**Concept Note –TRIIAL II Training Methodology**

**I. Short Abstract of the Project**

TRust, Independence, Impartiality and Accountability of judges safeguarding the Rule of Law (RoL) under the EU Charter (TRIIAL 2) project is a DG Justice supported project that provides training activities and tools for judges, prosecutors, attorneys and other legal professionals in areas of salient importance for the application of the EU Charter of Fundamental Rights (CFREU): trust, independence, impartiality, accountability and freedom of expression. Its main objective is to explain and disseminate knowledge of the CFREU’s potential for ensuring and improving the fundamental rights standards, and the protection of judicial independence, as well the awareness of legal professionals as agents of the RoL protection in the Member States.

*Activities: TRIIAL will deliver:*

* Training at least 500 justice professionals within 12 cross-border trainings (WP2);
* An e-repository to include the results of the project (self-learning curricula based on the training materials developed within the project: 12 thematic sections, each including the thematic booklet in English and the national language of the host partner organising the training, recorded lectures, ppt presentations, guidelines for trainings and hypothetical cases with solutions in English (WP3);
* Translation of the 12 Thematic booklets (INPRIS + all partners) - M15-M26

host partners: EUI – two booklets in Italian; SSM one in Italian; UNIFI one in Italian; MUNI one in Czech; UL one in Slovenian; UPF one in Spanish; INPRIS one in Polish; CIDP one in Portuguese; ELTE one in Hungarian; UNBR one in Romanian; UoG one in Polish.

* Developing an active network of professionals exchanging views on the European RoL related issues, which will include the consortium partners, associate partners, trainers and trainees (WPs1-4);
* Updating the CJC database with new European and domestic case law on RoL topics (WPs2-4);
* Disseminating RoL and fundamental rights standards at the national level through cross-border training events (WPs2-4);
* Collecting and developing training tools that may be included in the e-Justice portal (WPs2-4).

*Type and number of persons benefiting from the project:*

Directly (through the training events) approx. 500 judges, prosecutors, and lawyers, some of whom are also legal trainers. Indirectly, EU citizens, civil society, national legislators, EU policy makers will also benefit, as justice will be delivered by more informed professionals.

*It will focus on the following topics, which follow from the first successful TRIIAL project:*

1. Enforcing the Rule of Law through Judicial Intervention – EUI, hybrid, 30-31 October 2023
2. The Rule of Law requirements of Judicial Self-Government: the Role of Judicial Councils and Court Presidents – MUNI, hybrid – date to be changed for early 2025 – final date and abstract to be communicated by 15th of May.
3. Mutual Trust, Judicial Independence, and Judicial Co-operation in Asylum – Unifi, online, postponement from 2023 to early 2024, final date to be communicated by 15th of May.
4. Freedom of Expression and Association of Judges – a Cross Border Judicial Dialogue – UL online, hybrid, February 2024 – potential postponement with one month due to the postponement of the UNIFI event - final date to be communicated by 15th of May.
5. Mutual Trust, Judicial Independence of the EAW Framework – UPF, March 2024 hybrid, date to be communicated by 15th of May – potential postponement with one month.
6. Freedom of Expression and Association of Prosecutors - a cross border Judicial Dialogue – INPRIS, hybrid April 2024 – final date to be communicated by 15th of May.
7. Are National Higher Courts Securing Fundamental Rights Litigation Techniques towards Implementation of EU Aquis on RoL and Fundamental Rights – CIDP, hybrid – May 2024, final date to be communicated by 15th of May.
8. Disciplinary Proceedings and Judicial Ethics – SSM, hybrid – June 2024 – final date to be communicated by 15th of May
9. The Role of Lawyers in the Promotion of Judicial Independence, Mutual Trust and Rule of Law – Litigation Strategies before Judicial and Quasi-Judicial Bodies – UoG, hybrid, Sep 2024
10. Fundamental Rights and Use of the Preliminary Reference Procedure – ELTE, online - October 2024
11. Judicial Dialogue and Freedom of Expression of Lawyers – UNBR, online, Nov 2024
12. Rule of Law and Predictive Justice – EUI, hybrid, December 2024

*Expected results:*

• Increasing awareness about the impact that judicial interaction techniques have in the implementation of the fundamental rights’ legal framework, particularly CFREU;

• Increasing ability of legal practitioners to promote rule of law through the application of the EU fundamental rights legal framework to their everyday work;

• Fostering national cross-sectoral cooperation in the implementation of EU fundamental rights legal framework in the promotion of the rule of law.

**Background for the upcoming TRIIAL 2 training: common methodology, target groups, general themes**

Just as the first rendition of the project TRIAL 1 - the judicial training program launched under the auspices of the TRIIAL 2 Project will not be a one-shot experience for trained participants, nor will include only lectures transferring theoretical information. Instead, the project aims to adopt a training methodology that is based on an ongoing process of mutual exchange and learning between academics and legal practitioners, and amongst legal practitioners from different jurisdictions, Member States, and legal traditions.

Based on the lessons learned in TRIIAL 1 regarding the selection of caselaw and training methodology, TRIIAL 2 project aims to propose a common methodology of judicial training to better improve the implementation of the rule of law standards, with **special focus on judicial independence, impartiality and accountability, mutual trust and freedom of expression of legal practitioners**. It will serve as a follow-up to the TRIIAL 1.

TRIIAL 2 continues a path where a specific training methodology has been introduced and consolidated by the Centre for Judicial Cooperation (CJC) at EUI. It has been conceived as an ongoing process of mutual exchange and learning between legal practitioners and academics, building bridges between jurisdictions and legal traditions. The elaboration of the training tools is conceived of as a bottom-up process and aims at stimulating active engagement of legal practitioners with the practical problems concerning the scope and application of the Charter of Fundamental Rights of the European Union (CFREU) and of the European Convention of Human Rights (ECHR).

TRIIAL was successful in giving a voice to the above-described approach and TRIIAL 2 foresees following this thread using tools which are: interactive, practice-orientated, amenable to wide dissemination, and which are also individually oriented. These consist of a preliminary agreement on the purposes of a specific training on judicial independence as well as the preparation of training materials and sharing of best practices exchange trainings. **All the tools shall be designed around case-law collected during the Project through the help of national legal professionals and academics, being the national courts as the bottom-up system of upholding rule of law by scrutinizing judicial independence.**

In particular, TRIIAL 2 aims to address, on the one hand, the impact of judges and prosecutors’ impartiality and independence on the functioning of the justice system and how lawyers can actively contribute to the promotion of these objectives; on the other hand, it seeks to determine effective accountability mechanisms which make judges and prosecutors responsible for their decision as well as for the process by which the decision is made before the public opinion and enhance the public confidence in the impartial role of the judiciary.

Each training programme in the areas covered by TRIIAL 2 should be based on a composite training approach that actively involves the judges, prosecutors, and lawyers in the learning process to further apply the legal knowledge plus further skills and ethical values in courts and prosecutors’ offices. Participation for sharing knowledge and experience as well as a complete debate about the emerging challenges in the Rule of Law area should be the foundation as well as the framework for all training activities.

Training methodology entails both sharing of perceptions of challenges related to independence, impartiality, trust, freedom of expression, and accountability as well as of the means for tackling them via relevant training and exchanges of existing best practices, existing training materials and repositories of documents and standards on judicial independence, accountability and impartiality, and identification of gaps in terms of training (including national case-law), as well as in training materials.

The underlying philosophy of TRIIAL 2 is to continue the support for judges, prosecutors and lawyers, and to foster cooperation on the ongoing challenges undergone by the Rule of Law across Europe substantive and procedural tools on independence, impartiality and accountability offered by CFREU based standards to judges. To act as the guarantors of the Rule of Law, national courts, prosecutors, and attorneys must be equipped with a set of legal notions and criteria aimed at assessing the effective degree of independence, impartiality, mutual trust, freedom of expression, and accountability of the domestic judicial system concerned (which may be their own or that of another Member State).

More precisely, TRIIAL 2 targets **two major needs** for judges, attorneys, and prosecutors: on one hand, to collect knowledge and practical issues about the protection of their own independence by CFREU and EU law; on the other hand, to be aware how they can be the agents of the protection of the Rule of Law. TRIIAL 2 will support the above-mentioned categories in the identification of the scope of application of the CFREU which remains challenging for national courts and lawyers and in learning by exchange with peers.

There are **three target groups** for the selection of participants to the TRIIAL 2 events: judges, attorneys, and prosecutors, representative from the point of view of the age/gender/nationality/cultural and legal background of the participants, to be selected with single calls. Those with training responsibilities should be encouraged to participate.

The specific topics addressed in the training are helpful for the daily activity of participants.

**Guidelines for case law selection**

*What we need to collect?*

Partners are strongly encouraged to provide domestic jurisprudence, as the case selection is envisaged below. Case-studies based on national caselaw decided by courts, quasi-judicial bodies or political organs, revealing problems in the fulfilment of independence, impartiality and accountability of judges, prosecutors and attorneys, the implementation of the EU principle of mutual trust in the field of asylum and criminal law, and freedom of expression of judges, prosecutors and attorneys. Case studies should include not only the facts of the issue, but also the avenues used to solve them.

Priority will be given to those cases that show different patterns of judicial interaction between European and national courts.

Jurisdictions that have preliminary rulings on the TRIIAL 2 themes and those specifically addressed by the cross-border events would have to summarise the thread of litigation, stating at the national level, EU and then follow-up at national level.

*How much we need to collect?*

Each consortium partner **shall provide a minimum of 3 case notes per topic, that is 36 (3x12) case notes in total for the duration of the Project.**

National decisions could include more decisions on the same topic, if they are related. See for instance this case note: <https://cjc.eui.eu/data/data/data?idPermanent=333&triial=1>

*How could we collect?*

1. Involving national experts to select the prepare the case note.
2. Desk research, enquiry with Judicial Schools, interviews, focus discussions.

*What is period should be covered by the caselaw selection?*

First, we should not replicate caselaw already selected and finalised under TRIIAL 1. However, cases that were only decided by the CJEU/ECtHR under TRIIAL 1 could still be of interest for TRIIAL 2 if there is an interesting follow-up at the national level. The suggested period for the collection of the case notes is November 2021 until the months preceding the cross-border event you oversee.

*What is the deadline for caselaw submission?*

**The case notes should be sent to the organising partner** 5/6 months before the cross-border event​.

In view of the 30/31 October workshop, we invite you to submit a proposal for the 3 cases by 30th of May; following approval by the CJC/EUI team, the draft casenotes will then be submitted by 26th of June, and finalised by 31st of July.

**Each partner has the responsibility to coordinate and collect the case notes for its cross-border event** with the assistance of the CJC/EUI.

*What format should the case studies have?*

They should follow the template in excel sent together with the guidelines for caselaw selection.

*Outcome of the case selection?*

Elaboration of the 12 training booklet, feeding the database with updated caselaw.

Criteria for the selection of caselaw for the first cross-border event:

* Cover the themes of judicial independence, impartiality, accountability, mutual trust and freedom of expression.
* Contain at least one form of judicial interaction (e.g., use of preliminary reference procedure, disapplication of national law based on CJEU/ECtHR criteria, consistent interpretation of national law with CJEU/ECtHR standards, principle of proportionality).

For example, the below cases would be relevant for the first cross-border training:

* Hungary: C-564/19 – IS
* Spain: C-158/21 – Puig Gordi and Others; Banco Satander C-27/14
* Romania: Case C-430/21, *RS*;*[[1]](#footnote-1)* Case C-817/21, Judicial Inspection
* Poland: Case C-132/20, BN and others v Getin Noble Bank S.A. **15 February 2022- Notification of Infringement Proceedings (The European Commission decided to refer Poland to the Court of Justice of the European Union for violations of EU law by the Polish Constitutional Tribunal and its case law);** Case of Xero Flor v Poland sp.zo.o.(No 4907/18**); Broda v Bojara vs Poland; Sobczyńska and Others v Poland**

The Venice Commission Reports could also be a good source for identification of relevant caselaw.

1. Judgment of 22 February 2022, [Case C-430/21](https://curia.europa.eu/juris/document/document.jsf?text=&docid=254384&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=302486), *RS*, EU:C:2022:9. [↑](#footnote-ref-1)