Conference of Directors
Content of judicial training from EU and citizens needs perspective

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Content of judicial training from EU and citizens needs perspective

Today we have heard the role of different actors concerning the training of legal practitioners and the expectations from the side of the European Union.

As the ‘EU Justice Agenda for 2020’ states “The impact of EU law on the daily lives of European citizens and businesses is such that every national legal practitioner – from lawyers and bailiffs on the one hand, to judges and prosecutors on the other – should also be knowledgeable in EU law and capable of interpreting and effectively enforcing EU law, alongside his or her own domestic law. [...] Training legal practitioners in EU law is thus of utmost importance to ensure EU law is implemented and applied correctly, to build trust in each other’s judicial systems and enable practitioners to cooperate and trust each other across borders.”

The citizens ask for a justice which is efficient and easily accessible. The guarantees of accessibility, proximity and treatment within a reasonable time limit for seeking justice are central points of attention.

Every member state takes different initiatives and measures to enhance access to justice, to improve justice performance and to tackle the court backlog.

Today we face different judicial challenges in different member states.

1. The context of the judicial challenges

1.1. Reforms in the judicial landscape

The justice reform in Belgium has been on the agenda of several forums and in many working groups for a number of years. Finally, on 1 April 2014, the most important reform in decades of the judicial system in general, and of the judicial organisation in particular has been established.

Redrawing the judicial districts, empowering the chief justice of the courts and giving more autonomy regarding (resource) management are important challenges for the organisation, but especially for each and every judge, prosecutor and staff member.

The reduction of the number of districts puts more emphasis than ever before on partnerships between entities and it requires flexibility and/or mobility (e.g. because of specialisations) of judges, prosecutors and court staff.

While the number of chief justice of the court is being reduced, their responsibility increases. This not only entails the growing number of court staff under their command, but elates to the most efficient utilisation of the allocated resources as well. The management agreements give the judicial organisation more management autonomy, but they also set concrete results and goals to be achieved.

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1 Source: The EU Justice Agenda for 2020 - Strengthening Trust, Mobility and Growth within the Union. 
1.2. The generation mix

Just like any other organisation, the Belgian judiciary is confronted with a diverse generation mix on the work floor, creating even more diverse expectations. The different visions regarding work, working conditions or working methods are, without doubt, an important challenge for the judicial organisation.

On the one hand we have the baby boomers, people in their 50s and 60s who are not keen on change and firmly hang on to established procedures and processes. On the other hand, we have the so-called generation Y who represent the future of the organisation and are crucial in controlling the natural outflow. They are critical, have the will to rewrite rules and are a driving force for technological innovation and creativity. Not to mention the different generations in between with their specific characteristics.

The JTI plays a key role in bringing these different generations together around certain topics and within a context of competence development. The network platforms and intervision groups offer already a solid base to start up a cross-generational debate on all sorts of topics regarding judicial and organisational challenges.

1.3. The need for good knowledge

The judicial process is subject to strict procedures, which also increase in complexity and are modified at an increasingly faster pace. All actions are strictly laid down when it comes to roles and responsibilities, timing, etc. It goes without saying that every judge, prosecutor and staff member within the judicial organisation must have an adequate basic knowledge of these strict rules.

The basic training (e.g. at universities) has usually taught them sufficient theoretical knowledge of laws, regulations and decisions. The JTI's approach is different and therefore necessary and effective: “We don’t teach them law, we teach them to judge or to prosecute”.

The 'initial professional training' will become increasingly important over the next years. The need for a strong influx of new staff members (to counteract the retirement wave) combined with the social and legal evolutions and their impact on the judicial process, will necessitate a further broadening and deepening of this training.

The need for training is not unique for young judges and prosecutors! Every judge, prosecutor and staff member must have a sound and directly applicable knowledge base. The power of the judiciary is in the first place the people that form the judicial organisation.

The JTI contributes in assuring that each and every one of them has the required competences to perform their duties, roles or functions within the Public Prosecutor's Office or the courts and tribunals according to the rules of the game. In other words, building a ‘prosecutor-craft’ and ‘judge-craft’ is in fact the outcome of the JTI’s strategy and services.

1.4. The brain drain (high natural outflow)

The high outflow (> 40%) over the next years within the judicial organisation in Belgium constitutes a real risk of losing knowledge. The judiciary needs to take the appropriate measures to prevent the loss of knowledge and by extension the loss of competencies.
1.5. The social and technological evolution

The globalisation of our society, in combination with the rapid technological evolution, not only leads to additional legislation, but especially to new legal issues.

Obviously, the judicial organisation needs to integrate these developments and align its activities with them to ensure an adequate administration of justice.

But at the same time, there is a bigger risk of a significant increase in legal costs due to the rising number of investigations, because one wants to be sure not having overlooked something but also because there’s no or at least insufficient experience or affinity with these new problems and therefore there is an incorrect assessment of the risks. Another element is an insufficient knowledge of the possibilities and restrictions of newly introduced research methods.

Besides adequate training, it’s essential to pursue the exchange of practical experience in order for a judge or prosecutor in the field, assisted by forensic experts, to define the most suitable research scenario. Or to use a simple, but very accurate quote that may well be applicable here: “If you think education is expensive, try ignorance”.

The JTI has already started several initiatives within the judiciary as well as with other actors in justice to share concrete knowledge and experience, based on specific cases. This exchange will become increasingly important over time and will ideally incorporate international experience as well. The JTI’s involvement in several international networks is an important cornerstone for this.

1.6. The upcoming computerisation

The computerisation of the judiciary not only provides a promising future, it also necessitates another way of thinking and working for judges, prosecutors and court staff.

The application-related or functional training is one aspect of the equation and for this, the distributor or developer is best suited. But other aspects such as dealing with digital instead of paper files, the focused search for information, the sharing of and contributing to digital documents, the different aspects of information security, electronic information exchange between parties, legal implications, etc., are equally important.

In these aspects, which are on the crossroads between technology and the domain of the judiciary, the JTI can bring added value. Pinpointing insights, knowledge and experience will provide an important contribution to the acceptance of this new working environment by all generations.

1.7. The international context and obligations

As more and more lawsuits are of a cross border nature, this will absolutely require more effort in the coming years. Another aspect that will require more attention are the European agreements and guidelines when it comes to European legislation and/or the laws and legal systems of other Member States.
2. The Judicial Training Institute, a driver for change!

As a federal and independent institution, the Belgian Judicial Training Institute (JTI), has the objective to develop in an optimal way the professional competences of the 16,000 magistrates and the personnel members of the judiciary in order to contribute to a quality justice.

In order to prepare, in this case, judges to the justice of law, the democratic position and its responsibility, the JTI goes much further than just focusing on the sound knowledge of law.

2.1. We focus on results

Just as it is important for the judge and prosecutor to be able to judge in sovereignty, it is becoming increasingly important for the JTI to assure at any time the most optimal learn yield. Therefore integrated and blended learning paths have to be developed on the basis of judicial expertise, experience and pedagogical insights.

2.2. Focus on added value

The JTI does certainly not want to limit its offering to a set of repeated standard courses. On the contrary, the Institute wants to adapt its offering timely and proactive to make sure that the judiciary disposes of the required competences.

It’s however not realistic to expect the JTI to offer every individual each and any training that could or would be of help. The Institute simply does not have the required human or financial resources to make this happen for over 16,000 people at the same moment.

The JTI needs to focus on these domains where it offers the highest added value through its expertise and knowledge. In particular this is the development of technical and generic competences linked to jurisdiction, i.e. the judicial competences.

As is apparent from the foregoing, the JTI strives to offer an absolute added value for practical or professional training. That is the area the JTI mainly (or even exclusively) needs to focus on in the coming years, increasing the accessibility and effectiveness thanks to a good mix of teaching methods.

2.3. Focus on efficiency

The constant search for improved efficiency is a must for every administration. Continuous efforts should be made to be more cost-efficient without compromising the quality of service.

The JTI is expected to deliver a continuous and high-quality service. Therefore it has to invest in an organisational culture, processes, training, support and quality control with the most optimal cost efficiency.

At each level, attention and resources need to be focused on the (core) tasks and objectives with the highest added value and at any time, the right balance between efficiency and effectiveness should be achieved.

It is important that the political level also supports this pursuit of cost-efficiency and effectiveness and sustains the mandate, responsibilities and decision power of the JTI.

Judicial Training Institute
Within that context, the JTI, as described above, can safeguard an optimal role in the interest of each individual judge, prosecutor and staff member, in the interests of the judicial organisation in general and in support of reforms in particular. The judicial challenges are, one way or another, challenges for the Institute.

3. A structured approach to needs assessment and prioritisation

3.1. The judicial competence model

The JTI deliberately emphasises skills instead of knowledge in all its training initiatives. Indeed, this practical orientation ensures that the participant can immediately and in the correct way apply the competence he or she achieved to the daily assignments and tasks.

Moreover, this approach ensures optimal balance between theoretical models and the specific (practical) situations within the judiciary in general and the judicial organisation in particular.

A number of concepts are at the heart of this approach.

- It is based on a specific 'judicial competence model' whereby the term competence comprises knowledge, skills and attitudes. The JTI explicitly opts for a competence model that focuses on the judicial organisation, even for the so-called generic competences. From the start, this puts the emphasis on integrating these competences within the judiciary and adapting them to the specific needs.

The model has been developed with the assistance of field experts and has since then been tested and validated by several reference contacts.

The model defines the competences in three distinct domains: the technical competences, the administrative-organisational competences and the socio-communicative competences.

- Technical judicial competences
  These competences focus on the technical/substantive aspects of the role or function. In other words, they are often linked to rules and procedures in the context of criminal law, social law, private international law, etc.

- Administrative and organisational competences
  These are mainly aimed at planning, controlling and directing the organisation, but also deal with skills such as project management or business process management.

- Social-communicative or psychosocial competences
  These include aspects such as communication skills and stress management, or for example analytical skills in the context of legal judgments.
3.2. Competences versus functions and roles

The competence model described above includes all (possible) judicial competences and provides the framework in which the competence requirements of each role or function should be placed.

Not every competence is equally important or necessary for each role or function and does not have to be present to the same extent. In other words, it is important to correctly assess the expected level of competence for each of the competences in the model.

For example, a chief justice of court needs to understand what project management entails and what his role in it is or may be as a sponsor, but he does not need the thorough knowledge or skills that are expected of a project leader.
Even though these competence standards are crucial to adequately conduct a needs analysis regarding competence development, it is not up to the JTI to make a statement about this. That is the responsibility of the High Council of Justice and the Minister of Justice, supported by the Federal Public Service of Justice. Therefore, cooperation on this matter with both key players is explicitly dealt with in the structured ‘ABA’ Process (needs analysis).

The JTI relies on both players to establish the required competences and competence levels for every function or job profile. To support them, they receive a structured template that allows them to standardise every competence for every function (or every function profile).

This standardisation will be adjusted repeatedly according to the changing circumstances and after the job profiles have been fine-tuned or extended. This will enable an increasingly effective, focused and transparent competence management.

3.3. Mapping the existing competences

Starting from the judicial competence model, the existing competences are identified (at individual, team or organisational level). The main objective is to work in a sufficiently pragmatic and practical way.

Therefore, the JTI collaborates with the chiefs justice of court to perform a basic assessment of the existing competences of the members of their teams. This will not give a completely accurate picture, but does suffice as an initial indication.

Based on this information, the existing competences can be benchmarked (at individual, team or organisational level), as communicated by the chief justice of court, against the expected level per function or role, as determined by the High Council or the Minister of Justice, to determine the competence deficit and thus the explicit needs. Similarly, a forecast can be made of the future needs arising from the expected outflow of court staff.

3.4. Process-based needs analysis and composition of the training portfolio

The JTI’s training portfolio offers (already today) a wide variety of educational or training initiatives for which any judge, prosecutor or staff member, according to his personal situation, can enrol.

It’s crucial to further expand and streamline this training portfolio in the coming years to continuously fulfil the needs of the judicial organisation in an effective and future-oriented way.

The ABA process aims to determine the competence deficit and the priorities based on the GAP analysis (for example, those competences that have the biggest deficit in relation to the needs based on the competence standardisation (see above)).

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2 It is imperative that all players use the same competence matrix. This is tailored to the specific context of the judicial organisation and fits with the principle of training programmes with which the judges, prosecutors and court staff are already familiar.

3 ABA is the abbreviation of the Judicial Training Institute project ‘Analyse des Besoins-BehoeftenAnalyse’ (Needs Analysis), describing and establishing the processes for detecting and analysing competence development needs.
Within the 'ABA' process, the involvement of each body or player within the JTI and within the judiciary is unambiguously laid down in relation to the future course and the expected result. This process will be applied annually, within the same timeframe and in line with the other policy moments in the annual planning (such as the preparation of the operational plan and the budget).

The JTI takes the initiative of polling the High Council of Justice and the Minister of Justice concerning the competence standardisation. This will be done periodically and at a predetermined time to come to a timely conclusion of the process so that the result can be used in the operational planning process.

The chiefs justice of court are surveyed annually to map the competences within their own team or organisation. In the coming years, by benchmarking against previous years, it will be possible to identify the evolution and achieved competence gain taking into account the loss due to (natural) outflow of court staff.

These data will be used as input for the further course of the process at the JTI. Initially, based on the information above (the competence standardisation and the existing availability) an objective GAP analysis can be carried out.

This analysis will indicate where the largest deficit is (and thus also indicate the competences to which special attention should be paid). It is important that in addition to this analysis, the necessary attention is given to spontaneous requests for specific trainings, but also for innovation or established (social, technological and/or judicial) evolutions for which the JTI can or should proactively develop training initiatives.

The prioritisation is prepared in a special expert group, which also include representatives of the Scientific Committee next to employees of the JTI. This will increase the involvement of the Scientific Committee (see above) and will guarantee a prioritisation based on a broad perspective.

The final priorities, validated by the JTI management under its responsibility, provide a reference for the various domain managers in order to propose, within their own specialisations, the necessary training initiatives to give an adequate response to the identified needs.

The starting point will always be a 'blended' approach, in which different learning methods aligned with each other and with the intended learning objectives, are used.

These different proposals are discussed in the internal expert group and evaluated or adjusted if necessary. This step ensures the development of a dynamic and coherent training portfolio.

After internal validation, this training portfolio will be submitted to the Scientific Committee and the Board of Directors of the JTI.

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4 It should be noted that both players can make suggestions beforehand to the Judicial Training Institute to modify or fine-tune this unique moment. The Judicial Training Institute will also be available to give support when using the competence model.

5 We are looking into supporting this GAP analysis with technological means so that the workload and throughput time can be limited as much as possible and the available resources can be used for interpreting the result.

6 We hope that this validation can take place within a period of maximum four months after the start of the process.
Following the final validation and approval, the training portfolio will be implemented, meaning that every training initiative is launched within the agreed time frame, that all initiatives are introduced and made available in the Learning Management System (INEV\(^7\)), that all the necessary agreements with service providers or trainers are made, etc. However, these steps are no longer part of the ABA process, but belong to the continuous business processes of the JTI.

### 3.5. A dynamic training portfolio

The JTI aims to achieve a balanced and dynamic training portfolio that aligns various learning methods\(^8\) based on the extent to which the competence has already been acquired.

In other words, the training portfolio is also built entirely in line with the judicial competence model. Although this means a change from the former programme approach, it will offer better support to all those involved, the chief justice of court and individual staff members when selecting the necessary or appropriate training initiatives (depending on the competence deficit).

The diagram below visualises how a particular competence is developed in an iterative and evolutionary way and to what extent certain forms of learning are more appropriate to enable growth at that level.

![Diagram showing development of competence](image)

As evidenced by the structured ABA process, the domain managers at the JTI will develop the most appropriate training initiatives depending on the identified needs and priorities, based on their teaching expertise and familiarity with the subject.

The JTI will not (and cannot) realise this training portfolio alone. The JTI takes up the coordinating and managing role it was given, but also builds a (national and international) network of public and private partners who can contribute to the implementation.

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\(^7\) INEV: ‘van inschrijving tot evaluatie’ - ‘de l’inscription à l’évaluation’ (from registration to evaluation).

\(^8\) This blended learning approach abandons the concept of ‘isolated training or course’ but fully focuses on so-called development pathways that can be spread over several years and that may be individualised depending on the competences already acquired by the person involved.
Each partner works under the responsibility and supervision of the JTI so that quality and consistency can be ensured. The content, learning objectives and quality expectations as well as the crucial coordination with the judicial reality are laid down and verified by the JTI.

**Conclusion**

When thinking of the content of judicial training from EU and citizens needs perspective, it is crucial not to forget to analyse the needs of the legal practitioners in order to have an efficient justice mechanism. This means also that the judges need to have the tools in order to comply with the expectations.

They need to be involved in the process of drafting the content of the training.

Equally important is the fact that quality prevails of quantity and that the member states foresee enough financial means for the working of justice and for judicial training.

In this period of financial crisis, a solution could be that, for the integration of systematically training in EU law and in particular in the Charter of Fundamental Rights of the European Union in initial and continuous training activities on national law, this could be done with the direct support of the European Union.