

Why more needs to be done to improve national judges' knowledge of EU law

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The European Union and its courts cannot ensure the effective application of EU law alone, with courts at the national level also playing a vital role in its application within individual countries. But how knowledgeable are national judges concerning EU law? Outlining results of a recent survey, [Juan A Mayoral](#), [Tobias Nowak](#) and [Urszula Jaremba](#) write that the level of knowledge of EU law exhibited by national judges is not as high as might be expected. They propose a number of potential changes which could be implemented to improve the training of national judges and ensure that EU law is applied more effectively in domestic courts.



National judges play an essential role in the legal system of the EU. Independent of their field and level of jurisdiction, judges are expected to act as a decentralised Union judge who enforces EU law and contributes to the process of legal integration within the EU. To achieve those aims a national judge is expected to use EU legal principles and instruments like the harmonious interpretation, direct effect and supremacy of Union law, the principle of effectiveness, the preliminary ruling procedure and ex officio application of EU law.

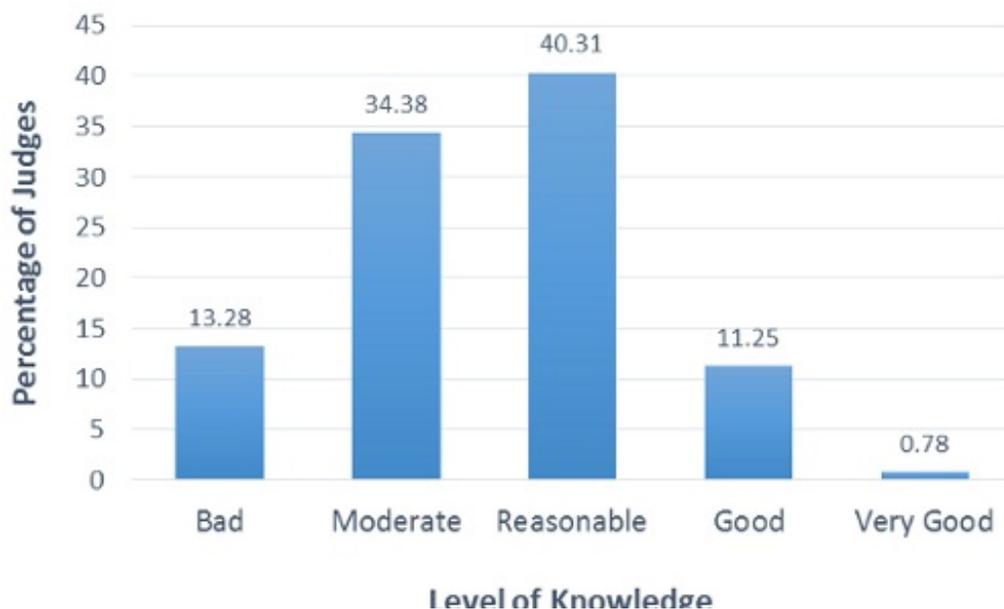


It seems essential that in order to live up to these expectations national judges must to a certain extent be familiar with EU law. This, in turn, leads to questions about their knowledge of EU law and about the factors influencing their competences. To approach these issues, we have [surveyed](#) judges from the Netherlands, North Rhine-Westphalia (Germany), Poland and Spain about their experience and level of knowledge concerning the law of the EU. We also identified mechanisms related to judging activity and socialisation within the judicial profession that potentially have an important modifying impact of their awareness of EU law.



The results of this analysis indicate that national judges' knowledge of EU law is not as good as expected. A quick look at the data in the chart below illustrates that national judges are frequently critical of their familiarity with EU law.

Chart: National judges' self-assessment of knowledge of EU law



Note: There were 640 judges included. Source: [Mayoral et al. 2014](#).

Policy-makers and judicial institutions have invested large amounts of money and effort into trying to uncover the factors that influence judges' knowledge of EU law in order to find ways of improving their capacity to function as EU judges.

Two possible groups of factors have been emphasised. First is their *career paths and daily judging practice*. This is based on an assumption that national judges' experience in the application of EU law at courts can influence their knowledge. Second, there is the *development of EU law curricula* at universities and judicial training institutions. It is often assumed that due to increasing interest in EU law by political and judicial institutions, certain changes in legal education and training that place more emphasis on EU law will occur. As a result, younger judges would be more familiar with EU law than older judges, and therefore its application would be easier for them.

The data proves that certain patterns affect knowledge of EU law among national judges. Firstly, judges who reported a high level of knowledge also say that they communicate with colleagues from other Member States about issues of EU law: in contrast to exchanges with national colleagues which prove to have no influence on the level of knowledge of judges. In addition, the higher a judge is located in the courts hierarchy, the better their opinion concerning their knowledge. Moreover, practical experience with the application of EU law has a positive influence on the self-evaluation of judges. The more cases in which EU law plays a role that a judge has to decide, the higher they evaluate their knowledge of EU law. Finally, university legal education has a strong impact on judges' knowledge.

Contrary to the widespread assumption that younger judges would know more about EU law, older judges evaluated their knowledge as being higher than younger judges. This self-evaluation is linked to the fact that more vocational training courses in the area of EU law were followed by those judges. The highest value was reached by judges who are over fifty-years-old and who have followed vocational training courses on EU law. This result coincides with the finding that the position of a judge in the court hierarchy influences their self-evaluation as judges of higher instances are usually older than judges of first instance.

Rethinking how to train judges

To fulfil their EU-law-related tasks, judges must be familiar with the law of the EU but our data clearly illustrates that most judges are somewhat sceptical about their degree of knowledge. From our findings it follows that knowledge is foremost acquired through practical experience by application.

Moreover, our findings also indicate in which direction policy-makers and judicial institutions should work to improve judges' knowledge. The powerful impact of university education makes us aware of the necessity of strong curricula across EU member states that would facilitate spreading knowledge of and interest in EU law among future judges – that is, current law students.

The lack of proper EU law courses should be taken seriously by those universities that offer EU law courses only as an option or as part of international law courses. At times EU law courses are non-existent in university curricula. An institutional reaction in that direction would help to change the nature of judicial training courses, which currently are mostly designed to provide a basic knowledge on EU law or to re-educate national judges on the relationship between EU and national law. Such basic training should be covered already at an early stage of the formation of the legal mind, i.e. during university education. This would also allow European and national judicial authorities to create more advanced training courses addressed to more complex and relevant issues concerning EU law matters.

Moreover, these programmes could be complemented by career incentives that may attract the interest of younger generations of judges to specialise in EU law. Attending these courses can however be time-consuming and

national judges often have difficulty seeing the benefits of them. However officially recognising EU law courses as a positive achievement or creating judicial positions only for judges with EU profiles, as happens in the Netherlands, would encourage judges to increase their training in EU law during their careers.

Finally, as transnational networks seem to facilitate judges' learning processes, national judges must be endowed with sufficient sources and skills to be able to meet judges from other Member States or to be able to work in EU judicial institutions (e.g. the Court of Justice and European Judicial training network). Therefore, we suggest that an attractive exchange training programme offered to judges would facilitate and strengthen the functioning of informal networks among the European judiciary.

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