University of Florence, in agreement with the Project Coordinator, the Centre of Judicial Cooperation of the European University Institute;
2. Gender balance;
3. Age balance;
4. Geographical representation: Geographical distribution will be taken into account, with the aim of selecting participants who work in different areas and regions within the participating countries.

Participants are asked to devote the necessary time to this project. If selected, participants must commit to all sessions of the workshop for which they have been selected. They are also asked to prepare for the Workshops by reading the relevant materials in advance.

Applicants are not required to have participated in similar training programmes before, nor will recent participation in similar training programmes necessarily prevent them from being accepted.

The selected candidates are expected to acquire awareness from the distributed materials, as well as to be ready to commit to the active participation in the workshop and its follow-up activities.

Contact person for general information

For any information on the workshops, or doubts concerning the call for application, please address the person in charge for the TRIAL Project in the University of Florence: nicole.lazzerini@unifi.it.