

EXCHANGE PROGRAMME FOR JUDICIAL AUTHORITIES

GUIDELINES

Background

The European Judicial Training Network (EJTN) is the principal platform and promoter for the training and exchange of knowledge of the European judiciary. EJTN represents the interests of over 120,000 European judges, prosecutors and judicial trainers across Europe.

Formed in 2000, EJTN's fields of interest include EU, civil, criminal and commercial law and linguistics and societal issues training. The vision of EJTN is to help to foster a common legal and judicial European culture.

EJTN develops training standards and curricula, coordinates judicial training exchanges and programmes, disseminates training expertise and promotes cooperation between EU judicial training institutions.

Launched in 2005 at the initiative of the European Parliament, the Exchange Programme for judicial authorities is the EJTN flagship programme.

Objectives

The main **objectives** of the EJTN Exchange Programme are:

- To build trust and mutual recognition amongst the European judiciary;
- To foster a common European judicial culture;
- To enhance EU MS judges and prosecutors's knowledge of EU law, Union instruments and foreign judicial systems;
- To improve the language skills of the EU judiciary.

Through a judicial exchange, each participant will **observe, understand, compare** and **learn** about:

- **the judicial environment of the host country:** The participant is to discover the purpose, the organisation and the functioning of the main **judicial institutions** of the host country. S/he shall be given the essential information related to the **national law** of the host country as well as regarding the **judicial practice** and the legal guarantees offered by legislation of the host country;
- the implementation or references to **Community instruments**, the **European Convention of Human Rights** or the **judicial cooperation instruments** at the level of the host country: The participant is to discover how Community instruments are implemented, the relevance given by the members of the judiciary to the European Convention of Human Rights and how judicial cooperation instruments are used into the daily practice.

A judicial exchange should allow the participant **to improve their individual practice**, no matter if related to finding better solutions, better interpretation of the law, or simply by giving confidence and the feeling that they truly are European judges and prosecutors, no different from colleagues from other Member States. Additionally, even if a good level of the official language of the exchange is an essential pre-condition for the participation in the exchange, the exchange should enable the participants **to improve their language skills**.

Organisation

The EJTN Exchange Programme is implemented by several actors: the Exchange Programme team, the National Contact Points (NCPs) in the EU MS, the tutors in the host institutions and the participants.

Each of these actors are expected to fulfill key responsibilities to ensure a successful and productive exchange. The different steps of the Exchange Programme are outlined in annex 2.

Exchange Programme team

The Exchange Programme team of the EJTN secretariat is in charge of the general coordination and communication about the EJTN Exchange Programme.

The Exchange Programme team:

- sends out the calls for applications for Exchange Programme activities to the NCPs who then circulate the information to the national bodies;
- receives the applications selected by the NCPs and allocates the participants function of the available places and overall number of applicants;
- provides the NCPs with the details of the participants allocated to their country and ask them to liaise with them to start the concrete organisation of the exchange;
- makes sure the participants have fulfilled the pre and post-exchange requirements to secure the reimbursement of their expenses by the Finance unit of the EJTN secretariat;
- issues a certificate of completion to the participants having fulfilled all the necessary post-exchange requirements.

National contact points (NCPs)

A national contact point (NCP) for the Exchange Programme is appointed in each participating country. In countries where several institutions are responsible for the training of judges and prosecutors, an NCP is appointed in each institution.

The NCP is responsible for:

- the preselection and ranking of judges/prosecutors/trainers of their country/institution in the different activities of the Exchange Programme. The EJTN secretariat then allocates the preselected applications according to the choices of the candidates and the available places in the host countries;
- the facilitating and organisation of the exchanges in their country.

NCPs are expected to:

- get in touch with participants immediately after allocation;
- notify participants as soon as possible of the organisational framework of the exchange. Participants should benefit from timely information on the location as well as the start and end dates of the exchange;
- In case of individual exchanges, select tutors whose professional competence, personality and language skills work in favour of a successful exchange;
- In case of group exchanges:
 - try to take into account, when drafting the programme, the career, speciality and language information listed on the application form. Notwithstanding this, it remains the objective of the exchange programme to provide a general insight into the judicial system of the host country. It will not always be possible to dovetail this to the participant's individual background;
 - opt for a balanced combination of general information on the host country's judicial system and the opportunity to share expertise with the host country's practitioners;
 - take into consideration the suggestions listed under the section "Best Practices" in annex 1;
 - supply participants with a draft programme in writing, well ahead of the start of the exchange;
 - supply early on any documents that might help participants to prepare for the exchange.

Tutors (for individual exchanges or group exchanges at decentralised level)

The tutor is in charge of preparing the exchange of the participant in the host court/prosecution office, welcoming him/her and introducing him/her in the activities during his/her exchange.

Tutors are expected to:

- regard the exchange as an opportunity to showcase their country's judicial system whilst benefiting from the experience of their visiting colleagues (i.e. it is recommended to organise a session allowing the foreign visitor to present its own judicial system to his/her counterparts in the host court);

- let participants share the daily work as much as possible and integrate them into the team of the visited institution;
- make sure contact is made with the participant as soon as possible to discuss the period and content of the exchange:
 - The exchange period must suit both the participant and the hosting jurisdiction, necessitating a mutually-agreeable arrangement,
 - Nevertheless, some rules attached to the EJTN Exchange Programme and its funding system must be applied,
 - the so-called 2-week exchanges must last 10 working days and should start on a Monday and end on a Friday,
 - One-week exchanges must last 5 working days and start on a Monday and end on a Friday,
 - The exchange must be organised during the working days of the host country,
 - The participant must respect the same working hours as the colleagues of the host court.
- Observe the suggestions for a successful programme listed under the section “Best Practices” in annex 1 and send the programme to the participant prior to the exchange;
- Send any useful background information to the participant prior to the exchange in order to assist him/her in the preparation of the exchange;
- In the case of 2-week exchanges only, provide a certificate of attendance. This document is the only tool on the grounds of which per diem to be paid to the participants are calculated. It must bear the signature of the tutor as well as the stamp of the hosting institution.

Tutors are not expected to:

- Book accommodation for the participant. Participants are in charge of booking their travel to the host country and their accommodation in the host city. Tutors may however provide some useful advice with regards to accommodation location.
- Support hosting-related costs. Participants are expected to cover the costs related to their stay in the host country for the purpose of the exchange (accommodation, meals, local travels) with the daily allowances they are granted by EJTN.

Participants

Participants are expected to:

- take due care when applying to take part in the EJTN Exchange Programme. In particular, they shall communicate their professional experience and specialisation precisely, so the host can take this into account when drafting the programme;

- be realistic about their language skills. If necessary, they shall participate in language trainings offered by EJTN or other providers to acquire the requisite proficiency level;
- be fully aware that allocation to an exchange is binding and that participants are entitled to withdraw only in exceptional and unforeseen circumstances, at the earliest possible. In such case, participants must inform all involved actors (EJTN, NCP, tutor) as soon as possible so the place can be allocated to another participant on the waiting list;
- get in touch with the contact person in the host country as soon as possible;
- once allocated, undertake the exchange by the 31st of December of the calendar year;
- make proper preparations for the exchange. In aid of this, EJTN supplies information on the host country's judicial system;
- check with their employer that they will remain covered during the whole training period by the social security scheme applicable to the concerned national administration and that the latter will support the health expenses incurred abroad;
- make sure that they are insured against accident, death and invalidity risks;
- obey the national law and national rules of conduct of the host country while on exchange. Any violation of the host country's rules/law might lead EJTN to stopping the exchange;
- be ambassadors for the sending country's judicial system and share with judges/prosecutors of the host court knowledge about their own judicial system;
- respect the training schedule and pedagogical content of the exchange;
- fully take part in the work programme that is organised by the host. If there is a social programme, they shall give best endeavours to attend this as well;
- work with the Exchange Programme and Finance unit of the EJTN secretariat on all organisational matters in a full and timely fashion.
- complete the post-participation requirements within the deadline set for the activity, including providing proper feedback on their experience.

ANNEX 1

Best practices on the content-related design of the exchanges

The collection of best practices is based on years of experience gathered by EJTN members.

Experience shows that an exchange is viewed as highly productive every time the visitors are given an insight into the host country's judicial system that is as realistic and practice-oriented as possible. This includes real-life trials and original case files. Institutions outside the judicial structures are often visited to gain a broader overview of how things are done in the host country. The list below shows a number of options for making the exchange profitable:

This is what participants have regarded as particularly profitable:

- preparation, visit and review of court hearings together with a practitioner of the host country
- Possibility to attend deliberations
- Access to and discussion of trial documents
- Dialogue with various practitioners
- Visit to courts and prosecutor's offices at all levels and across all branches of the judicial system
- Information on judicial structures, court hierarchy and the principles of procedural and substantive law in the host country
- Overview of ethics and deontology and disciplinary matters
- Information on settlements, mediation and alternative dispute resolution
- Information on how EU instruments are applied in the host country, i.e. European Arrest Warrant and Mutual Legal Assistance in civil and criminal matters, Human Rights content
- Useful documentation sent prior to the exchange

During group exchanges, these activities have proved successful:

- Team handling of real case files
- Face-to-face interviews with host country practitioners
- Case studies, mock trials
- Interactive elements, such as presentations by the participants of how cases are handled in the home country

Beside courts and prosecutors' offices, visits to these institutions have been seen as being particularly productive:

- Correctional facilities
- Police
- Forensic science service
- Parole and probation offices
- Psychiatric Hospitals, drug counsellors
- Social workers, administrative authorities
- Representatives of other legal professions (i.e. attorneys, public notaries)
- Legal Faculties of local universities
- EJT contact points

- International institutions such as CJEU, ECtHR, ICC, EUROJUST
- Local government representatives
- Legal conferences

Activities appreciated in particular by participants in exchanges that focus on criminal law have included:

- Police or prosecution service 'ride-alongs', including investigation on the spot and house searching
- Insight into the work of (investigative) magistrates
- Sitting in on witness interviews

Finally, a supporting social programme helps promote after-work exchange and serves to introduce participants to the culture of the host nation. Resulting personal contacts have regularly been rated as particularly valuable.

ANNEX 2

Exchange Programme Timeline

