



Briefing for CLE training course providers



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REFOTRA project
(JUST/JTRA/EJTR/AG/2017, n° 800827)



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For further information on the Refotra project, see www.elf-fae.eu/refotra

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Introduction

REFOTRA is a joint EU-funded project between the European Lawyers Foundation (ELF - <http://elf-fae.eu/>) and the Council of Bars and Law Societies of Europe (CCBE - <https://www.ccbe.eu/>), which has as its goal the development of proposals for a system of recognition of lawyers' continuing legal education (CLE) across the borders of the EU.

In this way, the project aims to fulfill a long-term aim of the CCBE and the European Commission in finding a tool which will enable a Member State's bar (or other appropriate regulatory authority) to facilitate the recognition of training under its own CLE scheme when one of its lawyers undertakes an appropriate course of continuing legal education in another EU Member State.

The principles employed throughout the project also correspond to those laid out in the Memorandum on Mutual Recognition of Lawyers' Cross Border Continuing Professional Development dated 16/09/2016, and signed by 43 European bars and law societies¹. It is hoped that the REFOTRA project might encourage the implementation of this Memorandum.

The REFOTRA project is divided into three phases. The three phases are:

Phase 1

Phase 1 of REFOTRA developed an assessment report on the situation in EU and EEA Member States regarding recognition of foreign training in the various CLE systems around the EU². It is a necessary accompaniment in the test phase (Phase 3) of the project, to help bars understand under what kind of system one of their lawyers has undertaken a cross-border training course. It will also help training providers understand what information the lawyer who has come cross-border for training needs on the certificate template to send to his or her home bar for the purposes of recognition.

Phase 2

Phase 2 of REFOTRA developed a framework for the purposes of recognition of cross-border recognition, based on the complexities revealed by the guide produced in Phase 1, and for the purpose of testing under Phase 3. The system proposed is as follows:

1

https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/TRAINING/TR_Position_papers/EN_TR_20170224_Memorandum_on_Mutual_Recognition_of_Lawyers_Cross_Border_Continuing_Professional_Development.pdf

2

https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/TRAINING/TR_Reports_Studies/EN_TR_20190404_REFOTRA-report.pdf



A model CLE Training Certificate Template has been developed in Phase 2 for use in the Phase 3 test, for completion once the cross-border training undertaken by a particular lawyer has been completed. The information on the certificate template will be completed by either the participating lawyer or the training provider, as appropriate. The training provider will have to ensure that the information is correct and then sign the certificate, and give it to the lawyer, who will scan it and send it by e-mail to his or her home bar for recognition. It is proposed that the home bar recognises for the purpose of the Phase 3 test that the training has been undertaken and is valid for inclusion within the lawyer's training record, to be treated in accordance with the national rules operating in the home bar.

Phase 3

Phase 3 is the phase which will test the framework developed above under Phase 2. It will have **three categories of participants**:

1. **the bars which run CLE systems**, which will be asked to recognise the cross-border training through the certificate template provided to them for the purpose of the Phase 3 test;
2. **the lawyers who participate in cross-border training courses**, who will need to send the signed and completed certificate template to their home bars; and
3. **the CLE training course providers**, which will need to sign the certificate template.

The bars participating in the test are the following:

Belgium

- Barreau de Bruxelles (Ordre Français) – French-speaking Bar of Brussels

Germany

- Rechtsanwaltskammer Frankfurt am Main – Frankfurt Bar
- Rechtsanwaltskammer München – Munich Bar
- Rechtsanwaltskammer Köln – Cologne Bar

Ireland

- Law Society of Ireland

Italy

- Consiglio Nazionale Forense – Italian National Bar

Poland

- Krajowa Izba Radców Prawnych - The National Bar Council of Attorneys-at-Law (Poland)

Other Bars are strongly encouraged to join them at any time, but not later than before the end of 2019. All participating bars and training providers will be informed if others join the test. Please contact



Jonathan Goldsmith of the REFOTRA project (Goldsmith@europeanlawyersfoundation.eu) if you are interested in participating in the test, or have questions about the list of participants.

There is a separate briefing for each of the participants in the three categories. Some elements of the briefing have been repeated in each of the three categories, with the aim of making each briefing stand-alone.

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Briefing for CLE training course providers

What do CLE training providers have to do under Phase 3?

The main role for the training provider is to sign the CLE Training Certificate Template, to certify that a training course has been undertaken with that training provider by a participating lawyer from another Member State. That may be the only role of the training provider, or the training provider may also fill in the certificate template – see below. In rare cases, the home bar may contact the training provider with further questions about the course.

Who fills in the CLE Training Certificate Template?

There is a list of questions which must be answered on the certificate template. Who fills in the answers – the lawyer or the training provider – should be decided between them on a case-by-case basis, depending on what is most convenient or appropriate. The main thing is that, once completed, the certificate template is signed by the training provider and then sent by the lawyer to the home bar for the purpose of recognition.

If you complete it, then please follow these instructions. The Certificate Template is in the form of a Word document. To complete it, you are first requested to file it in a folder as a Word Template. Go to 'File – Save as' and find the right location where to file templates. Under 'Save as type', please choose the option 'Word Template'. To fill out a new CLE Certificate Template, open a new Word document and choose from the personal templates. You are now able to complete the grey boxes by selecting them and typing in the relevant answers. You can file the completed CLE Certificate Template as a normal Word document, and then please print the first two pages (preferably double-sided) before the certificate is signed by you and issued to the participating lawyer for onward transmission to the home bar for recognition.

What does the CLE Training Certificate Template mean in Phase 3?

The template certificate denotes that a lawyer has validly undertaken a training course in another Member State. Under Phase 3, this means that the training course should be recognised for the purpose of the lawyer's training record.



This course should be treated like any other validly taken under national rules. So, the home bar can still say that the training did not fulfil requirements, for instance if it was in the wrong subject, was not long enough, was not in accordance with permitted methodology etc.

In addition, the certificate template is valid only if it is issued by a training provider which has agreed to participate in Phase 3. The list of participants is given in the Introduction, but, as stated, it may be added to. The home bar holds a list of participating bars and training providers, as does Jonathan Goldsmith of the REFOTRA project (Goldsmith@europeanlawyersfoundation.eu).

Where does a participating training provider find the CLE Training Certificate Template?

A model of the certificate template will be circulated at the outset of Phase 3 to all participating bars for them to circulate in accordance with their agreed communication methods. In addition, a copy of the certificate template can be downloaded by a training provider at any time from the following link: <http://elf-fae.eu/wp-content/uploads/2019/07/190724-Certificate-REFOTRA-live.docx>.

Can a participating training provider add its own logo to the CLE Training Certificate Template?

A participating training provider may add its own logo to the certificate template in the space indicated, provided that:

- the logos of the other organisations currently on the certificate template, including the EU logo and funding sentence, remain in their place and at the same size; and
- the logo of the training provider is not significantly bigger than the other logos.

What kind of CLE does Phase 3 cover?

The coverage of the project extends only to participation in training courses (seminars, conferences, workshops and similar events requiring the participation of several people in one place at one time) undertaken in another Member State. This excludes the application of the project's proposals under Phase 3 to, for instance, writing articles, e-learning and webinars, or lecturing in another Member State, which would continue to be covered only by the domestic rules applicable to CLE.

In addition, the training course must be recognised under the CLE system which exists in the Member State where it is undertaken (the host state, where the training provider is based). So, if the host state has a system of authorised training providers and the training was undertaken with a training provider which was not authorised, the home bar is entitled to refuse to recognise the training. On the other hand, if the host state has a system where training can be undertaken with any training provider, and none of them is required to be pre-authorised by the bar or other regulatory body, then the training must be recognised, even if the home bar has a different system domestically e.g. if there is only one authorised provider in the home bar.



In what language will Phase 3 be conducted?

Phase 3 is a pilot phase under an EU-funded project. The project budget has no resources for translation, and English is the language of the project. Therefore, for the purposes of the project's Phase 3, all the documentation will be in English. Of course, the CLE training course in question may be in any language, and is not affected by this requirement. And, if the results of the project are followed up in the future, the language of the certificate template will have to be further discussed.

What if problems arise during the testing phase?

If participating training providers have a question to which they do not know the answer, they are encouraged to contact the REFOTRA project for an answer at: Jonathan Goldsmith (Goldsmith@europeanlawyersfoundation.eu). This contact address can also be found at the bottom of the certificate template for ease of use.

Evaluation of Phase 3

The whole purpose of Phase 3 is to see whether the proposals developed in Phase 2 work in practice. Therefore, there will be an evaluation, which will work as follows.

Below are the questions which will form the basis of the evaluation. Each of the three stakeholders in the test phase – bars, lawyers and training providers – will be asked for an evaluation, with different questions for each, depending on their role. Therefore, participating training providers are asked to be aware of the questions from the start of their participation, and be ready to answer questions on them in due course, for instance by keeping records of the certificate templates issued under the testing phase.

Participating training providers will be contacted by the REFOTRA project towards the end of October 2019 for their preliminary assessment of how the test phase is going, with a view to fine-tuning the evaluation if necessary. They will then be contacted towards the end of the project, around the end of the first quarter of 2020, for their final evaluation responses.

Accordingly, to assist the evaluation, participating training providers will be asked questions on the following areas, on the first occasion towards the end of October 2019:

- How many certificate templates did you issue during the test phase?
- In which Member States did the lawyers originate?
- In which subject areas did you issue certificate templates?



- What was your experience as a participant in the REFOTRA Phase 3 test pilot in relation to the following:
 - understanding how the Phase 3 test pilot worked
 - experience of communicating with your home bar about the project
 - obtaining a copy of the certificate template
 - challenges in completing the CLE Certificate Template (please list the most frequent challenges)
 - any other problem (please provide any comments or suggestions to assist the REFOTRA project team in evaluating the test pilot).

Although bars and training providers will be contacted directly by the REFOTRA project for the purpose of evaluation, that will not be possible in the case of individual lawyers participating in the test phase, since their identities and contact details will be unknown to the project organisers. Accordingly, the briefing for individual lawyers asks them to send their evaluations directly to Jonathan Goldsmith of the REFOTRA project (Goldsmith@europeanlawyersfoundation.eu).

