



Rule of Law Challenges to Mutual Trust and Judicial Cooperation under the European Arrest Warrant Mechanism

ONLINE TRANSNATIONAL TRAINING WORKSHOP FOR JUDGES, PROSECUTORS AND LAWYERS

date 27 and 28 May 2021

time 2.30 pm - 5.30 pm, CET

Call for Participants

Framework

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* (Horizon 2020, 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 (see the dedicated website [here](#)).

Background

Pursuant to Article 2 of the Treaty on the European Union (TEU), the Union is founded on a set of values, including the rule of law. The Union is based “*on the fundamental premiss that each Member State shares with all the other Member States, and recognises that they share with it, the values under Article 2 TEU*” (Court of Justice, Opinion 2/13, point 168). In turn, “*this premiss implies and justifies the existence of mutual trust between the Member States*” (ibid.). The scrupulous observance of the Article 2 TEU's values is thus a precondition for the correct functioning of EU law instruments based on horizontal cooperation between judicial authorities across the Member States.

Respect for the rule of law requires that national judicial authorities can ensure, in cases pending before them, an effective judicial protection to the individuals concerned, in line with Article 47 of the EU Charter of Fundamental Rights (EU CFR). Since its judgment known as *LM or Celmer* (Case

C-216/18, *Minister for Justice and Equality*), the Court of Justice acknowledged that the national court requested to execute a European Arrest Warrant (EAW) coming from a Member State where there are rule of law problems may be under a duty to refuse such an execution. However, before coming to this conclusion, that same court may be under a duty to cooperate with the judicial authority issuing the warrant, in order to establish whether the person requested runs a real risk of violation of Article 47 EU CFR. In other words, the decision to suspend judicial cooperation still implies a phase in which judicial cooperation must take place. The importance of such an individual assessment has been recently re-affirmed by the Court of Justice in its judgement *L and P* (Case C-354/20 PPU, *Openbaar Ministerie*).

Provisional agenda

The training will consist of two afternoon sessions (2.30 pm – 5.30 pm, CET), on 27 and 28 May. It will host a combination of short lectures, followed by Q&A/debate sessions, and a group-exercise on a hypothetical case.

The following topics will be addressed by guest speakers:

- *The evolution of the Court of Justice's case law*
- *The implementation of the Court of Justice's case law at the national level*
- *The role of the ECHR and the Strasbourg Court*
- *End of mutual trust? Judicial cooperation with the UK and Northern Ireland after Brexit*

The group-exercise will focus on application of the LM test before national courts, with special attention on the burden of proof and the instruments of horizontal and vertical cooperation available. In order to promote active engagement, participants will be divided in small-groups, hosted in different online rooms, and will discuss the proposed case together with facilitators from the TRIAL project team.

Methodology

You will learn through:

- a 2-half day online workshop, including lectures and discussion sessions on the most relevant European and national case law, and small group works on case studies;
- preparatory materials distributed to registered participants in advance of the training. Notably, you will be provided access to the TRIAL online training platform, which includes a background module on the European rule of law and the mechanisms for its enforcement, a dedicated module on the rule of law challenges to judicial cooperation under the EAW mechanism, and a data-base gathering a selection of the most relevant European and national case law (each decision is elaborated into case sheet in English).

Who should attend

Judges, public prosecutors and lawyers.

There will be **30 participants**.

The participation is free of charge. Participants will be provided with certificates of participation.