



ACTIONES METHODOLOGY FOR THE TRAINING

IN THE FRAMEWORK OF THE PROJECT “ACTIVE CHARTER TRAINING THROUGH INTERACTION OF NATIONAL EXPERIENCES” (ACTIONES)



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Introduction: Experimental approach towards judicial training

The ACTIONES methodology is based on the premise that judicial training is a continuous process which is the result of mutual exchange and learning between academics and legal practitioners, and amongst legal practitioners from different jurisdictions, Member States, and legal traditions. The methodology behind the elaboration of the ACTIONES toolkit is therefore bottom-up and aims at stimulating active engagement of legal practitioners with the practical problems concerning the scope and application of the EU Charter.

In order to achieve the result of enhancing the knowledge and the competence of the trainees as regards the scope and application of the EU Charter, the objectives of the ACTIONES training methodology are the following:

- Creation of a common legal culture
- Enhancement of mutual trust and exchange
- Dissemination of judicial interaction techniques

Therefore, the training tools elaborated within the ACTIONES project are not the result of an academic exercise, rather they are based on the direct and continuous collaboration with the legal practitioners that were involved throughout the project, selecting and testing the most relevant issues, and consequently national and European cases, that were to be included in the training tools provided. Each output of the Project is adapted in their format and substance to the needs of the final beneficiaries of the project, namely all the legal practitioners which will engage in a self-training exercise and/or will be participating to national or transnational trainings based on the project.

Against this background, the result of the ACTIONES project is a toolkit that will make legal practitioners fully aware of the potential inherent in the Charter, and able to exploit it. Additionally the toolkit includes Tips for Trainers aimed to offer methodology on training regarding the application of the EU Charter. The Toolkit includes the following items which will be presented in detail below:

- Modular Handbook
- Database
- Training workshops
- Tips for trainers.

This toolkit is adaptable to needs of the legal practitioners who are interested into self-training or into the organisation of a training course on the selected fields covered by the Project.

How to use the training materials

Given that there is an increasing body of rules that are not only based but also influenced and affected by EU law in many fields, legal practitioners may have difficulties in understanding the boundary between the purely national and the “unionised” legal rules, which have to be benchmarked against a different set of fundamental principles. In this sense, the ACTIONES toolkit provides for a full-fledged training where the EU most recent legislative and judicial intervention are analysed from both the European and national perspectives. The premise of the ACTIONES training methodology is that judicial dialogue among national legal practitioners from various Member States and among these and the European Courts (CJEU and ECtHR) contribute to enhanced effective implementation of EU law, the diffusion and accommodation of the various national legal cultures and adjudication styles.

The information and update are usually provided by national training institutions and bodies: they are in charge of regular update on national legislative initiatives that alter radically or affect the legal landscape; however, the same should apply to EU legislative initiatives and judicial developments. Here, the ACTIONES toolkit is available providing the national institutions and bodies an already tested format and methodology which may be adapted to the needs of the legal practitioners.

The ACTIONES training methodology joins desk study with face-to-face training. The main pillars of the training consists of the modular Handbook dedicated to cross-sectoral and thematic issues, Database which contains additional European and national case law summarised and discussed from the perspective of the application of the EU Charter and outcome of judicial interaction, and training workshops methodology that allows the trainees to confront with colleagues at national and European level and apply the acquired knowledge in hypothetical cases.

In specific areas, the ACTIONES Handbook is reflected in national curricula in the language of the partners involved in the project, where the selected modules are not only a translation of the English version, rather they adapt to the national framework, widening the reference to the national decisions and focusing on the most relevant issues at national level.

Additionally, legal practitioners may be confronted with cases where their knowledge may be limited or not fully updated, thus they may have an immediate need to gain knowledge regarding the recent trends of the EU jurisprudence in such area of law, eventually being inspired by the decisions taken by their homologues in other EU countries.

Depending on the role of the user, the ACTIONES training toolkit will provide flexible learning tools to serve the interests of the user him/herself.



Training tools available

ACTIONES Handbook

The ACTIONES Handbook consist of eight different Modules. Part I consist of three modules dealing with cross-cutting issues, whereas Part II consist of six modules addressing six areas of law, including case studies drawn from European and national case law concerning the different substantive areas of law.

PART I – CROSS-SECTORAL ISSUES

Module 1 General Rules on the Scope and Application of the EU Charter of Fundamental Rights

Module 2 Judicial Interaction Techniques on the application of the EU Charter

Module 3 The Right to an Effective Remedy

PART II – APPLICATION OF THE CHARTER IN SELECTED AREAS

Module 4 Non-discrimination

Module 5 Migration and asylum law

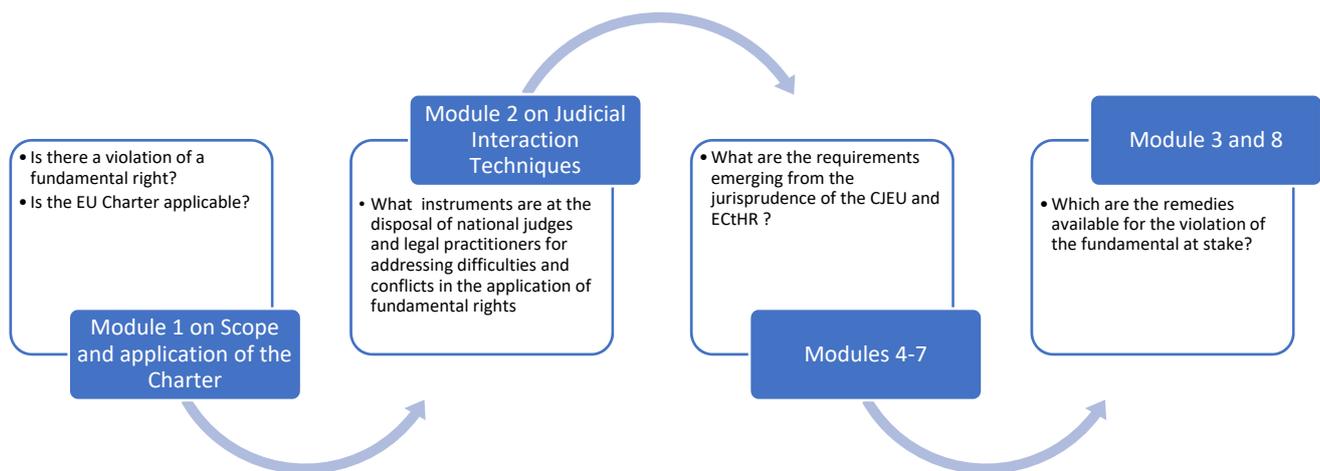
Module 6 Consumer Law

Module 7 Criminal law

Module 8 Effective Judicial Protection

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Each of the modules are at the same time self-standing and interrelated. Trainers or legal practitioners engaged in self-training activities will be able to construe the training curriculum that most fits with the needs of their target or their own needs by combining the cross-sectorial modules of Part I with one (or more) of the thematic modules of Part II.



The thematic modules are construed as operative instruments, aimed at engaging the readers in an analysis of the experiences and best practices emerging from the caselaw of European judges (being them from national and European courts). The implications of EU law in the selected fields will be addressed not only from a pure national perspective, rather the issues selected in each of the fields covered include a comparative perspective, offering information on the (direct or potential) impact of EU law and CJEU (when available of the ECtHR) jurisprudence on various national legal systems. The use of the comparative approach is justified by the fact that the impact of the principles and requirements developed through legislative intervention and judicial interpretation at EU law may be different in each Member State due to national specificities linked to procedural and substantial national rules.

Each thematic ACTIONES Module contains the following chapters:

- *State of the art in the selected area;*
- *Casesheets including clusters of cases addressing an issue relevant for several national jurisdictions tackled by CJEU (when applicable also ECtHR) jurisprudence;*
- *Hypothetical scenarios, modelled on the collected real cases, to be used to simulate the actual process of adjudicating a case involving the Charter in the context of group exercises; these hypothetical cases aim to test the knowledge acquired from reading the first two chapters.*

Casesheets

The Casesheets included in each module are the result of the ACTIONES analysis of the caselaw provided by the legal experts and practitioners involved in the project. Each of the casesheet provides for an analysis of cluster of selected cases, coming from different jurisdictions, which show added value of the judicial interactions among national and European courts.

The analysis considers both the vertical interaction between European and national courts, but also the horizontal interaction where national courts look at each other's reasoning in order to solve similar issues in the application of the EU Charter and laws. In some cases, one casesheet is relevant for different areas of law (e.g. migration and criminal law or consumer protection and effective judicial protection). In that occasion the casesheet provides for cross-reference and highlights the issues most relevant for the thematic area. In case a casesheet is relevant for the thematic and the cross-sectoral

modules, the casesheet in the later module will be shorter and will cross-reference for a wider analysis to casesheet in the thematic module.

For a taxonomy of the overlapping among the casesheets within the cross sectoral and thematic modules, see Annex 1.

Within the thematic modules, the casesheets provide a summary of the facts and a clear explanation of the problematic issue(s) addressed by the cases concerned, analysing the connection with the scope of application of the Charter; the use (or lack of use) of the relevant provisions of the Charter; the techniques of judicial interaction resorted to by the judges in the selected cases and the consequences within the different jurisdictions; the (possible) remedies.

In order to provide the trainee a clear information regarding the abovementioned issues in each casesheet, the “at a glance” section will be framed in the following way:

Country	Area	Reference to EU law	Legal and/or judicial body	Judicial Interaction Technique	Remedy

The following section includes a timeline of the cases showing when and how the judicial interaction emerged, allowing the trainee to verify the short- and long-term impact of the national and European decisions. The timeline considers also where and when the judicial interaction among courts have triggered the intervention of the national legislator, whose contribution may or may not follow the judicial interpretation provided by the courts.

Hypotheticals

Each thematic module contains a set of hypotheticals, with an increasing level of complexity. Each hypothetical is based on the cases addressed within the module and provides for open questions addressing the comparative dimension among different legal systems and stimulate the discussion among legal practitioners.

Tips for trainers

As mentioned above, the ACTIONES Handbook is conceived as a training tool that trainers after the completion of the Project should be able to use in their activities. In order to ensure that the hypothetical provided at the end of each thematic module can be used easily in the subsequent training so as to test that acquired knowledge of the trainees, the Tips for trainers provides for a short summary of the objectives of each of the cases, the underlying questions as well as the cases upon which they are drafted.

ACTIONES database

The Database gathers the case-law which was suggested by the legal practitioners involved in project and adds to the previous selection available on the basis of other DG Justice funded project, namely Judcoop [[European Judicial Cooperation in the Fundamental Rights Practice of National Court - The unexplored potential of judicial dialogue methodology](#)]. The cases selected and clustered are

originating from EU jurisdictions, including both countries covered by project partner organisations as well as other EU jurisdictions.

For each set of decisions, the project team prepared a case-sheet, whose format ensures that the Database can act as a practical tool able to improve the understanding and use of Judicial Interaction Techniques, and extend cooperation to legal practitioners and academics that did not take part to the Projects' activities.

The Database is freely accessible [here](#).

Cases selected for the ACTIONES Database are not single cases of a national jurisdiction, rather they are set of cases (including national and European ones) which are connected among them through forms of judicial interaction. The types of interaction among the cases are clearly indicated in the description of the cases and can be used also as keyword for case search (see below).

- Geographical search

Please click on the country on the map to get the full list of cases that are available.

- Quick search by Charter Article

Please type the relevant Charter Article to get the full list of cases that refer to it.

- Browse by Fields

- Judicial interaction techniques

- Judicial interaction type

- (type of) Conflict

- Country

- Deciding body

- Area of law [limited to the ones addressed by the Project]

- ECHR Article

- Other Database

- Browse by keywords

Select any of the relevant keywords to access the full list of cases

ACTIONES Database – Search options

ACTIONES Transnational Training Workshop

The training workshops are based on mutual exchanges, cooperation and open discussions. They are fora where participants have the opportunity to exchange views based on their concrete experience. Discussion in plenary session alternate with small group-exercises in which the trainers, through the

devised hypothetical cases, recreate the conditions of the adjudication process and stimulate the engagement of the participants in role playing and problem-solving style activities.

The transnational workshops allow the participants to understand how their homologues from different Member States interpret and apply the Charter, which problems they encounter and which good practices they have developed. Innovative legal reasoning, argumentation and problem solving methods are the immediate result from such discussion.

The training workshops focus on a specific area of law, favouring the active engagement of the participants, who shall be selected amongst those working in the field, and maximising the impact of the training on their everyday activity.

Each training workshop run for one day and a half, and has involved a target group of at least 30 national judges. The training curriculum consist of the first three cross-sectorial modules of the Handbook, each time in combination with one of the thematic modules. Materials will be sent in advance to participants (min 2 weeks in advance).

Participants shall be initially exposed, in plenary sessions, to interactive presentations aimed at raising their awareness of various European and national challenges related to the application of the EU Charter. Then, the participants themselves take the lead of the discussion through roundtables presenting the issues they have confronted at the national level and solutions. Trainers have the role of stimulating the debate on the difficulties encountered and/or good practices developed by the participants as regards the application of the Charter in the specific area of law targeted by the Workshop. Subsequently, the participants are divided into small-groups where they will start the discussion on the hypotheticals prepared for each of the thematic modules of the Handbook. The discussion starts with a short presentation of the hypothetical by the trainers, followed by 10 minutes of reading and discussing the case in smaller groups. The participants will then start the open discussion on the possible solutions to the issues and questions raised.

For a more detailed description of the Transnational training workshop see Annex 2.

National training curricula complementing the transnational training

The national curricula are the result of the adaptation of the ACTIONES Handbook to the national legal context. In each case, the translation of part of the Handbook (either the cross-sectoral and thematic parts, or the thematic only) is coupled with the analysis of the relevant national jurisprudence that may be more relevant in the specific area and national jurisdiction. The adaptation of the transnational Handbook to the national training curricula is a joint effort of the transnational and local trainers.

The available national training curricula contains the following areas:

- CONSUMER PROTECTION - Italian and Dutch version
- MIGRATION AND ASYLUM - Romanian and Slovenian version
- NON DISCRIMINATION - Spanish and Romanian version
- EFFECTIVE JUDICIAL PROTECTION - Croatian version

ANNEX 1 - List of cases and allocation in the relevant modules.

	Module 1	Module 2	Module 3	Module 4	Module 5	Module 6	Module 7	Module 8
1	Delvigne	Austrian constitutional court	DEB	Banif Plus Bank	MMS – NS – Tarakhel	Trib. Milano 2005 and Court of Appeal Firenze 2006 (Mangold)	Irish Supreme Court, 2005	Alassini
2	Léger	Jeremy F	Sanchez Morcillo	Pannon	Czech Constitutional Court, 2015	Corte d' Appello di Milano, 2013 (Mangold)	Irish Supreme Court, 2013	Orizzonte Salute
3	Åkeberg Fransson	Radu	ACCEPT	Asbeek Brusse	Diakité	District Court in Wroclaw Srodmiescie, 2016	Aranyosi and Căldăraru	DEB
4	Texdata	Melloni	Samba Diouf	Sanchez Morcillo I and II	Al Chodor	Greek Supreme Administrative Court, 2014	Solna District Court, 2016	Alder
5	DEB	Kukukdeveci		Kusionova	A, B, C,	Dhahbi v. Italy	Petruhhin	ZZ
6	Sayn-wittgestein	Sabam		Aziz	K.	CHEZ	Gothenburg District court, 2011	Sanchez Morcillo
7	NS			Weber & Putz	Court of Appeal of Bucharest, 2012	UK Appeal Court, 2015	Tribunal of Milano, 2011	Tall
8	Kamberaj			Duarte Hueros	Court of first instance of Romania, 2013	Kaltoft	Radu	Belvedere
9	Glatzel			Pohotovost	Y and Z	Slovenian Constitutional Court, 2008	Melloni	Texdata
10	AMS			Invitel	Court of first instance of the Hague, 2015	Spanish Constitutional Court, 2012	Supreme Court of Italy, 2016	MMS – NS – Tarakhel

11				Sales Sinues	B. and D.	Austrian Constitutional Court, 2014	Austrian independent Administrative Tribunal, 2014	Avotins
12				Alassini	Constitutional Court of Slovenia, 2014	Bougnaoui	Supreme Court of Hungary, 2011	Melloni
13					Abdida	Achbita		Aranyosi and Caldararu
14					Court of Cassation, Italy, 2017	Supreme Court of Hungary, 2014		A v B
15					R (ZAT) v Secretary of State for the Home Department	Accept		Jeremy F
16					M v Minister for Justice and Equality I and II			UK Appeal Court, 2015
17					Mukarubega Boudjilida			
18					Court of first instance of The Hague, branch Zwolle, 2014			
19					CJEU, C 239/14, Tall			
20					Supreme Court of Estonia, 2016			

DAY 1

Session 1

Presentation of the ACTIONES Handbook and database – the opportunities of judicial dialogue

Discussion

Session 2

Working groups activity – Discussion on Hypothetical

Presentation of the Conclusions reached within Working Groups in the Plenary session

Session 3

Roundtable discussion - The application of the EU Charter in the selected area from the perspective of national courts [Presentation of landmark caselaw, common issues and solutions on the application of the EU Charter in the selected area by the participating judges and lawyers]

Discussion

Session 4

Working groups activity – Discussion on Hypothetical

Presentation of the Conclusions reached within Working Groups in the Plenary session

DAY 2

Session 1

The application of the EU Charter in the selected area from the perspective of European courts and European institutions [lectures and interventions by CJEU judges or Advocate Generals and most relevant European institutions in the field]

Discussion

Session 2

Working groups activity – Discussion on Hypothetical

Presentation of the Conclusions reached within Working Groups in the Plenary session

Session 3

Roundtable discussion - Judicial Dialogue furthering the application of the EU Charter in the selected area [Presentation of cases where Judicial dialogue helped to solve the conflict between national and European law, enhancing the protection of fundamental rights]

Discussion

End of conference