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Cross-border training workshop organised by the University of Gdańsk – in Gdańsk and online on *The Role of Lawyers in the Promotion of Judicial Independence, Mutual Trust and Rule of Law*

## DATES AND LOCATION

4 February 2025 - 5 February 2025, Faculty of Law and Administration, University of Gdańsk

## CALL FOR APPLICATIONS

*DEADLINE:* 5 January 2025

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*Website:* <https://prawo.ug.edu.pl/trial-ii-2025>

## Framework

This conference and workshop are offered within the European Commission's funded project *TRIAL 2 – TRust, Independence, Impartiality and Accountability of Legal professionals under the EU Charter* (project no. 101089737, JUST-JTRA-EJTR-AG-2020). The TRIAL 2 Project provides training activities and tools for judges, attorneys, and prosecutors on the European rule of law, mutual trust, judicial independence, impartiality and accountability (see the dedicated website [here](#)).

## Description and ambitions

Where the institutions fall one by one when faced with the smart autocratic legalistic schemes, the uneasy questions, and challenges (list is non – exhaustive) arise: What the rule of law is for and how it operates; What it means to *be(come)* a lawyer in these challenging times? How does it affect the core of the law of integration that brought states and its peoples together? How can we lawyers stand up and protect the law itself and our institutions? And finally: How can we lawyers

move beyond ... our lawyers' heads and think out of the institutional and academic box to embed the law and the institutions into the social fabric of our societies? One painful and fundamental lesson that we should have learnt by now is that comfortable *non possumus* is no longer an option in 2024 and ... beyond.

How can law and lawyers, respond then effectively? This conference and workshop will aim at developing a conceptual apparatus and practical playbook for revitalizing commitments to liberal and rule of law values at the interconnected axis of “national and supranational” level. They will do so by revisiting the narrative of European integration centered around constitutional essentials binding on all actors and by introducing into the supranational discourse a neglected phenomenon of legal complex. The ambition lies in going beyond technical and dominant legalistic discussions (“*how*”). Instead, it explores the axiological foundations (“*why*” and “*what*”) at the core of the symbolic decision to “live together” as neighbors who honor the aspiration of “the ever-closer union among peoples of Europe” and who agree to be governed by “the law of integration” anchored in shared values and goals. Supranational governance needs a new conceptual grounding that would explain the *ethnography* and the *practice* of the supranational law that reinforces *supranational legality*. The concept of supranational legality would function as a legitimacy yardstick and frame - setter for acceptable practice within the order. The supranational legality centered on the discourse focused on shared values would provide a paradigmatic turn in the study of the supranational governance by posing questions of belonging and by challenging our willingness to live together as part of the supranational political community. For that to happen, though, a new narrative and a discursive framework are needed to defend *transnational democracy*, *the rule of law* and *the culture of constraint* as the constitutional essentials (“First Principles”) of the supranational legal order. What is needed is a theory providing an integrated approach to explain and defend supranational legality built implicitly into the overlapping consensus among European peoples. Such theory would go *beyond rights* and *market* and instead embrace supranational legal order where *democratic structures*, *constitutional profiles* and *shared values* and *goals* are protected as part of the emerging First Principles of the European public space.

Today constitutional and supranational law face fundamental questions concerning law's inability to prevent abuse of majoritarian rule created by no-holds-barred majoritarian politics. The restoration of the rule of law (*constitutional setting*) and the *supranational embeddedness* and *anchoring* of the rule of law are very much first - order problems. When the law is used not only to empower, liberate, and protect but also to disempower, capture, the role of the “law of integration” and responsibilities of lawyers, the rule of law and the separation of powers as well as communal bonds, are all affected. For the system to regain its liberal credentials, the public and the courts must have

something tangible to fall back on. This invites in turn an existential turn in the discourse concerning the justifications for our continuing loyalties to the supranational governance and our (lawyers) understanding and promoting of these loyalties.

Seen against this theoretical background Panel I “*Conceptualizations*” will provide theoretical overview and will invite to think critically of the lawyers, legal virtues and shared values centered around the common legality. Importantly this part will introduce the participants of the conference to the novel framing of arguments and bringing cases before the Court (and national courts) to enforce the rule of law and will anchor the supranational legality as part of supranational governance. The role of supranational courts must be framed in systemic terms of the existential jurisprudence (novel trajectory from *principles to values*) and serve as a symbolic point of reference for the fidelity of all the supranational actors to the evolving principles and emerging practices of the European public space.

Panel II „*Thinking about the judicial power in XXI century*“ will in turn offer important insights from the judicial bench. How do judges repond tot he rule of law crisis and how they understand their social function and how they embed it? How does the rule of law crisis and the sophisticated attempts at the capture oft he independent institutions? These are only examples oft he questions we will be asking and trying to find answers.

While the Courts provide clarity as to what constitutes a violation, the alliances often implicit that drive legal mobilization frame and crystalize the core in the public imagination, and thus create common knowledge of the supranational legality as a lived experience. This brings us to the second perspective marked by *radiation* of the case law beyond the court room and the shadow it casts on all the actors (lawyers among them) operating within the European public space. Belonging to the supranational legal order should entail a commitment to the order’s practice and its understanding of legality.

Panel III “*Applications*” will therefore aim at showing the various applications of the rule of law as seen through the eyes of the assembled representatives of the legal profession.

This panel will introduce and demarcate the concept of legal complex. Given law’s salience in European integration it is indeed striking how absent legal complex has been from the national and supranational parlance. The legal complex stands for a configuration of legal occupations (professionals and academics alike) which enable, draft, litigate, implement, oppose, critique and ally with judges and courts speaking the language of First Principles. The Court of Justice has always understood its function under art. 19 TEU as actively promoting the goals of the Treaties

to attain “an ever - closer union among peoples of Europe” (art. 1 TEU). While the Court has been a focal point for legal mobilization and coordination, legal mobilization alone does not explain how the Court has avoided dangers of irrelevance and marginalization. A theory with solid conceptual underpinnings is necessary to show how disperse legal mobilization is harnessed, disciplined, and explained to the public. The Court needs allies from within the legal professions. The supranational legal complex can bring together and build networks of support for the Court and national judges that enables and energizes the defense of supranational legality anchored in the First Principles. As such the operation of the supranational legal complex aims at consolidating the case law and defending the Court’s autonomy and power. This would speak to the crucial social function played by the legal complex: to embed the supranational legality and the legitimacy of the Court in the domestic legal orders and to make it part of the domestic legal practice.

The role of lawyers must be thus better embedded into and read against the perspective “*bottom - up/downstream*”. This perspective strengthens the sense of belonging “on the ground” to a constitutional core that defines us as Europeans. Here the focus must be on the context of the integration, or, what this research calls, the “social lifes of the Treaties”. Law functions as a social fact that must respond to and be shaped by the social environment. Supranational governance is not only about the (imperfect) text(s), but equally about the actors’ behaviors based on the text(s) and the term “*social life*” explains how the social contract (Treaties) and the institutions must serve EU citizens. The panel “Applications” will tackle these challenges by giving the floor to the representatives of legal profession who all have a crucial role to play in the operation of the legal complex on the ground and their voice will ultimately determine the ultimate success (or failure) of the legal complex.

The triad of “*conceptualizations - judicial power - application*” underpinned by the concept of legal complex provides a key to recasting the role of lawyers. It goes beyond the technical legalistic discussions (“*how*” and its focus ((important no doubt)) on the strategies alone). Instead, it also explores often neglected axiological foundations (“*why*” and “*what*”) at the core of the symbolic decision to “live together” as neighbors, and not as strangers. It offers a holistic understanding of the legal profession faced with the many challenges to the rule of law across the EU and shows how lawyers must rethink their own craft and vocation in order to respond effectively and adequately to these challenges. By connecting technical “*how*” to enforce and litigate with the axiological “*why*”, the triad explicates and defends the core of “an ever - closer union among peoples of Europe” while placing special burdens and expectations on the lawyers. The days of comfortable *non - possumus* are long gone ...

The workshop part of the Conference will open with the keynote by Judge of the European Court of Human Rights Rafaella Sabato who will introduce us to the judicial world of the rule of law standards. The workshop will then aim at contextualizing and ordering all the information through the case - by - case studies. This part of the Conference will invite and foster interaction and discussion among participants.

### **Target group**

Judges, judicial trainees, clerks, lawyers working for the NGOS, public prosecutors, attorneys, legal advisers and other legal professionals and policy makers from European Union (EU) countries. The training will be in English and opened to those with both basic and experienced knowledge of EU law and ECHR

The Workshop will host 40 participants, of which 15 will be in person and 25 online.

The group of accepted in person participants will consist of 8 domestic and 7 foreigner legal professionals.

Participation is free of charge

For the 15 in-person participants, the travel, accommodation and meals at the venue are covered by the organizer.

Participants will be provided with certificates of participation.

### **Application**

The deadline for the submission of online applications is 5 JANUARY 2025

Submit your application, including the documents mentioned below to Dr Marcin Michalak at [Marcin.Michalak@ug.edu.pl](mailto:Marcin.Michalak@ug.edu.pl)

You should mention in the title of your email whether you want to participate in-person or online. You are invited to submit their applications to

For any questions, clarifications etc. please contact Dr Anna Podolska at [Anna.Podolska@ug.edu.pl](mailto:Anna.Podolska@ug.edu.pl)

**The following documents shall be attached to the application:**

1. CV in English (including a section on proof of knowledge of English)
2. A short motivation letter (max 2 pages) outlining the candidate's specific reasons for applying to the Conference and Workshop (please describe how your professional activity correlates to the conference's and workshop's field of interest and how you could both benefit from and contribute to the Conference and the Workshop)

**Selection Procedure**

The assessment of applications will be based on the following criteria:

- Gender and age balanced;
- Geographically balanced;
- Balance in the judicial hierarchy: both higher and lower instance courts shall be represented among selected participants;
- Trainers will have priority in selection (please refer to relevant training responsibilities in your CV);
- Knowledge of and experience with fundamental rights and rule of law issues;
- Good knowledge of English;

Single participation within the same Training Project (TRIAL 2): in principle, no participant can take part in more than one Workshop among those offered within the TRIAL 2 Project.

**Methodology**

You will learn through a 2 - day hybrid conference and workshop of lectures and discussion sessions. The workshop part will allow the participants to discuss real legal issues through a case – based analysis and engage in a more direct interactions with fellow participants.

All participants will receive preparatory materials including the thematic booklet on the rule of law, recorded lectures and casenotes with the analysis of the relevant national and supranational jurisprudence.

## **Objectives of the Conference and the Workshop**

After the completion of the training you should be able:

- to better understand and contextualize the main legal issues relating to the European rule of law and its operation throughout the European public space;
- to acquire the knowledge and the ability to assess the pros and cons and modalities of various European legal strategies to defend the rule of law and to engage the rule of law arguments;
- to understand the threats to the rule of law from outside and from within the judiciary, and your own role in upholding this fundamental EU value;
- to be able to ascertain whether the solution of the pending case requires the involvement of the Court of Justice through the reference for preliminary ruling;
- to become part of a network of legal practitioners, activists, and scholars dealing with similar issues that could provide support for future questions.

## **PROVISIONAL AGENDA**

**4 February 2025, Faculty of Law and Administration, University of Gdańsk, Aud. C**

### **9.30 Words of welcome**

*Professor Piotr Stepnowski, (TBC),* President of the University of Gdańsk

*Professor Wojciech Zalewski, (TBC);* Dean of the Faculty of Law and Administration, University of Gdańsk

*Professor Tomasz Tadeusz Konceniak,* Director of the Department of European and Comparative Law, University of Gdańsk, TRIAL II

### **10. 000 – 10.30 Key note**

*Sir Professor David Edward,* University of Edinburgh, Former Judge of the Court of Justice of the European Union, (*online*), (TBC)

**10.30 – 12.00 Panel I *Conceptualizations*** (moderated by *Dr Marcin Michalak*, University of Gdańsk, TRIAL II)

*Professor Jerzy Zajadło*, University of Gdańsk

*Professor Tomasz Widlak*, University of Gdańsk

*Professor Tomasz Tadeusz Konciewicz*, *Becoming a lawyer. What kind of a Constitution? What kind of lawyers?*

University of Gdańsk, TRIAL II

Discussion

12.00 - 12.30 Coffee break

**12.30 - 14.30 Panel II *Thinking about the judicial power in XXI century*** (moderated by *Professor Tomasz Tadeusz Konciewicz*, University of Gdańsk, TRIAL)

*Professor Francesca Fieconi*, Supreme Court of Italy, (*online*)

*Judge Ana Paula Lobo*, Supreme Administrative Court, Portugal, **(TBC)**

*Professor Kees Stark*, (*online*), Senior Judge, Maastricht University, former president European Network of Councils for the Judiciary, (*online*)

*Jarosław Gwiżdżak*, attorney - at - law; former judge, plenipotentiary of the Minister of Justice for the open (accessible) justice system, INPRIS, TRIAL II

*Judge David Rabenschlag*, Regional Administrative Court, Berlin, VicePresident of the European Association of Administrative Judges, **(TBC)**

Discussion

Lunch 14.30 - 15.15

**15.15 - 16.45 Panel III *Applications*** (moderated by *Dr Anna Podolska*, University of Gdańsk, TRIAL II)

*Professor Tomasz Tadeusz Konciewicz*, Introducing the concept of legal complex. Crucial, yet ... neglected?

Representative of the Court of Justice of the European Union, (TBD)



*Judge Dorota Zabłudowska*, District Court of Gdańsk; Member of the Board of the Association of Polish Judges Iustitia

*Dr Marcin Szwed*, Helsiński Foundation of human Rights, Warsaw

*Attorney Stanisław Drożdż*, Wardyński and Partners, Warsaw

*Magdalena Krzyżanowska - Mierzejewska* Legal adviser, Regional Council of Legal Advisers, Gdańsk, former Head of Division in the Registry of the European Court of Human Rights, (**TBC**)

*Monika Skinder - Pik*, Regional Public Prosecutor, Gdańsk

Discussion

### **16.45 Recapping. What's next?**

*Professor Tomasz Tadeusz Konciewicz*, University of Gdańsk, TRIAL II

19. 30 Dinner (**TBD**)

### **5 February Faculty of Law and Administration, University of Gdańsk**

#### **9.30 - 10.30 Judge Raffaele Sabato, (*online*), European Court of Human Rights**

Discussion

10.30 - 11.00 Coffee Break

#### **11.00 – 13.00 *Workshop and brainstorming. On legal strategizing. From theory to practice***

*Prof. Tomasz Tadeusz Konciewicz*

*Dr Anna Podolska*

*Dr Marcin Michalak*

Lunch