

I

(Resolutions, recommendations and opinions)

RESOLUTIONS

COUNCIL

Resolution of the Council and of the Representatives of the Governments of the Member States meeting within the Council on the training of judges, prosecutors and judicial staff in the European Union

(2008/C 299/01)

THE COUNCIL OF THE EUROPEAN UNION AND THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES MEETING WITHIN THE COUNCIL,

Whereas:

- (1) National judges and prosecutors play a crucial role in guaranteeing the respect of the law of the European Union. Efficient interaction between national judges and the European Court of Justice in the framework of the procedure for obtaining a preliminary ruling from the European Court of Justice on the validity and/or interpretation of provisions of European law is of primary importance in order to ensure the coherence of the European legal order. In this context, particular attention is drawn to the existence of an urgent preliminary ruling procedure applicable to references concerning the area of freedom, security and justice.
- (2) The European Council, meeting in Tampere in October 1999, placed the creation of the area of freedom, security and justice at the top of the political agenda. With a view to achieving this aim, the European Council designated the principle of mutual recognition as the cornerstone of judicial cooperation in both civil and criminal matters within the European Union.
- (3) Courts, prosecution offices and other national competent authorities throughout the European Union can issue decisions in various stages of civil and criminal procedures. By virtue of the principle of mutual recognition, these decisions are recognized and enforced, in accordance with the applicable legislative act, in a Member State other than the one in which they were handed down. All judges and prosecutors in the European Union may thus be required to enforce decisions in civil and criminal matters handed down in another Member State.
- (4) In order to properly implement the principle of mutual recognition, the Member States and their judicial authorities need to have mutual trust in each other's legal systems. Moreover, the intensification of judicial cooperation, such as by direct contacts between judicial authorities, in particular through the European Judicial Networks and Eurojust, can only take place in an atmosphere of mutual trust and mutual understanding between judicial authorities.
- (5) The Hague programme of 2004 ⁽¹⁾ emphasised the need to strengthen mutual confidence by requiring an explicit effort to improve mutual understanding among judicial authorities and different legal systems, to promote exchange programs for these authorities and to systematically include a European Union component in their training.
- (6) The European Commission's communication of 29 June 2006 ⁽²⁾ on judicial training in the European Union stressed the need to develop judicial training in order to make effective and visible the progress achieved in establishing the area of freedom, security and justice. The communication stressed in particular the needs to improve practitioners' familiarity with legal instruments of the European Union, to improve mutual understanding of Member States' legal systems and to improve language training. While stressing that it is primarily up to the Member States to incorporate the European dimension fully into their national activities, the communication also underlined the need to develop a more fully integrated type of training, conceived and implemented at European level.
- (7) Mutual confidence and trust depends notably on the certainty that all judges, prosecutors and judicial staff (such as assistants, law-clerks and registrars) in the European Union receive suitable training. The training provided to judges, prosecutors and judicial staff is thus a vital tool for fostering mutual recognition.

⁽¹⁾ OJ C 53, 3.3.2005, p. 1.

⁽²⁾ COM(2006) 356 final.

- (8) Adequate judicial training requires in particular that all judges, prosecutors and judicial staff be provided with sufficient knowledge of European cooperation instruments and that they make full use of the European Union's primary and secondary law. Such training should cover all the aspects that are of relevance to the development of the internal market and of the area of freedom, security and justice. It should contribute to adequate knowledge of the law and legal systems of the other Member States of the European Union and promote relevant courses of comparative law.
- (9) Following the entry into force of the Treaty on European Union, several European bodies, such as the Academy of European Law (*Europäische Rechtsakademie*) (ERA) and the European Centre for Judges and Lawyers at the European Institute of Public Administration (EIPA), have been organising training courses for legal professions and judicial staff, focusing mainly on primary and secondary European law.
- (10) The European Judicial Training Network (EJTN), which was founded in October 2000, is an association which comprises the Member States' institutions which are responsible for the training of judges and prosecutors. Its objective is to promote and organise European training programmes for judges and prosecutors of the Member States and their trainers. To that end, the EJTN organises the implementation of a catalogue containing cross-border training opportunities. The EJTN is also responsible for carrying out the implementation of an exchange programme for judicial authorities.
- (11) The Hague programme indicated that the EJTN should be supported by the Union. In its resolution of 24 September 2002 ⁽¹⁾, the European Parliament underlined the importance of the EJTN.
- (12) Since 1996, financial programmes of the European Union have supported judicial training developed by national training institutions and by European bodies such as ERA, EIPA and EJTN. Council Decision 2007/126/JHA of 12 February 2007, establishing for the period 2007 to 2013, as part of the General Programme on Fundamental Rights and Justice, the Specific Programme 'Criminal Justice' ⁽²⁾, established an operating grant for EJTN. ERA and EIPA are also regularly supported by the Community budget. Specific framework partnership agreements have been concluded between the European Commission and EIPA, ERA and EJTN. The latter is the privileged partner in implementing the judicial exchange programme, and its efficiency should be enhanced.
- (13) The national bodies which provide judicial training remain nevertheless the key vehicles for imparting a common foundation of both theory and practical applications as well as, in a broader sense, a common European judicial culture which, whilst based on unity through European law, at the same time recognises the diverse legal and judicial systems of the Member States.
- (14) In order to promote genuine mutual trust between judiciaries of the Member States, it is important to adopt a definition of training which is as broad as possible, with the aim of establishing a common European judicial culture. Based on common values and traditions, such a common European judicial culture should *inter alia* promote the capacity of judges, prosecutors and judicial staff to demonstrate openness towards the legal culture and traditions of other Member States and to address relevant issues of deontology.
- (15) In its resolution of 9 July 2008 on the role of the national judge in the European judicial system ⁽³⁾, the European Parliament pointed to the insufficient knowledge by judges and prosecutors of European law due to the low number of them having received adequate training in this field. Also, mutual evaluation reports have demonstrated that judges, prosecutors and judicial staff in the Member States of the European Union are not always sufficiently familiar with European law and that, in general, they do not make sufficiently use of the European bodies which are available with a view to, notably, facilitating procedural matters, such as Eurojust and the European Judicial Networks.
- (16) The relevance of the further development of a European judicial culture has not yet sufficiently permeated judges, prosecutors and judicial staff in the Member States, and the sense of belonging and contributing to a common judicial area needs to be further enhanced.
- (17) Training in official languages of the European Union, other than the mother tongue of the person concerned, is very important for judges, prosecutors and judicial staff, *inter alia* in order to enable and facilitate direct contacts between judicial authorities of different Member States, and in order to create an interest in and openness towards the legal culture and traditions of other Member States. Language training can also contribute to allowing judges, prosecutors and judicial staff to participate in exchange programmes, as well as in training activities which are held in other Member States.
- (18) It is essential that other legal professions, such as lawyers, receive adequate training in the field of European law. However, in the majority of Member States these professions are themselves responsible for organising their training. It seems therefore appropriate not to include them in the scope of this resolution. This should however not preclude that national authorities and the European Union support, also financially, the training of these other legal professions in the field of European law, it being understood that the independence of these legal professions should not be jeopardized.

⁽¹⁾ OJ C 273 E, 14.11.2003, p. 99.

⁽²⁾ OJ L 58, 24.2.2007, p. 13.

⁽³⁾ Not yet published in the Official Journal.

- (19) Judges and prosecutors fulfil separate tasks in the Member States. Therefore, nothing in this resolution obliges Member States to organise common training for judges and prosecutors.
- (20) This resolution should contain a review clause on the application of these guidelines. In the light of that review, appropriate measures should be taken in order to further improve the situation if and where necessary.
- (21) In view of the above, action should be taken as regards training for judges, prosecutors and judicial staff,

(g) to promote a sharing of ideas on the development of the area of freedom, security and justice and its implications for the proper operation of justice.

3. The Member States should take all practicable steps to ensure that their national bodies responsible for training the judges, prosecutors and judicial staff, building upon their existing efforts,

(a) disseminate information on the legal systems and law of other Member States of the European Union, such as by setting up courses on comparative law;

(b) increase opening up their national training courses to judges, prosecutors and judicial staff from other Member States;

(c) develop and stimulate direct exchanges between judges, prosecutors and members of judicial staff of different Member States, including by playing an active part in the Judicial Exchange Programme ⁽¹⁾, by promoting 'twinning' and by any other appropriate means;

(d) effectively develop, by all suitable means, the European Judicial Training Network (EJTN) and take an active part in its activities.

HEREBY ADOPT THE FOLLOWING RESOLUTION:

1. When organising training for judges, prosecutors and judicial staff (such as assistants, law-clerks and registrars), without prejudice to judicial independence or different judicial organisations in the European Union, Member States should adhere to the guidelines set out below.

2. These guidelines are designed to achieve the following general aims:

(a) to contribute to the development of a genuine European judicial culture, based on diversity of the legal and judicial systems of the Member States and unity through European law;

(b) to improve the knowledge of the European Union's primary and secondary law among judges, prosecutors and judicial staff, including fostering the knowledge of the procedures before the European Court of Justice, in particular the procedure for obtaining a preliminary ruling on the validity and/or interpretation of provisions of European law;

(c) to promote, through appropriate training, the application of European law by judges, prosecutors and judicial staff, in a way which is in keeping with the fundamental rights and principles recognised in Article 6 of the Treaty on European Union and reflected in the Charter of Fundamental Rights of the European Union;

(d) to foster the knowledge of the legal systems and law of the other Member States, notably by promoting relevant courses of comparative law;

(e) to enhance the language skills of judges, prosecutors and judicial staff throughout the European Union;

(f) to foster a shared awareness of issues that are common to the judges, prosecutors and judicial staff;

4. In order to achieve the general aims described above, the Member States should encourage and, where appropriate, develop new concrete action designed to:

(a) highlight the European dimension of the judicial functions, by:

(a) incorporating training on European law into their initial national training program, if one exists, and into their continuous training program and curricula, duly taking into account in this regard the guidelines to be laid down in this respect by the EJTN, making full use of the experience of existing training institutions;

(b) extending the programme of exchanges referred to in point 3(c) to judicial staff, as appropriate;

(c) promoting, among judges, prosecutors and judicial staff, the knowledge of at least one other official language of the European Union, in particular through training programs, and favouring such knowledge if and when appropriate, taking into account the specificities of the legal and judicial system of the Member State concerned, e.g. on recruitment of judges, prosecutors and judicial staff and during evaluation moments;

⁽¹⁾ Judicial Exchange Programme based on Article 49(2) of the Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 applicable to the Financial Regulation on the general budget of the European Communities (OJ L 248, 16.9.2002, p. 1).

- (d) fostering the knowledge of the legal systems and law of other Member States;
 - (e) supporting the learning of European e-justice tools;
 - (f) encourage e-learning and use modern techniques.
- (b) adopt common European training programmes, the content of which should be determined by the EJTN, and the implementation of which should be assured by the EJTN and/or its members, such as:
- (a) one or more common training modules;
 - (b) a common training programme designed for specific categories of relevant professionals, such as high-level judicial staff, specialised judges or prosecutors, and trainers;
 - (c) a common training programme of a short duration which will bring together judges, prosecutors and members of judicial staff of various Member States ('European classes'), the organisation of which should initially be attributed to national training bodies.
5. The EJTN and its members should play an important role in the practical implementation of these guidelines. To that end, appropriate measures should be taken to strengthen the EJTN.
6. With a view to achieving the above objectives, Member States are invited to take the necessary measures in order to allow the members of the EJTN to increase the amount of their respective financial contributions to the EJTN and thus ensure sustainability of its functioning.
7. The Commission and the Member States are invited to consider the possibility of revising the administrative procedures for allocating Community funds to training projects for judges, prosecutors and judicial staff, notably those organised by bodies with which the Commission has concluded framework partnerships, in particular ERA, EIPA and EJTN, with a view to further simplifying these procedures and allowing available funds to be allocated within shorter time-frames.
8. The Member States and the Commission are invited to ensure the rapid implementation of this Resolution. To that end, the Presidency and the Commission are further invited to make the necessary contacts with the European training bodies.
9. The Council shall review the application of these guidelines at the latest four years after their adoption, on the basis of a report presented by the Commission. In view of the results of such revision, appropriate measures should be taken in order to further improve the situation if and where necessary.
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