



# Maastricht University



## TRIAL Cross-Border Training

### Revisiting judicial independence, impartiality and accountability in the context of emerging European standards

with a focus on judicial appointments and the public role of judges

**Date 31 March 2022 – 1 April 2022**

**Online, ZOOM**

As is by now well-known, respect for the rule of law is declining in several EU member states, most notably in Hungary and Poland. The European Union is increasingly taking action to safeguard the rule of law and other foundational values, and new mechanisms are regularly added to the EU's toolbox, most recently in the form of the so-called Rule of Law Conditionality Regulation. Both the Council of Europe and its European Court of Human Rights and the EU and its Court of Justice are refining the concept of the rule of law and defining standards to assess compliance, especially in relation to judicial independence and impartiality.

These developments also impact on the work of national judges in other member states, especially in the context of the various European mechanisms of judicial cooperation which are based on mutual trust in the European area of freedom, security and justice, such as the EAW, the Dublin system and the cooperation in judicial and commercial matters. At the same time, these developments give us pause to revisit issues relating to judicial appointments, judicial independence and impartiality and judicial accountability in our own national legal systems, against the context of the emerging European standards.

In this training, we invite judges, magistrates and legal professionals from Belgium and the Netherlands as well as other Member States to join this debate and assess the strengths and weaknesses of their own system of judicial appointments, the functioning of their respective Councils of the Judiciary and the position of individual judges in the judicial process, more particularly relating to their freedom of expression.

The purpose of the training is to galvanize the dialogue on the mutable nature of the European standards of judicial independence, thereby touching upon theoretical and practical issues emerging in the European legal arena and in the interactions at national and supranational levels, such as for instance the self-administration of judiciary, as well as the separation of careers between judges and prosecutors.

This training is offered within the framework of the TRIAL project that provides training activities and tools for judges, lawyers, prosecutors, and arbitrators on the European rule of law. The TRIAL project is funded by the European Commission (Horizon 2020, project no. 853832, JUST-JTRA-EJTR-AG-2018).



**Co-funded by  
the European Union**

### Programme on Thursday 31 March

#### **Emerging European rule of law standards: judicial appointments, judicial independence, impartiality and accountability (in English)**

14.00 -14.10 Welcome and introduction

*Monica Claes*

14.10-14.30 Keynote speech: *Kees Sterk*

14.30-16.00

Emerging European rule of law standards: judicial appointments, judicial independence, impartiality and accountability

- Council of Europe (ECtHR, Venice Cm, networks etc)– *Joost Sillen* (Radboud Universiteit Nijmegen)
- EU – *Matteo Bonelli* (Maastricht University)
- Challenges to rule of law in other member states and mutual trust in judicial cooperation – *Femke Gremmelprez* (UGent)
- Discussion led by Kees Sterk

16.30-17.30

Hypothetical cases: discussion

## Programme on Friday 1 April

### **Bedreigingen voor de onafhankelijkheid en onpartijdigheid van rechters: kan het ook bij ons gebeuren? (Nederlands)**

In deze sessie staan we stil bij actuele debatten in België en Nederland m.b.t. rechtsstatelijkheid, de benoeming van rechters, rechterlijke onafhankelijkheid en onpartijdigheid en de plaats van de rechter in het publieke debat. De sprekers worden uitgenodigd om in een korte pitch hun onderwerp in het debat te introduceren, tegen de achtergrond van de bredere Europese ontwikkelingen.

14.00 – 14.15 Welkom en inleiding tot het debat

*Monica Claes en Kees Sterk*

14.15 – 16.00 Debat

Moderator: Monica Claes

- De benoeming van rechters, inclusief de benoeming van rechters in de hoogste rechtscolleges - Geert Corstens (voormalig President van de Hoge Raad, Emeritus Hoogleraar Radboud Universiteit Nijmegen) en Piet Taelman (UGent en Hoge Raad voor de Justitie)

Voldoet de wijze waarop rechters in België en Nederland worden benoemd aan de eisen die Europa daaraan stelt? In Nederland liggen op dit moment plannen voor om de benoeming van leden van de Hoge Raad te veranderen. Is dit nodig om de onafhankelijkheid van de rechterlijke macht te borgen? Heeft dit ook gevolgen voor de benoeming van leden van de Afdeling bestuursrechtspraak van de Raad van State?

- De rechter en de politiek – Jerfi Uzman (Universiteit van Amsterdam) en Willem Verrijdt (KU Leuven en Grondwettelijk Hof van België)

Enkele recente uitspraken zowel in België als in Nederland hebben het debat over de grenzen tussen het politieke en het recht weer doen oplaaien. Uitspraken als *Urgenda* en de *Klimaatzaak*, de recente uitspraak van de Hoge Raad over de vermogensrendementsheffing, uitspraken in beide landen over de coronamaatregelen en de Nederlandse *kindertoelagenaffaire* lokken veel discussie uit over de precieze taak van de rechter. Grijpt de rechter de macht? Of moet de rechter juist meer doen om te burger te beschermen tegen de overheid?

16.00-16.30 Pauze

16.30-17.30 Vervolg van het debat

Moderator: Kees Sterk

- De plaats van de rechter in het publieke debat - Sietske Dijkstra (rechter in de Rechtbank Noord-Nederland) en Koen Lemmens (KU Leuven)

Mag een rechter deelnemen aan het publieke debat? Bedreigt een 'twitterende' rechter de rechterlijke onafhankelijkheid en onpartijdigheid? Of draagt die rechter net aan een responsieve en open rechterlijke macht? Mag een rechter demonstreren? Waar liggen de grenzen van de vrije meningsuiting van rechters?

- De rechterlijke macht onder vuur: een bedreiging voor de rechtsstaat? - Geert Corstens en Koen Lemmens

Politici zijn soms kritisch over specifieke arresten. Soms gaan ze veel verder en beelden rechters af als bedreiging voor de politiek en vijanden van het volk. Bedreigt dergelijke kritiek de rechtsstaat? In welke mate is kritiek op rechterlijke uitspraken en de rechterlijke macht geoorloofd?

17.30-18.00 Slotbeschouwingen

## General Information:

- Registration: Apply via [REGISTRATION LINK](#)
- Course Coordinators: Monica Claes, professor of European and Comparative constitutional law at Maastricht University & Kees Sterk, judge at Rechtbank Zeeland West-Brabant and endowed professor of European Administration of Justice at Maastricht University

The event combines theoretical and practical lessons delivered through expert discussions, case summaries, individual discussion in break out rooms and debates of best practices.

You will learn through:

- Preparation materials (offered in English and in Dutch through the online platform [trial.apogee.lu](http://trial.apogee.lu)) and
- Two afternoon online workshops with panellists and experts including discussions and group exercises

## For whom?

Judges, prosecutors, law clerks, members of Judicial Councils and associations (ENCJ), civil servants, legal practitioners, academics. There will be a maximum of 40 participants in total.

## What you can expect to gain from participating in the event

1. You will be able to understand and explain the main legal issues relating to the European rule of law (the training's "core").
2. You will be able to understand and explain the major legal issues relating to the right to a fair trial and judicial independence under Art. 6 of the ECHR and Art. 47 EU Charter, as well as freedom of association (Art. 13 ECHR and Art. 12 EU Charter)
3. You will have the opportunity to debate the latest issues relating to the rule of law crisis in the EU and the latest developments of the standards of judicial independence
4. You will deep-dive into the dynamics of self-administration, being able to analyse selection and promotion of judges, case law allocation, organisation and functions of Judicial Councils
5. You will be able to understand and explain the legal framework and judicial approaches to breaches of Art. 2 TEU by Member States
6. You will be able to evaluate what situations are not in line with the required rule of law standards
7. You will have the opportunity to understand and explain the main legal issues arising in connection to the independence and impartiality of judges and courts under EU law.
8. You will enhance your ability to evaluate potential conflicts of interest and problems of impartiality and efficiency (or the lack thereof) in the European legal arena

TRIAL - Trust, Independence, Impartiality and Accountability of judges and arbitrators safeguarding the rule of Law under the EU Charter (Horizon 2020, project no. 853832, JUST-JTRA-EJTR-AG-2018) provides training activities and tools for judges, lawyers, prosecutors, and arbitrators on the European rule of law, mutual trust, judicial independence, impartiality and accountability. For more information and materials explore the project [website](#).