

Project: CRoLEV—Centre for the Rule of Law and European Values

Jean Monnet Centre of Excellence



“The Rule of Law and European Values in the Modern Ages: Measuring Their Impact on the Administration of Justice”, Training and Survey

University of Central Lancashire
UCLan Cyprus

CRoLEV
Centre for the Rule of Law and European Values,
Jean Monnet Centre of Excellence (2022-25)

The Rule of Law and European Values in the modern ages: Measuring their impact on the administration of justice.

School of Law, UCLan Cyprus
CRoLEV- Online Training Course Series

27 January 2023 / 9:00-17:00 (CY time) | UCLan Cyprus campus / CY006
MS Teams

Trainer **Dr. Pim Albers**
Introduction by **Prof. Stéphanie Laulhé Shaelou**

CPD points will be available

Report for Training and Survey, 27 January 2023

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INTRODUCTION

This report presents the work and findings of the first edition of the “The Rule of Law and European Values in the Modern Ages: Measuring Their Impact on the Administration of Justice” training session and survey, which was organised collaboratively by the School of Law, University of Central Lancashire in Cyprus (UCLan Cyprus) and the Jean Monnet Centre of Excellence for the Rule of Law and European Values (CRoLEV), and delivered by Dr. Pim Albers, a Visiting Senior Fellow on the Rule of Law and Justice, with facilitation by Prof. Stéphanie Laulhé Shaelou, Professor of European Law, Head, School of Law and CRoLEV Director. The session took place on January 27th 2023, in a hybrid format, which allowed interested parties to attend both in person, at UCLan Cyprus, or via Microsoft Teams. For the purposes of further enabling accessibility, the training was open to the public, and free of charge. The training and survey are part of a three-year-long workshop series under CRoLEV, with future sessions to take place in the first quarters of 2024 and 2025 respectively.

The aims of session were to:

- i. Define the key terms related to the main principles and areas on the rule of law;
- ii. Create an understanding of international and European tools which are employed in measuring the rule of law;
- iii. Review extant research evaluating the rule of law in Cyprus and other European Union (EU) member states;
- iv. Discuss the strengths and weaknesses of the measurement tools which seek to assess the rule of law;
- v. Create an understanding of the role of Council of Europe (CoE) and the EU in promoting and monitoring the rule of law;
- vi. Create an understanding of how court performance is measured, and critically discuss the performance of courts in EU member states (including Cyprus).

The training brought together 94 individuals, the majority of which were lawyers and advocates (including trainees) under the Cyprus Bar Association and legal counsels and advisers, with the remainder of the attendees being researchers, academics, law enforcement officers, and postgraduate and doctoral students.

TRAINING PROGRAMME

The training programme, which was delivered over the course of six hours, comprehensively provided participants with an overview of:

- i. Theoretical notions of the rule of law;
- ii. Empirical measurements of the rule of law, including an analysis of their strengths and limitations;
- iii. Standards for the rule of law and the administration of justice developed by the CoE;
- iv. The EU monitoring mechanisms for the rule of law (and the presence of conflicting values in EU member states);
- v. The promotion of the rule of law in the context of efficiency of justice, and the work of CoE's European Commission for the Efficiency of Justice (CEPEJ) pertaining to court performance;
- vi. People-centred justice and the delivery of high-quality services by courts.

The aforementioned were contextualised by reference to the European values of human dignity, freedom, democracy, equality, the rule of law, and human rights, and supported with discussions which engaged participants attending in person and virtual attendees alike¹.

Theoretical Notions of the Rule of Law

The introductory part of the training explored the historical development of conceptions of the rule of law, and introduced attendees to thin and thick notions of the rule of law. Thin notions of the rule of law refer to the existence of institutions, mechanisms, and procedures intended to bring about just outcomes. Thick notions of the rule of law acknowledge that the presence of institutions and processes *per se* is not sufficient in ensuring that the rule of law is applied fairly, or that the results of its application are just. Rather, outcomes may only be regarded as just to the extent to which they reflect the rights and duties conveyed in international treaties and domestic entitlements and obligations pertaining to human, political, and social rights. In contrast, the concept of rule *by* law was introduced as a means of defining a *status quo* whereby law is unevenly applied to social classes and groups of individuals as a direct result of their power status (or lack thereof) within the polity.

¹ If you wish to access the didactic material which informed the training, please navigate to <https://crolev.eu/didactic-material/>, scroll down to “Trainings”, and click on the icon which reads “The Rule of Law and European Values in the modern ages: Measuring the impact on the administration of justice”.

Standards for, and Measurements of, the Rule of Law

The training then explored a number of international “rule of law” conceptual frameworks, namely:

- i. The World Governance Indicators (developed by the World Bank);
- ii. The Rule of Law Checklist (developed by the CoE’s Venice Commission);
- iii. The Rule of Law Index (developed by the World Justice Project);
- iv. The Rule of Law Indicators (developed by the United Nations);
- v. Rule of Law Monitoring Mechanism (developed by the EU); and
- vi. The Rule of Law Tracking Mechanism (developed by the Human Rights Institute – Slovak Republic).

It was found that the vast majority of the aforementioned tools are, indeed, focused on measuring the perceptions of the rule of law which are held by various relevant publics – be they citizens, experts, legal professionals, or the business community; that many of the tools are merely concerned with ascertaining the availability of legal guarantees, legislation, or the ratification of international conventions, statutes, and treaties; and that, overall, the measurement of the level of rule of law based on objective data is rare.

EU Monitoring Mechanisms

Attendees were then introduced to a number of EU mechanisms which seek to monitor, to some extent, certain aspects of the rule of law (and its effective implementation) in member states, before exploring available sources of information which assess EU member states’ performance in matters pertaining to the rule of law, including the EU Justice Scoreboard, the Eurobarometer survey on perceived judicial independence, reports produced by international organisations, CoE reports, country visits, and case law at both the European Courts of Justice, and Human Rights (ECtHR) respectively.

Promoting the Rule of Law

The session then introduced a framework of regional instruments and mechanisms intended to promote the rule of law in the EU, including:

- i. CEPEJ;
- ii. CoE’s Consultative Council of European Judges (CCJE); and
- iii. CoE’s Consultative Council of European Prosecutors (CCPE);

These were presented in close connection with broader European values in the area of justice, entrenched in the EU Charter of Fundamental Rights and Article 2 of the Lisbon Treaty, namely: human dignity, freedom, democracy, equality, and human rights.

People-Centred Justice

Lastly, with a dual acknowledgement that public opinion surveys highlight a general lack of citizen distrust at judicial institutions; and that public trust in institutions and processes which seek to uphold the rule of law is necessary in ensuring an adequate level of functionality, attendees were introduced to a number of mechanisms which could – if employed correctly – bolster public confidence. These variously included attempts to bolster the transparency of the judiciary via the publication of key information, which is presented in terms meaningful to the public; the publication of annual reports concerning the work of the judiciary; the organisation of “open door” days, and the creation of a professional policy for effective communication with the media.

Upon the completion of the training, attendees were asked to provide feedback concerning their overall satisfaction with the event and recommendations for future training sessions. CRoLEV intends to use such feedback for the purposes of bettering the dissemination of information concerning future events, as well as their content and delivery.

SURVEY FINDINGS

At the commencement of the training, attendees were informed that a survey was placed on the Microsoft Teams drive associated with the event, alongside other training materials, and following receipt of consent on their part, were invited to answer certain questions at specific points in the session. Participants attending the event in person could also opt to complete a physical copy of the survey. The data collected was then analysed, in part for the purposes of informing decision-making in CRoLEV’s research endeavours with particular reference to the CRoLEV Scoping Paper. A summary of the data analysis is provided below.

When prompted to consider their level of knowledge of the rule of law, roughly 60% of participants rated their knowledge as “very good”. Nevertheless, irrespective of the aforementioned self-assessment, an analysis of participants’ opinions of the rule of law in Cyprus presents a clear indication of the perceived shortcomings of all aspects subject to inquiry. Participants agreed, in unanimity, that the level of the rule of law in Cyprus must improve, that the quality of justice must improve, and that more activities pertaining to upholding the rule of law should have been included in the EU recovery and resilience facility for Cyprus. Respondents also indicated deficiencies in the implementation of the International Framework of Court Excellence (in proportion of over 95%) and CoE’s standards for the judiciary (in proportion of over 90%), in upholding transparency pertaining to the activities of courts (in proportion of over 86%), in the protection of EU core values (in proportion of 76%), in the independence of the judiciary from the interference of the executive and legislative powers (in proportion of 68%), and in the implementation and enforcement of EU regulations (in proportion of 67%).

Table 1

Perceptions of the Rule of Law in Cyprus

Statement	No. of respondents		Percentage of respondents (%)		Total no. of respondents
	Yes	No	Yes	No	
The level of the rule of law must improve	22	0	100	0	22
Cyprus always implements and enforces EU regulations	7	14	33.33	66.66	21

Statement	No. of respondents		Percentage of respondents (%)		Total no. of respondents
	Yes	No	Yes	No	
European standards developed by the Council of Europe ² for the judiciary are fully executed	2	19	9.52	90.48	21
EU core values on fundamental rights, democracy, and the rule of law are well protected	5	16	23.80	76.19	21
The judiciary is completely independent from the executive and legislative powers	7	15	31.81	68.18	22
More rule of law activities should have been included in the EU recovery and resilience facility for Cyprus	23	0	100	0	23
Courts are fully transparent in publishing information concerning their performance	3	19	13.64	86.36	22
The quality of justice in courts must improve	23	0	100	0	23
The International Framework of Court Excellence should be implemented in the courts	21	1	95.45	4.54	22

When prompted to rate aspects of the rule of law which require improvements in Cyprus by attributing scores ranging from 1 to 5, with 1 indicating an area which requires least improvements and 5 indicating an area which requires most improvements, participants clearly showed a particular concern for “anti-corruption”, followed by “fundamental rights” and “criminal justice”. A full account of the ranking is presented in Table 2 below.

Table 2

Areas of the Rule of Law in Cyprus which Require Most Improvements (from Highest to Lowest)

Item	Aggregate Score	Median Score	Final Ranking (from Most to Least Important)
Civil Justice	49	2.22	4
Anti-Corruption	85	3.86	1
Criminal Justice	69	3.13	3
Order and Security	47	2.13	5
Fundamental Rights	71	3.22	2

² The aforementioned European standards refer to independence, impartiality, quality of court decisions, and the efficiency of justice.

When considering the most problematic areas for Cyprus’ courts, participants ranked the “long duration of proceedings” and the “high volume of backlog cases” in first position, with an aggregate score of 17, followed by the “high number of postponements of hearings”, the “lack of fairness in judicial proceedings”, and the “low productivity of judges”. Please see Table 3 below for a full account of the aggregate and median scores allocated to each of the five areas requiring improvement.

Table 3

Most Problematic Areas in Cyprus’ Courts

Item	Aggregate Score	Median Score	Final Ranking (from Most to Least Problematic)
Long duration of proceedings	17	1.35	1
Lack of fairness in judicial proceedings	5	0.22	3
High volume of backlog cases	17	1.35	1
Low productivity of judges	4	0.17	4
High number of postponements of hearings	15	0.65	2

As per the figures presented in Table 4 below, over 56% of participants rated their trust in Cyprus’ judiciary as “neutral”, and 22% claimed to have “much” trust. No participants reported an absolute lack of trust, and one participant reported “very much” trust in the judiciary (please see Table 4).

Table 4

Trust in Cyprus’ Judiciary

Degree of Trust	No. of Respondents	Percentage of Respondents (%)
Very much	1	4.34
Much	5	21.74
Neutral	13	56.52
No trust	4	17.40
Absolutely no trust	0	0
Total number of respondents	23	

Participants were also prompted to consider the rule of law beyond the Cypriot context. When asked to consider which aspects of the “rule of law” are pertinent for inclusion in its measurement, respondents unanimously agreed (please see Table 6 below) that the

consideration of the law in action is necessary in ascertaining the overall level of the rule of law in any given state.

Table 6

Opinions on the Significance of the “Rule of Law”

Item	No. of Respondents	Percentage of Respondents (%)
“Rule of law” principles should only be focused on the law in the books	0	0
“Rule of law” is not only about the law in the books, but also about law in action	22	100
Total no. of respondents	22	

When asked whether the measurement of the rule of law should be primarily undertaken via an analysis of available objective data, via a review of public perceptions, or through a combination of the aforementioned, 95% of participants concurred that an adequate measurement would necessarily entail a mixture of the former two approaches (please see Table 7 below), and over 95% of participants agreed that users of the courts³ should be offered the opportunity to express their level of satisfaction with, and concerns about, the work of the courts.

Table 7

Opinions on the Measurement of the “Rule of Law”

Item	No. of Respondents	Percentage of Respondents (%)
The current measurement instruments for the “rule of law” should be focused on collecting data concerning perceptions	0	0
The measurement of the “rule of law” should be primarily based on objective data (statistics)	1	5
The measurement of the “rule of law” should be a combination of subjective and objective data	19	95
Total no. of respondents	20	

Finally, when asked to consider the foundational underpinning principles of the rule of law 57% of participants agreed that such philosophies are too entrenched in Western European

³ For the purposes of this report, the syntax “users of the courts” refers to lawyers, prosecutors, governmental agencies, and citizens/litigants.

values and thus lack a cultural awareness, and almost 64% of participants agreed that regional differences should be reflected in principles of the rule of law (please see Table 7).

Table 7

Perceptions of the Rule of Law

Item	No. of Respondents		Percentage of Respondents (%)		Total No. of Respondents
	Yes	No	Yes	No	
Principles of the rule of law are based too much on Western European values	12	9	57.14	42.85	21
There should be different rule of law principles developed with an acknowledgement of regional differences	14	8	63.64	36.36	22

CONCLUSIONS

During the course of the CRoLEV training on measuring the impact of the rule of law on the administration of justice, attendees clearly signalled a number of issues warranting investigation pertaining to the rule of law in Cyprus (and beyond), as well as learned of the mechanisms and (tracking) systems of essence to the proper administration of justice in Europe and beyond. Much reference was made to Cyprus and other European countries. The survey painted an expected picture in Cyprus, giving space to the expression of more original thoughts and solutions in the CRoLEV training format. For more information on how CRoLEV scientific work and knowledge transfer activities inform its findings in the field of the rule of law and European values, refer to the CRoLEV Scoping Paper published at <https://crolev.eu/publications/>.