

**Judicial Training & Education Assessment Tool**  
**Meeting the Changing Training Needs of Judges in Europe**

**Draft report prepared for CEPEJ  
by the  
Judicial Studies Alliance**

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### **Judicial Studies Alliance**

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## **Judicial Training in the 21<sup>st</sup> Century: An Assessment Tool for European Countries**

### **Efficiency of Justice and Judicial Training**

Judicial training is an essential element of an efficient system of justice, as it helps to ensure the competency of the judiciary. In an age that increasingly demands more judicial intervention to solve the increasingly complex and sensitive issues society leaves to be settled by litigation, the need for judicial training is greater than ever. The value of judicial training can be related to specific outcomes, such as better managed and less costly litigation, as well as greater public confidence in the judiciary. At its most basic level, judicial training provides the information and tools judges need to do their jobs effectively. Beyond providing information in substantive law, judicial training and education can also address what is usually referred to as “judge craft” - the specific skills judges need to do their job, including skills training in areas such as opinion writing, sentencing, dealing with certain types of litigants and evidence.

But increasing demands on the judiciary have meant that judicial training is also used increasingly to develop more modern judicial skills such as media and public relations, and to develop judges’ understanding of the wider social context to litigation, as well as personal welfare issues for judges themselves. The European legal world also presents unique needs for training with a cross-national dimension. The process of European integration places special demands on judges to develop skills in new legal areas, for instance in implementing the European Arrest Warrant. European integration also requires judges to develop special skills to enable them to communicate and work cooperatively with their judicial counterparts in other European countries. The way such information and skills training is delivered varies widely: from formal lectures, seminars and meetings to printed and audiovisual materials, as well as web-based, interactive programmes.

While the choice of training curricula and training approaches will be unique to each jurisdiction, a judicial training and education programme should be determined by an objective assessment of existing needs, available resources and the relative merits of each approach. However, this rarely happens. Judicial training in all jurisdictions is the result of ad hoc development over time, where new courses are introduced to meet specific needs and there is little comprehensive evaluation or integrated planning of judicial training programmes. This Assessment Tool is designed to assist all member states in evaluating and improving the effectiveness of their judicial training programme.

### **The European Commitment to Judicial Training<sup>1</sup>**

CEPEJ is committed to assessing the efficiency of judicial systems and proposing practical tools to enable judiciaries to deliver an efficient service to citizens. The independence and efficiency of judicial systems is considered a key factor in ensuring human rights and the rule of law, and CEPEJ has recognised the importance of gathering and sharing data on the judiciary among all Council of Europe member states. This is seen as vitally important in establishing shared indicators of the quality and efficiency of court activities, and to assessing the evolution of judicial systems over time. Equally important is CEPEJ’s statutory duty to define problems and areas for improvement among judiciaries, and to identify concrete ways to improve judicial systems of the member states. Our work has

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<sup>1</sup> Judicial training is an area of interest for a number of European level organisations: the European Commission for the Efficiency of Justice (CEPEJ), European Network for the Exchange of Information between Persons and Entities Responsible for the Training of Judges and Public Prosecutors (the Lisbon Network), European Judicial Training Network (EJTN), Consultative Council of European Judges (CCEJ) and Consultative Council of European Prosecutors (CCEP).

drawn on the most recent data on judicial systems published by CEPEJ.<sup>2</sup>

In addition, the Lisbon Network shares information and experiences in judicial training among member states, and it has recently surveyed member organisations through a series of questionnaires (on structure and function of training institutions, recruitment and initial training of judges, and in-service training). We have been able to incorporate the results of all these individual country surveys into the development of this Assessment Tool. However, the Lisbon Network's own analysis of the answers to these questionnaires indicates that there is little information on and little involvement in the long-term evaluation of training among member organisations.<sup>3</sup> The Assessment Tool addresses this gap in judicial training in Europe.

### **Our Approach: Development of an Assessment Tool**

Our approach is to develop a Judicial Training and Education Assessment Tool (JEAT) that identifies key factors individual member states need to consider in assessing their current judicial training programme, future judicial training needs and the most effective means of delivering judicial training. JEAT does not assess judicial training in European countries on a hierarchical basis; it does not, for instance, rank member states according to the quality of their training programme. Instead, it recognises that no one member state has the ideal judicial training programme, and that training programmes must inevitably be evaluated in light of each member state's individual history, needs and institutional structures.

This Assessment Tool takes an issue-based approach to judicial training, and establishes a framework for monitoring and evaluating judicial training in Europe. The intention is that the Assessment Tool that will provide any member state with the building blocks for evaluating their existing training programme. Using the building blocks (including the step-by-step questionnaire on p.16), each member state can then develop its own individual training plan designed to provide the most efficient and effective training programme for that individual country. While the Assessment Tool provides a solid analytical framework for monitoring the efficiency of domestic judiciaries with regard to the training and education of judges, it also provides a common European-wide methodology for assessing judicial training systems.

This Assessment Tool is designed to improve and complement CEPEJ's existing data and establish evidence-based indicators for evaluating the quality of judicial training in Europe. Members of the Judicial Studies Alliance are academic specialists in the analysis of European judiciaries and judicial systems, and this Assessment Tool draws on new data on judicial training from the research team<sup>4</sup>, as well as existing data held by CEPEJ and the Lisbon Network.

### **Current Draft of the Assessment Tool**

This Draft is meant to be a Discussion Document for circulation and comment to members of CEPEJ and other interested parties. The Draft provides a guide to using the Assessment Tool, with explanatory sections for each step of the Assessment Tool process. It explains why and how certain factors are relevant to any jurisdiction in shaping their individual judicial training and education programme. The research team welcomes feedback on the Draft, including where more information or illustrations might be useful to member states in conducting a training evaluation based on the Assessment Tool.

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<sup>2</sup> *European Judicial Systems Edition 20006 (2004 data)*, CEPEJ Studies No.1, CEPEJ 2006, p.7.

<sup>3</sup> R. Sabato, *Analysis of the Answers to the Three Questionnaires Addressed by the Bureau to the Members of the Network*, RL(2006)6 p.22-23.

<sup>4</sup> Including a recent review of judicial training in 12 jurisdictions in Europe, North America and Australia. See C. Thomas, *Review of Judicial Training and Education in Other Jurisdictions*, Report prepared for the Judicial Studies Board of England and Wales (2006)

## **Key Elements of the Assessment Tool**

### **STAGE 1: Training Approaches**

- 1.A Background factors
- 1.B Types of training structure
- 1.C Scope of training programme
- 1.D Training methods

### **STAGE 2: Skills Gaps: How to Identify Training Needs**

- 2.A Responsibility for evaluating training
- 2.B Course assessments
- 2.C Surveys of judicial training needs
- 2.D Surveys of perceptions of the judiciary
- 2.E Reports on judicial recruitment, evaluation and quality control of courts

### **STAGE 3: Barriers to Improved Training**

- 3.A Lack of comprehensive training evaluation
- 3.B Funds
- 3.C Time
- 3.D Geography
- 3.E Lack of skilled trainers
- 3.F Internal resistance

### **STAGE 4: Feedback**

Information from Stage 2 and 3 needs to be provided to and clear responses obtained from:

- 4.A Each level of the judiciary
- 4.B Court administration
- 4.C Those responsible for funding judicial training
- 4.D Those responsible for quality control of courts and judicial appointments
- 4.E Periodic surveys of judicial training needs
- 4.F Periodic surveys of external perceptions of judiciary

## **STAGE 1: Training Approaches**

- A. Background Factors
- B. Types of Training Structures
- C. Scope of Training curricula
- D. Training Methods

### **1.A Background factors**

European civil law countries instituted training programmes earlier than common law countries and initially placed greater emphasis on entry-level training, while common law countries have traditionally focused more on in-service training. These early differences were the result of the civil law system of recruiting judges from among recent law graduates, which meant that entry-level training was often part of the actual selection process, and trainee judges had to demonstrate competence after a period of training in order to be appointed. In contrast, common law judges have traditionally been recruited from among experienced lawyers, often with substantial advocacy experience. However, major changes in judicial recruitment, increasing caseloads, and more complex laws and legal issues have increased the demand and need for judicial continuing education and training in both common law and civil law jurisdictions, and there is now much more comparability between the two systems in terms of judicial training and educational needs.

Many European judiciaries now appoint at least some experienced professionals to the judiciary later in their careers, and their initial training needs are therefore similar to new appointees in common law systems. In addition, common law judiciaries are increasingly becoming “career” judiciaries in which appointments are being made from among younger, less experienced lawyers and where progress to higher judicial posts is not just possible but encouraged. Even where new judges are highly skilled professionals, they may not have extensive courtroom experience when appointed. As a result, common law countries have been forced to introduce more entry-level programmes in recent years, although these are not usually as comprehensive and lengthy as in civil law jurisdictions.

Demands to diversify the pool of judicial appointees can create new demands for training and bring individuals into the judiciary who have higher expectations of a structured system of professional development. Diversity may mean recruiting judges from outside a narrow pool of law graduates or practicing lawyers or the inclusion of more women and ethnic minorities in the judiciary. Judges also face increasing demands from both the public and government. Media scrutiny of judicial decisions and the growing introduction of “quality control” measures for the judiciary have required that judicial training provides judges with more than just updates on changes to the law. This has coincided with increasing recognition of the need for training in areas such as public relations and judicial ethics, as well as “social context” training.

Jurisdictions which have recently made the transition to democracy may have a greater need for judicial training in certain areas, but these countries may also be much more likely to have undergone a major review of the training needs of the judiciary and may also have benefited from increased funding and international assistance for judicial training. Long established states may conversely appear to have a less urgent need for change in judicial training and see themselves as providers of guidance to recent accession states, but judicial training in these countries may have developed an element of inertia and lack of innovation. Training programmes in these more established judiciaries are likely not to have undergone any comprehensive assessment for some time and may have become too settled in an old curriculum and old methods of delivering training.

## 1.B Types of Training Structures

In terms of the formal organisational structure for delivering judicial training, a variety of different approaches have been taken by jurisdictions in Europe.

At one end of the spectrum are the formal state judicial schools (France, Spain, Portugal, Germany), funded by government ministries but controlled predominantly by the judiciary and involved in both the recruitment and training of judges. At the other end are less structured training organisations with no formal premises for training, usually either committees within judicial associations (Denmark, Italy), units located within ministries of justice (Austria, the Netherlands, Finland), or independent organisations primarily controlled by the judiciary but funded by the ministry of justice (Ireland, England and Wales, Scotland, Northern Ireland).<sup>5</sup> There is no single preferred structure for delivering training; each may have its own advantages and disadvantages, but is likely to exist as a result of a range of historical and political factors.

In most jurisdictions the overall control and direction of judicial training is in the hands of the judiciary, although there is often usually some involvement on the part of justice ministries at least as funding bodies or representatives on governing bodies of training organisations. Judicial control is usually achieved by having a majority of judges on the governing body. This helps to ensure that judicial education is credible to the judges, and ensures that judicial independence is not undermined. Where judicial training schools or institutions are closely allied to universities, a management board made up of judges and law professors is the main means of maintaining judicial independence and control. The scope of training varies from one jurisdiction to another, with some offering training to judges only while others provide training to judges and judicial support staff, or judges and prosecutors combined. Federal states often also have regional training bodies or other organisations that provide training at the regional level in addition to centralised training at the national level.

Fully appointed judges are usually not required to take part in continuing education and training programmes, and mandatory in-service training would generally be viewed as an infringement of judicial independence. However, mandatory training does exist in all civil law jurisdictions for trainee judges without any practical legal experience, and in some jurisdictions for judges promoted to senior posts. As opposed to training *requirements*, some jurisdictions have training targets for new judges and education and training entitlements for established judges.

## 1.C Scope of training curricula

Regardless of its form, development and cultural context, judicial training programmes are designed to improve judicial performance by preparing new judges for performing their duties, guaranteeing greater consistency in judicial decisions, and updating judges in new methods, laws and other knowledge. Most jurisdictions have varied judicial training curricula, although some offer a wider range of programmes and approaches than others. The main curriculum areas include:

- Substantive law
- Legal skills
- Judicial ethics
- Modern judicial skills
- Social context
- Personal welfare

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<sup>5</sup> Common law jurisdictions outside of Europe have tended to adopt the formal judicial school model but with a strong affiliation to a university and with multiple organisations involved in delivering training (i.e., United States, Canada, Australia).

All European jurisdictions provide training and education in substantive law. However, the key issue is how jurisdictions have been able to respond to demands from judges, court staff and the public for programmes beyond those that deal with strictly substantive legal issues. Significant elements of most countries' judicial training curricula now deal with the social context of judging, judicial ethics, legal skills or "judge craft" (opinion writing, sentencing, dealing with different modes of evidence, etc.) and more modern judicial skills (in communication, management, language and the use of technology). Most recently there has also been a growing trend towards providing programmes that address judges' personal welfare concerns (stress and personal management). Those training programmes which explore judges' social attitudes and new skills required for interacting with the press and public and using new technology can often presents more challenges for training programmes than the more traditional judicial training courses on law and legal skills.

### ***Legal Skills***

Training and education courses are usually provided in the specific legal skills judges need in the courtroom. These cover training in areas such as: opinion writing, sentencing, dealing with expert evidence, vulnerable witnesses, unrepresented litigants, and the use of mediation and alternative dispute resolution techniques.

### ***Judicial Ethics***

Education and training programmes are also often provided on judicial ethics, which cover a range of issues such as avoiding bias in judging, dealing with conflicts of interest and ethical issues related to specific legal issues (e.g., in reproductive medicine).

### ***Modern Judicial Skills***

The definition of judicial skills is growing increasingly wide, as demands grow for judges to manage courts and staff, to interact more with the public and the media, and for cases to be conducted in other languages or through the use of new technologies or methods involving witnesses and evidence. Some jurisdictions provide courses in public communications, court management, use of technology and language training for multi-lingual proceedings.

### ***Social Context***

Increasingly jurisdictions are providing courses that address the social context of law and the judicial process, usually including subjects related to the potential for gender, race, age and disability discrimination in the legal process.

### ***Personal Welfare***

Some jurisdictions have also introduced programmes for judges to assist them with their personal welfare. These are primarily focussed on issues such as stress management, maintaining physical and psychological health, as well as courses to assist judges in financial and life planning.

## **1.D Methods for Delivering Judicial Training**

There is a wide range of options for how education and training is delivered to judges. It may be long term or short term, full time or part time, on-site or off-site. It can employ specialised trainers, outside experts, or judicial peers. It can be delivered through traditional lectures or more interactive, participatory methods. It can be directed towards specific levels of the judiciary or combine ranks and court staff as well. The main methods for delivering judicial training include:

- centralised, face-to-face programmes
- decentralised, court-based programmes
- IT and web-based distance learning
- modules
- streamed programmes for individual judicial ranks
- integrated programmes for judges and court personnel
- bespoke programmes for individual courts

There are a number of different teaching approaches that appear to be increasingly accepted for judicial training and education. Lectures appear to be used less frequently, and interactive teaching methods are increasingly being used: case studies, small group discussions, individual and joint presentations, panel discussions, audio-visual teaching materials and self evaluated tests. In addition, a number of jurisdictions are developing more on-line, web-based programmes often in an attempt to provide immediate and up-to-date information, and to provide distance learning in jurisdictions where it is more difficult for all judges to attend courses at a central location.

Ideally the choice of options is related to a training programme's objectives and to existing information about the success of previous programmes. However, resources almost invariably affect the choice of options, as do the judiciary's own preferences. Part-time or after-hours training may be the most cost-effective, but judges are often resistant to this approach when it simply adds to the judicial workload. The nature of the judiciary itself can also affect curriculum offerings, for instance where there is a strong sense of rank and privilege it is more difficult to have "mixed" courses among judges or among judges and court staff (even though this situation perhaps requires them most).

### **Centralised, face-to-face programmes**

Programmes in which judges travel to a central location for face-to-face lectures, seminars, workshops and conferences on legal issues are the most common approaches to judicial training and continuing education programmes across all the jurisdictions. Face-to-face programmes remain the most popular programmes among judges, however traditional formal lectures are increasingly less popular among judges than smaller group, more participatory seminars and workshops.

### **Decentralised programmes**

Despite the fact that the majority of judicial training programmes are face-to-face seminars where judges come to the central training provider, a number of jurisdictions are increasingly developing new means of delivering training to judges in their own courts, either by taking training directly to the courts or through the use of information technology (IT). Judicial systems covering large geographic areas have had to develop more decentralised methods of delivering judicial training, as it is not usually practical for all judges to travel to one central location. This includes regional courses and courses delivered at individual courts.

### **Distance learning: IT and web-based programmes**

Many jurisdictions are experimenting with delivering some training programmes and educational materials on-line or through the use of some form of information technology (IT). In addition, the introduction of on-line judicial information systems and computerised case management systems has also required special training programmes in IT for judges and court staff. On-line courses and web-based materials can be particularly helpful in delivering training and education in large geographically dispersed jurisdictions, and in all jurisdictions they allow information to be constantly updated and allow judges to have more control over their own time that is devoted to training and education. However, there are serious drawbacks to these types of programmes when they are used or are perceived of as replacing (not supplementing) face-to-face training programmes. Judges are particularly critical of the lack of one-to-one contact with these programmes, although some jurisdictions have attempted to address this through the use of on-line “live” sessions.

### **Modules**

Modules are units of educational programming for individual judges or court-based use. They are usually smaller components of larger courses or seminars delivered by the central training organisation. The idea behind modules is that judges (or groups of judges at courts) can complete the larger course in progressive sections (modules) or can design their own courses based on specific modules from different programmes. They are designed to provide judges with both greater control and flexibility in their training and education.

### **Streaming**

The use of “streamed” programmes, in which training and education is delivered to judges based on their judicial rank or court, is most often used for new judges who have specific and immediate training needs. However, jurisdictions appear to be increasingly providing streamed training programmes for more senior judges, particularly those with managerial responsibilities.

### **Integrated judicial and court staff programmes**

This innovative approach to delivering training is where training and education programmes are attended by judges, clerks and court staff together. However, there is little of this type of training offered in Europe.

### **Certificate and degree programmes**

In some jurisdictions outside of Europe specific courses enable judges to obtain specific qualifications and certifications for continuing education. These programmes are designed to create a deeper involvement by judges in studying and understanding the role of the judiciary, and reflect the strength of judicial studies as an academic discipline in jurisdictions such as the United States.

## **STAGE 2: Skills Gaps - How to Identify Training Needs**

- 2.A Responsibility for evaluating training
- 2.B Course assessments
- 2.C Surveys of judicial training needs
- 2.D Surveys of perceptions of the judiciary
- 2.E Reports on judicial recruitment, evaluation and quality control of courts

Ideally, judicial training programmes and curricula should respond to concrete problems, be based on a needs assessment, have specific objectives that shape the training programme, and be subject to periodic evaluation. However, evaluations of judicial training are usually confined to feedback questionnaires completed by judges at the end of training sessions, or sometimes wider periodic surveys of the judiciary on their training needs. In most jurisdictions there is little to distinguish between needs assessment, curriculum development and training evaluation.

### **2.A Who evaluates training and how often**

The judiciary is involved at some level in the design of training programmes in all European jurisdictions. In most cases, the director of a school or programme and most members of any oversight board or council will be high-ranking judges. This is obviously important to ensure judicial consent and cooperation in the training programme. However, if representation is confined primarily to the senior judiciary it can work against creating a common programme for all judges, particularly if senior judges do not view training as something that applies to them but only to judges below them in rank. In addition, if there is little involvement by individuals outside of the judiciary in the design of judicial training programmes this may not ensure that judicial training meets the needs and demands of the public. It is also important that judicial training is assessed on a regular basis, and while most jurisdictions ask judges to complete course evaluations at the end of each course and review these each year, wider training programme evaluation is rarely conducted on a regular or organised basis.

### **Conducting a “Training Needs Assessment”**

In most cases there is little to distinguish judicial training programme development from programme evaluation. The basis for these two activities in most jurisdictions is the feedback questionnaires completed by judges at the end of training sessions. Programmes are reviewed each time they are delivered: evaluation forms are distributed, tabulated and analysed, and this analysis informs whether a programme will be repeated, whether it will use different speakers or make possible changes in content and materials. However, there is no process for evaluating the impact of training programmes on judicial performance. The lack of thorough training evaluation is perhaps not surprising. Measuring judicial training effectiveness requires substantial commitment: in time, funds and willingness for the programme providers to accept what the results may reveal and for the judiciary to be evaluated.

Several different methods have been used by jurisdictions to shape the curriculum and training programme for judges:

- Feedback questionnaires
- Surveys of judges
- Training committee reports
- Surveys of perceptions of the judiciary
- Performance evaluation of courts and judges
- Large scale reviews of the judiciary
- Research

**2.B Feedback questionnaires:** This is the most common approach to needs assessment. Virtually all jurisdictions ask judges to evaluate the training programmes they have just participated in and this information is fed into the

programme development.

**2.C Surveys of judges:** These may be quantitative or qualitative surveys of judges, asking what training judges feel they need or what kind of knowledge they feel they lack. The benefits of qualitative studies (usually focus groups of judges) is the openness this format provides to judges to express their opinions; it may therefore help to obtain a clearer picture of what judges do and do not value in the current training regime. The drawbacks are that, unlike quantitative surveys, no quantitative data emerges on which to base the assessment of training, and therefore no baseline data will exist on which future assessment and surveys can be compared.

**Training committees/coordinators:** Here judges, lawyers and others responsible for monitoring training, act as the eyes and ears of the training provider. These committees report their findings to the training provider, usually on an annual basis. The criticism of feedback questionnaires, surveys or interviews with judges is that they tend to focus on what judges do not know and, as a consequence, their usefulness is dependant on judges being fully aware of what their actual needs are. This type of exercise can often result in a long list of very general training needs.

**2.D Surveys of external perceptions of the judiciary:** These identify areas where court users (lawyers, court staff and litigants) or the wider community believe that judicial training or education would strengthen the justice system. This approach can be a crucial step in a training needs assessment. It can compliment judicial surveys and help enhance public confidence in the judiciary, as it indicates to the public that the judiciary is sensitive to the views of the community it serves.

## **2.E Other possible sources of information on judicial skills gaps**

### **Evaluation of judges and courts**

As public and government demands grow for guarantees of quality standards in the justice system, judicial evaluation is likely to be an increasingly important issue for the judiciary in all jurisdictions. This in turn is only likely to increase both judicial needs and demands for further training and education. Several European jurisdictions have developed institutionalised evaluation programmes, where virtually all judges are evaluated by judicial superiors at regular intervals. In other European countries, evaluations for most judges involve peer review, and institutional evaluation is primarily for judges in more senior, managerial positions. However, the concept of judicial evaluation has a jurisdictional context, where some jurisdictions are more accepting of the need to measure court performance while others are more accepting of the need to evaluate judicial performance<sup>6</sup>.

**Large-scale reviews of the judiciary:** Reviews of training needs sometimes arise out of larger governmental reviews of the judiciary or more general judicial reform programmes.

**Research:** Jurisdictions may fund research on judicial training, examine other jurisdictions' programmes, and employ advisors with less traditional views of the judicial role as part of overall evaluation and development of a judicial training programme.

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<sup>6</sup> Fabri et al suggest that in Scandinavia and the Netherlands there is a tendency to see courts as organisations, and there is therefore more acceptance of the need to measure courts' performance – but not judges' performance. In Germany, France and other Latin judiciaries there is much more of an acceptance that judges will be evaluated internally by the judiciary for promotion and career reasons, but less acceptance of the idea of quality control standards for the courts as a whole. Fabri et al *Administration of Justice in Europe: Towards the Development of Quality Standards* (IRSIG 2003). In most common law jurisdictions, performance evaluations of judges are still generally considered anathema to judicial independence, although judicial competencies have been established in England and Wales for the appointment of most judges.

### **STAGE 3: Barriers to Improved Training**

- 3.A Lack of comprehensive training evaluation
- 3.B Funds
- 3.C Time
- 3.D Geography
- 3.F Lack of skilled trainers
- 3.G Resistance to new approaches

#### **Barriers to training**

While the main procedural barrier to improved judicial training is the lack of a comprehensive evaluation of training programmes, there are other barriers and some of these lay outside judicial control. The common barriers or obstacles to delivering judicial training and education across jurisdictions include: funding, time, geography, judicial dominance, institutional inertia, and resistance to new training approaches. The cost of delivering judicial education to large numbers of judges and balancing judicial demands for training with court schedules is the perennial problem for most jurisdictions. Centralisation of training is particularly problematic for jurisdictions covering a large geographic area and/or including substantial rural or remote areas. The difficulty in getting leave from busy court lists and the financial costs of travelling to one central location for training are major barriers for judges in some jurisdictions. In jurisdictions with two official languages, bilingualism can also present specific barriers to judicial training.

In other instances, the existence of long-established judicial schools may create barriers to innovative programming. Institutional inertia may result in a lack of innovation in training programmers, and long-established schools may become too large, centralised and slow to innovate. “Complex curricula” as well as technology-based distance learning courses can also present obstacles to judicial education and training. Judges’ learning style preferences can make complex curricula courses more difficult to implement, and it appears that judges generally resist distance learning courses (at least at first). Even when they accept distance learning, judges are usually only willing to use them as a supplement to face-to-face training, not as an overall substitute. One means used to overcome this resistance to technology-based distance learning is the use of live interactive video on websites to create more of a face-to-face feel to distance programming.

The common barriers or obstacles to delivering judicial training and education across jurisdictions involve:

- Funding
- Time
- Geography
- Lack of skilled trainers, judicial dominance
- Institutional inertia
- Lack of academic study of the judiciary
- Resistance to new training approaches

#### **3. B&C Funding and Time**

The cost of delivering judicial education to busy judges is the perennial problems for most jurisdictions. Time demands on courts and judges can result in difficulties in planning due to staffing, volume of cases, trial schedules. Judges may have only limited time to participate in live educational programs. Face-to-face workshops also involve substantial expenses for travel and facilities, and usually require judges to be away for long periods of time. This also has financial implications, as substitute judges are needed to cover the temporary vacancies in court when judges are on leave for training. What is important in all jurisdictions is whether there is a culture of

support among judges' superiors for requests to attend individual training and educational events.

### **3.D Geography**

Centralisation of training is particularly problematic for jurisdictions covering a large geographic area and/or including substantial rural or remote areas. The difficulty in getting leave from busy court lists and the financial costs of travelling to one central location for training can be major barriers for judges in these jurisdictions. In some instances, technology-based distance learning has been used to supplement face-to-face programmes. However, distance learning has its own problems and can result in uneven access to judicial education.

### **3.E Lack of skilled trainers, judicial dominance and institutional inertia**

In most jurisdictions the judiciary play a central role in delivering training to other judges. While it is vital that judges are directly involved in the development of judicial training programmes, problems can arise if the judiciary dominates every aspect of training. This may occur if no teachers are recruited from outside the judiciary, if instructors and students do not have contacts with other training institutions and if training is too centralised. These factors can all in turn lead to a lack of innovative programming. Signs of institutional inertia in judicial training programmes include:

- a large training committee which results in a slow decision-making process
- programme planning too far in advance which cannot accommodate new areas of interest and which includes uncritical repetition of courses
- lack of programmes for smaller judicial divisions
- lack of programmes and co-operation on the European level

### **3.F Lack of academic study of judiciary**

Judicial studies is an undeveloped research discipline in Europe, in contrast to North America where judicial studies is a well-established and dynamic field of academic study that informs developments in the judicial systems there. Research is limited in Europe in relation to issues such as the efficiency of the judicial system, recruitment and training of judges, and the public perception of the courts. It is therefore not surprising that judicial training programmes may lack innovation and have developed some institutional inertia, as those responsible for training programmes do not have the benefit of any independent analysis of judicial education and training.

### **3.G Resistance to new training approaches**

The barriers to training discussed above are primarily organisational barriers. However, there may be more personal barriers such as a general judicial resistance to training on the grounds that it is unnecessary or where judges are resistant to specific types of programmes: for instance with what are referred to as "complex curricula" as well as technology-based distance learning courses.

The types of judicial education programmes that fall under "complex curricula" include those that suggest judges explore different dimensions to their role or explore their attitudes, values and beliefs. Judges' learning style preferences generally mean these types of courses are more difficult to implement. Most judges' learning preferences are for concise, logical analysis, abstract ideas, technical tasks and practical solutions. In contrast, complex curricula programmes (such as those designed to explore diversity or the social and cultural context to litigation) often do not fit these learning preferences.

Judges may also be more resistant to distance learning courses, at least at first, and even when they accept them they may only be willing to use them as a supplement to face-to-face training, not as an overall substitute. Judges report finding it very difficult to use technology-based distance learning courses from their office while trying to deal with their large daily work load. They prefer to leave their office for a

few days and attend a seminar, not only in order to enhance their knowledge but also to exchange experience and ideas with their colleagues – even if this means they have a backlog of work when they return. For training providers, it can also be more difficult to evaluate the success of web-based programmes than the more traditional face-to-face programmes.

#### **STAGE 4: Feedback**

- 4.A Each level of the judiciary
- 4.B Court administration
- 4.C Those responsible for funding judicial training
- 4.D Those responsible for quality control of courts and judicial appointments
- 4.E Periodic surveys of judicial training needs
- 4.F Periodic surveys of external perceptions of judiciary

#### **Achieving Integrated Evaluation and Programme Development**

The final stage of assessing a judicial training programme requires that judicial training evaluation is linked to outcomes. It requires that training programmes have specific objectives and that there is some way to measure whether the training programme is meeting these objectives. Only in this way can training providers be certain if their programmes are contributing to achieving greater efficiency and independence in the judicial system.

The key to linking training to outcomes is to obtain feedback on judicial training on a regular basis from a number of groups directly affected by judicial performance. This requires that information from Stage 2 (identifying judicial skills gaps) and Stage 3 (identifying barriers to judicial training) be provided to a number of key actors including:

- Each level of the judiciary
- Court administration
- Those responsible for funding judicial training
- Those responsible for quality control of courts
- Those responsible for judicial recruitment
- Those responsible for judicial evaluation

Judicial training evaluation reports should be circulated to each of these groups and feedback on the evaluation obtained from them. This will ensure that training programme development is fully informed by views of what judicial training is needed and most effective from judges themselves, those who fund training, and those who work with, recruit and evaluate judges and courts.

To determine the long term effectiveness of a judicial training programme it is also important that **periodic surveys** are carried out with different interested parties, including:

- the judiciary (on their training needs)
- court users (on their perception of the judiciary)
- the public (on their perception of the judiciary)

## Assessment Tool Questionnaire

The following questionnaire is designed to allow each country to determine how comprehensive their approach is to judicial training. The questions are specifically designed to fill existing gaps in information about judicial training programmes for European countries (see Appendix A).

The questionnaire is designed so that member states can easily answer the questions by ticking a “yes” or “no” box. The existence of a large proportion of “no” responses to questions will clearly indicate where current gaps exist and highlight those areas member states can concentrate on in order to develop a more integrated and effective judicial training programme. This approach is also more likely to produce complete information from all member states, and to establish a dataset that can be analysed more accurately at the European level.

### Stage 1: Training Approaches

1. Which of the following background factors relate to your judiciary?
  - a) Judiciary primarily recruited from recent law graduates
  - b) Judges primarily appointed from among experienced legal professionals
  - c) Judiciary operating in new member state
  - d) Recent proposals to alter judicial recruitment
  - e) Recent proposals for wider reform of judiciary
  
2. Which of the following activities are your judicial training organisation currently involved in? (For each, please name other member states you are working with)
  - a) Participant in joint judicial training courses with other member states
  - b) Recipient of European funded training assistance
  - c) Provider of European funded training assistance
  
3. Which of the following types of training courses are currently offered to judges?
  - a) Substantive law
  - b) European legal developments
  - c) Legal skills
  - d) Judicial ethics
  - e) Modern judicial skills
  - f) Social context training
  - g) Personal welfare
  
4. Which of the following methods for delivering judicial training are used in your programme?
  - a) Centralised, face-to-face programmes
  - b) Decentralised, court-based programmes
  - c) IT and web-based distance learning
  - d) Modules
  - e) Streamed programmes for individual judicial ranks
  - f) Integrated programmes for judges and court personnel
  - g) Certificate and degree programmes

### Stage 2: Identifying Training Needs

5. Do you have any formal training targets? If yes, please list the specific targets.
  
6. How often is your judicial training programme evaluated?
  - a) At least once a year
  - b) Less often than once a year
  - c) No set time

7. Who conducts the evaluation?
  - a) Judicial school
  - b) Ministry of Justice
  - c) Ad hoc group
  - d) Independent assessor
  - e) Other
  
8. Which of the following are included in your training programme evaluation?
  - a) Feedback from judges who attend courses
  - b) Training committee reports
  - c) Surveys of whole judiciary on training needs
  - d) Surveys on court administrators' perceptions of the judiciary
  - e) Surveys on lawyers' perceptions of the judiciary
  - f) Surveys on court users' perceptions of judiciary
  - g) Surveys on public perceptions of judiciary
  - h) External research
  - i) Reports from those responsible for quality control of courts
  - j) Reports from those responsible for judicial recruitment
  - k) Reports from those responsible for judicial evaluation

### **Stage 3: Barriers**

9. Which of the following present the most significant barriers to delivering training to judges in your country?
  - a) Lack of funds to provide training
  - b) Insufficient time available for judges to attend courses
  - c) Distances too far for judges to travel
  - d) Lack of skilled trainers
  - e) Judicial dominance
  - f) Institutional inertia
  - g) Lack of academic study of the judiciary
  - h) Judicial resistance to new training approaches

### **Stage 4: Achieving Integrated Evaluation and Programme Development**

10. If an evaluation of the judicial training programme is conducted, is the evaluation sent out for comment to:
  - a) Each level of the judiciary
  - b) Court administration
  - c) Those responsible for funding judicial training
  - d) Those responsible for quality control of courts
  - e) Those responsible for judicial recruitment
  - f) Those responsible for judicial evaluation
  
11. Are any of the following carried out to determine if judicial training is having the desired effect?
  - a) Periodic surveys of the judiciary on their training needs
  - b) Periodic surveys of court users on their perception of the judiciary
  - c) Periodic surveys of the public on their perception of the judiciary

**Also see Appendix A: Relationship between Assessment Tool Elements and Existing Data Collection by European Institutions**  
(a separate attachment to this report)