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The National Association of Romanian Bars (UNBR) in collaboration with the [Centre for Judicial Cooperation](#) of the EUI invites EU lawyers and judges to apply for the online cross-border training Workshop entitled
“Judicial dialogue and freedom of expression of legal professions”,
which will be held online on 3-4 March 2022

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 (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. More information on the TRIAL Project can be accessed [here](#)

What is the Cross-Border Training Workshop about?

This cross-border training workshop will address two interconnected topics: the freedom of expression of lawyers and judges within the context of the rule of law in Europe and the importance of judicial dialogue between legal professions, between domestic and European judges as an essential element for an effective exercise of freedom of expression.

In the last few years, several Member States have witnessed an unprecedented decline in the rule of law, one of the core EU values upon which the EU is funded according to Article 2 TEU. These developments have triggered a response from the CJEU and the ECtHR. Both Courts have for example extensively dealt with questions regarding the compatibility of domestic accountability systems with EU law and ECHR (C-585/18, C-624/18, and C-625/18, C-83/19, C-127/19 and C-195/19, C-355/19; C-791/19; *Baka v Hungary*, *L.P and Carvalho v Portugal*, *Guz v Poland*, *Kövesi v. Romania*, *Panioglu v. Romania*).

This Workshop therefore looks at the most recent European standards on accountability of legal professions and freedom of expression and seeks to understand their role in addressing the threats to the rule of law, emanating not only from the governments, but also from within the third branch. Traditionally, legal professionals, especially judges and prosecutors, have refrained from voicing their opinion in order to ensure their impartiality and the authority of their institutions. The duty of restraint has been regarded as a prerequisite for public confidence, necessary for successful fulfilment of the role of the judiciary in a democratic society. However, nowadays legal professionals more often than ever find themselves in a difficult position: they have a (moral) duty to speak out in the face of affronts to the rule of law, yet fulfilment of such a duty could expose them to disciplinary and other sanctions.



On the other hand, the specific status of lawyers gives them a central position in the administration of justice as intermediaries between the public and the courts, which entails a number of duties, particularly with regard to their conduct (*Morice v. France* [GC], § 133; *Van der Musselle v. Belgium*; *Casado Coca v. Spain*, § 46; *Steur v. the Netherlands*, § 38; *Veraart v. the Netherlands*, § 51). Thus, while being subject to restrictions on their professional conduct, which must be discreet, honest and dignified, lawyers also enjoy specific rights among which a certain latitude regarding arguments used in court.

Could the current challenges to independent judicial systems be regarded as a call for a re-examination of duty of discretion and perhaps for adjustments to the existing norm, especially as the perception that legal professionals should show restraint could be abused as an excuse for disciplining the independent-minded? What are the risks of leaving more freedom (of expression) to legal professionals? What are the downsides of upholding the rule of law in concrete legal proceedings and what could be the advantages of exploring new means to defend this fundamental EU value? What about threats from within the judiciary, how to address these challenges without harming the authority of the court? Do short-term benefits of sanctioning critics of the judiciary outweigh the potential improvement of the judicial system that their criticism might bring in the long-term? This workshop will raise these and other intriguing questions, without necessarily providing clear-cut answers. Instead, it will strive to equip the participants with legal knowledge on the scope and content of their fundamental right to free speech as well as on procedural guarantees and avenues for its protection, ultimately empowering them to better defend the rule of law in their daily work and beyond.

Methodology

You will learn through:

a 2-half day online workshop, including:

1. lectures and discussion sessions on wider socio-political context, affecting the judicial systems and the everyday challenges of legal professionals as well as on the most relevant European and national case law;
2. a hypothetical case session, where participants will discuss real legal issues through a case, replicating real life scenarios, in small groups;
3. interactive discussion roundtables;
4. preparatory materials distributed to registered participants in advance of the training. Notably, you will be provided access to the TRIAL online training platform featuring a module, designed especially for this workshop, a background module on the European rule of law and the mechanisms for its enforcement, and a module on accountability and freedom of expression. You will also be given access to a database gathering a selection of the most relevant European and national case law, which is summarized and analyzed in English.

Who should attend?

While the target group are Romanian lawyers, we also welcome Romanian judges, as well as foreign lawyers and judges, as the event will be organized mostly in English. The participation is free of charge. Participants will be provided with certificates of participation.



Language

The working language of the event will be English, while one of the case study workshops during the second day will be conducted in Romanian, if necessary.

What can you expect after the completion of the training?

This Cross Border Workshop will strive towards enabling you:

- to understand and explain the main legal issues relating to the European rule of law;
- to understand the threats to the rule of law from outside and from within the judiciary, and your role in upholding this fundamental EU value;
- to become familiar with the ECtHR standards concerning freedom of expression of legal professionals and with the recent CJEU case-law, providing a new avenue for protection of this right;
- to identify the standard of effective judicial protection under Article 19 TEU and to become familiar with the differences in scope, purpose and threshold between Article 19 TEU, Article 267 TFEU and Article 47 CFREU;
- to understand the different underlying premises that govern the freedom of expression of different groups of professionals within the judicial system;
- to become familiar with the national case law concerning freedom of expression of legal professionals;
- to determine, whether the Charter of Fundamental Rights of the EU is applicable in a certain case or not;
- to 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;
- to become part of a network of legal practitioners and scholars dealing with similar issues that could provide support for future questions.

Application and Selection Process

The workshop is open to 30 active lawyers (lawyers, judges, arbitrators) from any EU country. Applicants are invited to send the expression of their interest to take part in the cross-border workshop by **28th of February, 2022 at the following address: proiecte@unbr.ro** Applicants will be notified about the result of the selection process by **March the 1st, 2022**.

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 a general knowledge of and experience in the topic of the workshop. However, applicants are neither required to have participated in similar training programmes before, nor will recent participation in similar training programmes necessarily prevent them from being accepted. If necessary, during the second day, and for the practical activities, participants will be divided according to their language preference (English or Romanian).



The selection will ensure the following criteria:

1. Single participation principle: applicants that already took part to TRIAL training activities may be selected exceptionally.
2. Gender balance;
3. Age balance.

Participants are asked to devote the necessary time to this training. If selected, participants must attend all sessions of the workshop. They are also asked to prepare for the workshop by reading the relevant materials in advance.

Contact person and general information

For any information on the workshop or doubts concerning the call for application, please contact Raluca Bercea (raluca.bercea@e-uvt.ro) and Veronica Morecuț (proiecte@unbr.ro).



Programme

Judicial dialogue and freedom of expression of legal professions

Thursday, 3rd of March 2022

(15.50 EET / 14.50 CET – online connection)

16:00 - 17:30 EET (15:00 - 16:30 CET) Keynote Panel – Perspectives on the European constitutional pluralism

Chair: Gábor Halmai | Scientific Director of the TRIIAL Project, Professor of Comparative Constitutional Law, EUI

16.00 EET (15.10 CET) *Welcome Address and Introduction of the TRIIAL Workshop*

Gábor Halmai | Scientific Director of the TRIIAL Project, Professor of Comparative Constitutional Law, EUI

16.10 EET (15.10 CET) *The freedom of expression of judges within the European constitutional pluralism*

Iulia Motoc | Professor of International law, judge at the European Court of Human Rights, University of Bucharest

16.40 EET (15.40 CET) *Judicial dialogue on judicial independence through preliminary rulings*

Sara Iglesias Sánchez | Professor of EU law, former référendaire CJEU, Universidad Complutense of Madrid

17.10 EET (16.10 CET) Questions and Answers Session

17.30 EET (16.30 CET) Break

17.45 - 19.30 EET (16.45 – 18.30 CET) – Roundtable discussion „Freedom of expression of lawyers and judges (I) The European context”

Chair: Raluca Bercea | coordinator of TRIIAL on behalf of the National Association of the Romanian Bars, Professor of European law, Faculty of Law, West University of Timisoara

17.45 EET (16.45 CET) *Freedom of expression of the judge according to the ECtHR*

Sietske Dijkstra | Judge at Court House of Groningen

18.00 EET (17.00 CET) *Freedom of expression of judges: the Italian perspective*

Federica Casarosa | Professor, Centre for Judicial Cooperation

18.15 EET (17.15 CET) *Freedom of expression of judges in Slovenia: the Unresolved Issues*

Mohor Fajdiga | Teaching Assistant, Faculty of Law, University in Ljubljana

18.30 EET (17.30 CET) *Freedom of expression of judges: the Hungarian perspective*

Viktor Vadász | ERA, Trier

18.45 EET (17.45 CET) *Freedom of expression of judges: the Polish perspective*

Jaroslav Gwizdak | Institute for Law and Society (INPRIS)



19.00 EET (18.00 CET) Questions and Answers Session

19.25 EET (18.25 CET) Conclusions of the first day

Friday, 4th March 2021

(13.50 EET / 12.50 CET – online connection)

14.00 – 15.00 EET (13.00 – 14.00 CET) - Roundtable discussion „Freedom of expression of lawyers and judges. (II) The national context”

Chair: Mădălina Moraru | Assistant Professor, Centre for Judicial Cooperation

14.00 EET (13.00 CET) *Meanings of the judicial “dialogue” within the Romanian rule of law preliminary rulings and their national follow-up*

Raluca Bercea | Professor of European law, INPPA trainer | Faculty of Law, West University of Timisoara

14.15 EET (13.15 CET) *Freedom of expression of Romanian judges before the ECtHR*

Diana Botău | Associate Professor of international law, INPPA trainer, TRIIAL national expert, Faculty of Law, Babes Bolyai University of Cluj-Napoca

14.30 EET (13.30 CET) *Freedom of expression of lawyers. The European standards*

Sorina Doroga | Associate Professor of European law, INPPA trainer, TRIIAL national expert, Faculty of Law, West University of Timisoara

14:45 EET (13.45 CET) Questions and Answers Session

15.00 – 16.30 EET (14.00-15.30 CET) Group Work on hypothetical cases on Freedom of Expression of Lawyers and Magistrates

15.00 EET (14.00 CET) *Hypothetical I group I and Hypothetical II group II*

Ioana Șoldea | INPPA trainer, CoE HELP trainer, TRIIAL national expert, UNBR

Roxana Prisacariu | INPPA trainer, CoE HELP trainer, TRIIAL national expert, UNBR

15.45 EET (14.45 CET) *Hypothetical I group II and Hypothetical II group I*

Ioana Șoldea | INPPA trainer, CoE HELP trainer, TRIIAL national expert, UNBR

Roxana Prisacariu | INPPA trainer, CoE HELP trainer, TRIIAL national expert, UNBR

16.30 EET (15.30 CET) Session of exchange of views between group I and group II

16.45 EET (15.45 CET) Conclusions of the second day

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