



The Belgian Judicial Training Institute: Legal Framework, Target Group and Organisation.

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I. Foundation

The Judicial Training Institute (hereinafter JTI) is a young institution which was founded by the law of January 31st 2007¹. In numerous other countries of the European Union there are since many years specific organs that are entrusted with the organization of the professional training of magistrates and personnel members of the judiciary.

1.1. History

Only in 1991, with the law of 18 July 1991, a first hesitant step (as far as the magistrates are concerned) was taken by which, amongst others, the judicial training was reformed and the college for recruitment of the judiciary was founded. This college got within the Federal Public Service of Justice an advisory role in the field of the training of magistrates and the judicial trainees and pleaded already in 1993 for the creation of a training institute for magistrates.

Later, with the Octopus agreement of 28 May 1998, one wanted to proceed with the creation of a “magistrate school”.

It has to be pointed out that in this agreement there is talk of a magistrate school, which is substantially different from a training institute that offers courses exclusively to personnel that depends on the federal authorities.

As a result of the Octopus agreement the Flemish Interuniversity Council founded in 1998 the working group ‘Magistrate school’, but these activities ended in failure.

The High Council of Justice, on the contrary, has always pleaded since its creation in the year 2000 for the foundation of an institute for the training of magistrates and clearly not for a magistrate school.

We had to wait until the then Minister of Justice, Laurette Onkelinx, proposed a bill on 7 November 2006 in the Senate that finally resulted in the law of 31 January 2007.

Only the professional training and the exchange of professional experience are alluded to in the law. Not the training before the exam and before the appointment as a judicial trainee or magistrate². In other words, the legislator chose not for the type ‘magistrate school’³ and indicated clearly by it not to be an adherent of a ‘unified training’ before the appointment as a magistrate, but to favour an access to the magistracy via sideways.

¹ Law of 31 January 2007 relating to the judicial education and creation of the Judicial Training Institute, Belgian Official Journal, 2 February 2008.

² These examinations are held by two appointment and designation committees of the High Council of Justice, in application of art. 259bis-9 of the Judicial Code.

³ This is, however, the case in a number of countries such as Spain, France, Portugal and Romania.

1.2. Statute

A federal institution

The JTI is not only a young institution, it is also and above all a federal institution.

During the discussion of the bill relating to the judicial training and the foundation of JTI, as well in the commission for justice as in the plenary meeting of the Senate, the question whether a federal training institute or two magistrate schools had to be created – i.e. one per Community – , has been extensively answered.

Three aspects enter into the training of a magistrate: the degree of Master of Law, the exams giving access to the profession of magistrate (through a judicial traineeship or not) and the judicial training (which is in its turn subdivided in the initial training, the in-service training and the career guidance).

Only the first aspect, namely the training for Master of Law, is considered an exclusive competence of the Communities; the other two are set at the federal level.

The professional training forms integrally part of the statute of the magistrate or of the personnel of the judiciary, and is consequently a federal matter.

An independent institution

Furthermore, the JTI is also an independent institution. The autonomy of the Judicial Training Institute is absolutely required to be able to respect the fundamental principle of the independence of the judiciary.

One of the guarantees of the independence of the magistrates consists in them having a profound knowledge of the law and of the social reality and, moreover, they have to have the necessary skills (psychosocial, technical, et cetera) and the required basic attitudes.

The Consultative Council of European Judges (CCJE)⁴ asserts in its opinion nr. 4 of 27 November 2003 on appropriate initial and in-service training of judges at national and European levels that an elaborated, thorough and diversified training of the judges that are selected after having finished their university studies is vital, so that they could fulfill their duty in a competent way.

This opinion stipulates explicitly that the training of judges must be entrusted to “a special body responsible for drawing up the curriculum, providing the training and supervising its provision” and that “any authority responsible for supervising the quality of the training programme should be independent of the Executive and the Legislature and that at least half its members should be judges”.

⁴ See www.coe.int.

By choosing an institute for professional training, the legislator, also in Belgium, wanted to find its bearings in an internationally set trend following which the magistrates have the right to determine and organize 'themselves' to a large extent their education and exchange of professional experience.

II. Legal framework, objectives and organization

2.1. Legal framework

The JTI has been founded by the law of 31 January 2007⁵ under the legal form of a parastatal institution 'sui generis' of which the structure guarantees the independence of the magistracy. By the law of 24 July 2008⁶, this law of 31 January 2007 has been profoundly changed. Two additional legislative changes date from 22 December 2009⁷ and 22 March 2010⁸.

2.2. Objectives

The JTI wants to contribute as an independent federal body to a quality justice by developing in an optimal way the professional competences of the magistrates and the personnel members of the judiciary⁹.

The JTI wants to become the reference body by promoting a learning culture that valorizes the skills and competences of its target audience by sustaining permanently its need to adapt.

⁵ Law of 31 January 2007 relating to the judicial training and creation of the Judicial Training Institute, Belgian Official Journal, 2 February 2008.

⁶ Law of 24 July 2008 modifying the law of 31 January 2007 relating to the judicial training and the creation of the Judicial Training Institute, Belgian Official Journal, 4 August 2008.

⁷ Law of 22 December 2009 modifying the article 38 of the law of 31 January 2007 relating to the judicial training and the creation of the Judicial Training Institute, Belgian Official Journal, 26 January 2010.

⁸ Law of 22 March 2010 modifying the law of 31 January 2007 relating to the judicial training and the creation of the Judicial Training Institute as far as the control by the Belgian Court of Audit is concerned.

⁹ Professional competences are: the knowledge, skills and attitudes, which are necessary to be able to exercise their duties efficiently towards the interested persons.

2.3. Organization

Since the law of 31 January 2007 relating to the judicial training and the creation of the JTI has not been applied immediately at its entering into effect (2 February 2008), an important delay has occurred. The real start-up only took place on January 1st 2009.

Obstacles to a quick start-up were amongst others:

- the necessary installation of the different organs of the Judicial Training Institute;
- the late release of the working budget by the Federal Public Service for Justice;
- the amendment of law of 24 July 2008, as a result of which the activities of the Judicial Training Institute were suspended with one year¹⁰.

2009 was the first year of activities of the JTI. For the optimal execution of the tasks of the JTI a good organizational structure is required. Therefore, the JTI has dedicated the first months to finalizing its own operation (with amongst others the installation of the different organs of the JTI, the establishment of a budget, the occupation of an own building and its furnishing, the recruitment of co-workers, et cetera). Apart from that, it has made provisions for the legally obliged courses for magistrates and judicial trainees and prolonged the existing courses for the personnel of the judiciary.

2.3.1. Governing board

The governing board is entrusted with:

- 1) the approval, in compliance with the directives of the High Council of Justice, of the annual action plan proposed by the direction;
- 2) the control of the execution by the direction of the tasks of the Institute;
- 3) the approval of the budget and personnel plan proposed by the direction;
- 4) the exercise of competence with regard to the assessment and discipline of the members of the direction.

The members of the governing board were nominated by the Royal Decree of 23 December 2008 (Belgian Official Journal of 31 December 2008).

The governing board is composed of 16 members, equally divided between the Dutch and French language regimes:

- the presidents of the appointment and designation committees of the Joint Appointment and Designation committee of the High Council of Justice;
- the director-general of the Training Institute of the Federal Authority;
- the leading civil servants of the education department of respectively the Flemish Community, the French Community and the German-speaking Community, by which the latter falls under the French language regime;
- a representative of the Minister of Justice;

¹⁰ Article 9 of 24 July 2008 modifying the law of 31 January 2007 relating to the judicial training and the creation of the Judicial Training Institute, Belgian Official Journal, 4 August 2008.

- the president of the Committee for the Modernization of the Judiciary;
- two judges, proposed by the High Council of Justice;
- two magistrates of the Public Prosecution Service, proposed by the High Council of Justice;
- four persons as representatives of the personnel of the judiciary.

The governing board was invested on 14 January 2009 and met thereafter nine times in 2009.

2.3.2. Direction and personnel

The direction is charged with the day-to-day administration of the JTI¹¹. It consists of a director of the judicial training (Edith Van den Broeck senior public prosecutor), assisted by two deputy-directors (Beatrice Homans, president at the Antwerp Labour Court, and Thérèse Tuts, jurist at the Public Prosecution Service) and is managed collegially.

The direction comprises of two departments: the first one exercises the tasks of the JTI with respect to the magistrates, the other one with respect to the personnel of the judiciary. Each department is led by one of the deputy-directors.

The direction is especially entrusted with¹²:

- 1) the conception of the programs for the training of the magistrates and the members of personnel of the judiciary, the organization of the courses and their assessment;
- 2) the preparation of the budget and the annual action plan;
- 3) the expenditure of the budget appropriations and the other financial means of the JTI;
- 4) the conclusion of public contracts;
- 5) all aspects of personnel policy among which, the selection, the recruitment, the dismissal, the assessment and the discipline;
- 6) the conclusion of mutual agreements and cooperation protocols with institutions, organizations and associations, especially with:
 - a) the Training Institute of the Federal Authority;
 - b) the Flemish Community, the French Community and the German-speaking Community;
 - c) the educational institutions that depend on or are financed by the aforesaid Communities and with approved institutions that are competent in the field of professional training;
 - d) the national or international organizations that purport professional education.)
- 7) the conclusion of cooperation protocols with the Federal Public Service for Justice with regard to the services that this service can provide to the JTI;
- 8) the representation of the JTI at legal proceedings as defendant and at extrajudicial proceedings; for the legal proceedings as plaintiff, it must ask the consent of the governing board.

¹¹ See art. 12 of the law of 31 January 2007 relating to the judicial training and the creation of the Judicial Training Institute.

¹² See art. 13 of the law 31 January 2007 relating to the judicial training and the creation of the Judicial Training Institute.

The JTI also has an own administration. It assists the direction in the execution of the tasks of the JTI. On October 1st 2010, the administration consisted of 18 personnel members (FTE):

- 5 personnel members of level A (university level);
- 7 personnel members of level B (short course higher education level);
- 4 personnel members of level C (secondary education level);
- 2 personnel members of level D (driver + co-worker training rooms).

2.3.3. Scientific committee

The scientific committee is one of the three organs of the JTI.

It has an advisory competence which is exercised concretely pursuant to art. 26 of the law of 31 January 2007 by giving advices and formulating recommendations regarding:

- the training policy of the magistrates, the judicial trainees and the personnel members of the judiciary;
- the training programs;
- the organization of the training;
- the pedagogical methods.

Within the framework of this assignment the scientific committee assesses the assessment reports of the trainings and reports and gives advice on this to the direction and the governing board.

As indicated by its name and given its composition, the committee must have a scientific contribution to the activities of the JTI.

The members of the scientific committee were nominated by the royal decree of 30 December 2008 (Belgian Official Journal of 12 January 2009) and invested on April 1st 2009.

Are part of the scientific committee:

- the director of the JTI;
- two judges, proposed by the Joint Appointment and Designation Committee of the High Council of Justice;
- two magistrates of the Public Prosecution Service, proposed by the Joint Appointment and Designation Committee of the High Council of Justice;
- two lawyers, respectively proposed by the Flemish Bar Council and the Bar Council of French speaking and German speaking lawyers (Ordre des barreaux francophones et germanophone) ;
- four persons as representatives of the personnel of the judiciary;
- eight members of the academic community, among which four proposed by the Flemish Interuniversity Council and four by the Interuniversity Council of the French Community of Belgium ;
- two members of the Training Institute of the Federal Authority.

The committee met two times in 2009. The scientific committee is chaired by the director of the JTI.

2.3.4. Government Commissioners

The two government commissioners perform their duties respectively on behalf of the Minister of Justice and the Minister of Budgets and have a financial power of control in regard to the JTI. They attend the meetings of the governing board in an advisory capacity.

III. Financial means, personnel and infrastructure

3.1. Financial means

3.1.1. The state grant

Article 38 of the law of 31 January 2007 relating to the judicial training and the creation of the Judicial Training Institute (modified by the law of 22/12/2009) stipulates that the credits granted to the Institute are annually entered in the administrative budget of the Federal Public Service for Justice.

Furthermore, it fixes the minimum amount thereof at 0,9% of the annual wage bill – including the employer's contributions, the child benefit, the vacation pay, the end-of-year allowance and the commuting allowance – of the personnel that the Institute must train (magistrates and personnel of the judiciary) and this during the two year following the year of the entering into effect of the article (i.e. for 2009 and 2010). That percentage must then be increased during the four subsequent budget years by 0,25% to reach the threshold of 1,9%.

For 2009, the state grant was thus fixed at 5.220.000 Euro. It stays identical in 2010.

Although the law of 31 January 2007 entered into effect on 2 February 2008, the JTI was not operational¹³ yet in 2008. As a consequence for that year no grant was allocated. This meant a cost-cut for the treasury, but implied for the JTI that the incorporation expenses and investments had to be totally borne by the budget of 2009.

¹³ This was due to a change in the law of 24 July 2008 which transferred the powers of the Judicial Training Institute to the Federal Public Service for Justice until 1.1.2009 (art. 9 of the law of 24 July 2008 modifying the law of 31 January 2007 relating to the judicial training and the creation of the Judicial Training Institute, Belgian Official Journal, 4 August 2008).

3.1.2. The budget

A provisional budget, by which a first instalment of the state grant (808.000 Euro) could be paid, was approved by the governing board on 6 February 2009.

The budget for the year 2009 as a whole, which was prepared by the director of the institute, was approved by the governing board at its meeting of 23 April 2009.

To be able to mutually compare the federal institutes, the Federal Public Service for Budget and Management Control wishes to know the operating costs which are inherent to the JTI. As point of departure we take a proportion of 20-80% between the general operating costs of an institute and the costs inherent to the assignment it carries out (the actual courses). It is, however, not obvious to make this distinction. A small environment such as the JTI is characterized by a big multi-functionality. There is consequently a big grey zone in the field of the personnel costs and the so-called fixed costs (rental costs and ancillary charges, leasing, ...). They have to be considered partially as general operating costs and partially as training costs, following a certain proportion. On the other hand, it is difficult to consider certain budget items as one or another category.

A comparison with the other European countries shows that the standard of 80% for the trainings is reached nowhere. Finally, the Federal Public Service for Budget and Management Control has made no additional remarks about this.

As a matter of fact, for the year 2009, actually 44,90% of the used budget was spent on pure training activities. This brings the proportion, with due regard to the arguments above, to \pm 45-55%. Moreover, the first operating year required evidently a number of important investments in equipment and material.

3.1.3. The accounts

The Institute approves each year before the 1st of June the accounts of the previous year of service and sends them to the Minister competent for Justice, the Minister competent for the Budget and the Minister competent for Finances. The Minister competent for Finances sends the accounts for control to the Court of Audit.

3.1.4. Financial audit

The JTI is subject to an external audit *a posteriori* by the government commissioners (to whom a financial and activities report must be procured) and the Court of Audit. In addition, a company auditor draws up a report regarding the true and fair view of the annual accounts.

3.2. Direction and personnel

The direction is no part of the personnel and is, besides the governing board, an administrative body¹⁴. The language equilibrium within the direction is only applicable between the deputy-directors, so that the director is to be considered as “language neutral”¹⁵.

The general structure of the JTI covers two distinctive departments:

- the training department;
- the general services department.

The training department of the JTI is responsible for the execution of the actual assignments of the JTI, namely the training. This department consists in its turn of two departments. The first one is responsible for the training of the magistrates and the judicial trainees, the second one for the training of the personnel of the judiciary. Each department is led by a deputy-director.

The supporting services for the training activities and, consequently, for the assignments of the JTI belong to the general services department. They come under direct authority of the director of the judicial training. This department is responsible, amongst others, for the management of the personnel, budget, accounting, logistics, ICT, communication and international relations.

As well the training department as the general services department are jointly responsible for the execution of the core task of the JTI to contribute to a quality justice by optimizing the strategic competences of magistrates and members of the judiciary.

3.3. Infrastructure

The JTI has no own buildings, but managed to rent well-located premises at interesting conditions for the duration of nine years. We had therefore in mind a modern training infrastructure with the ancillary facilities. Also the necessary office space and conference rooms for the benefit of the administration, the direction and the various administrative and monitoring bodies were provided for.

Since the 1st of September 2009 the JTI is housed on the second floor of the building “Stéphanie 1”, Louizalaan 54 at 1050 Brussels. The premises of the JTI were officially inaugurated on October 22nd 2009. The classrooms are in use since 26 October 2009.

¹⁴ See art. 12 *et seq* of the law of 31 January 2007 relating to the judicial training and the creation of the Judicial Training Institute.

¹⁵ See art. 18 *et seq* of the law of 31 January 2007 relating to the judicial training and the creation of the Judicial Training Institute.

IV. Target group, development of a learning culture and training activities

4.1. Target group

In figures the target audience of the JTI can be rendered as follows¹⁶:

Target audience of the Judicial Training Institute		
professional magistrates of the judiciary		2.590
<i>judges</i>	1.668	
<i>public prosecutors</i>	922	
deputy magistrates		2.236
<i>first instance</i>	2.076	
<i>court of appeal</i>	160	
councillors and judges in social matters		1.968
<i>councillors</i>	526	
<i>judges</i>	1.442	
judges in commercial courts		1.035
assessors in penalty enforcement cases		20
deputy assessors in penalty enforcement cases		80
judicial trainees		105
TOTAL target group department "magistrates"		8.034
jurists of the courts		97
jurists of the public prosecutor's offices		192
attachés in the service for documentation and concordance of texts at the Court of Cassation		10
members of the court registry		1.811
members of the secretarial office of the Public Prosecutor's Office		799
Personnel members of the court registries and the secretarial offices of the Public Prosecutor's Office		5.772
personnel members who hold a special degree (attachés)		73
TOTAL target group department "personnel of the judiciary" (including cleaning personnel)		8.754
GRAND TOTAL:		16.788

4.2. Development of a learning culture

Since justice evolves continuously, the knowledge and the competences of one another must be adapted by promoting the development of a learning culture.

¹⁶ Figures relevant on the date of 25 November 2009; source: Federal Public Service for Justice, Directorate-General of the Judicial Organization.

To promote this development we must first of all analyze the training needs of our target audience. We can only satisfy these needs if we take into account the budgetary and human limitations.

Finally, to fulfil what is stipulated in the law and was transposed in one of the strategic objectives of the mission statement of the JTI, the direction has mapped out the different partnerships that are possible with educational institutions that depend on or are financed by the Communities and with approved organizations which are competent in the field of the professional training.

4.3. Training activities

The JTI is competent for the judicial training of the magistrates and the members of personnel of the judiciary. Judicial training is understood to be¹⁷:

- 1) the initial training, namely the one given during a traineeship or at entry into service;
- 2) the in-service training, namely the one given during the career with as scope to develop the professional competence;
- 3) the career guidance, namely the one given in preparation of the exercise of a future office or mandate.

A magistrate is entitled¹⁸ to participate in the in-service trainings proposed by the JTI during five working days per judicial year. The chief justice of the court determines, in consultation with the magistrate, the choice out of the offer of in-service trainings.

The JTI is obliged to assess¹⁹ each training that it organizes.

For the personnel members of the judiciary the rights and duties to initial training, in-service training and career guidance and the implementation modalities of the trainings are further defined by the King²⁰.

Below you will find an overview of the trainings for magistrates that the JTI conceived, organized or is preparing since its start-up on January 1st 2009. Obviously, this means that the JTI also disposes for each of these domains of qualified teachers.

¹⁷ See art. 3 of the law of 31 January 2007 relating to the judicial training and the creation of the Judicial Training Institute.

¹⁸ See art. 4 of the law of 31 January 2007 relating to the judicial training and the creation of the Judicial Training Institute.

¹⁹ See art. 5 of the law of 31 January 2007 relating to the judicial training and the creation of the Judicial Training Institute.

²⁰ Royal Decree of 18 May 2009 establishing the rights and duties to judicial training, as well as the implementation modalities of the trainings with regard to the persons as defined in article 2, 4° until 10°, of the law of 31 January 2007 relating to the judicial training and the creation of the Financial Training Institute, Belgian Official Journal, 4 June 2009.

4.3.1. Initial training

- Spring seminar of the first year judicial trainees, as well as for recently nominated magistrates of the Public Prosecution Service
- Initial training for the magistrates that are laureate of the exam regarding professional competence or of the oral assessment-exam (separately for judges and public prosecutors)
- Place of the victim in the criminal system
- Characterization of criminal offences and the drawing-up of final requisitions
- Alternative punishments and measures
- Psychosocial skills
- Autumn seminar of the judicial trainees
- The Police Services
- International collaboration in criminal matters and police matters
- Proof in criminal matters and technical and scientific progress
- The processing of police information
- Deontology
- Drawing up of judgments
- Initial training for the judges in commercial courts
- Initial training for the councillors and judges in social matters
- Initial training for deputy judges
- The arms legislation.

4.3.2. In-service training

- Criminal responsibility of legal persons
- Interrogation techniques
- Fight against discrimination
- In-service training for the judges in commercial courts
- Exchange of professional experience between examining judges
- Exchange of professional experience between magistrates of the labour courts
- Exchange of professional experience between public prosecutors specialized in the use of special investigation methods
- Exchange of professional experience on specific problems of procedural law
- Exchange of professional experience on specific problems of family law
- Environmental law
- Tax law
- Management techniques
- Project “coaching in management”: for duos magistrate – court clerk/public prosecutor’s clerk
- Narcotics
- The contacts with the press
- The European order for payment and the small claims
- The sects

- The reform of the court of assizes
- The court costs in criminal matters
- Update jurisprudence of the Court of Cassation
- Mental patients.

4.3.3. Career guidance

- Specialized training for future examining judges
- Specialized basic training for future juvenile court magistrates
- Specialized basic training for the magistrates of the penalty enforcement courts
- Basic training military techniques.

4.3.4. International trainings

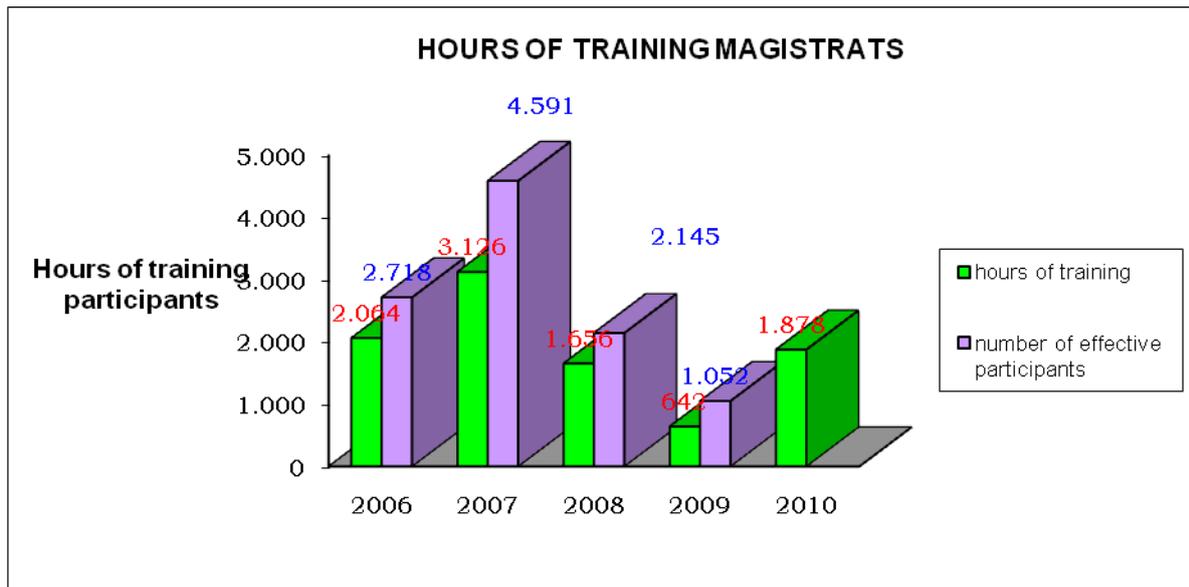
- Fight against terrorism
- Fight against environmental crime
- International family law
- Cooperation in criminal matters between Belgium and the Netherlands
- Visit to the International Criminal Court and Eurojust.

4.4. A few figures

4.4.1. Department magistrates

In 2009, the JTI organized 20 different trainings (i.e. 20 different titles) which all of them comprised 107 working days (642 hours).

In 2010, (the year is still ongoing) the JTI will organize in total 51 different trainings (51 different titles) which all together took 313 working days (1.878 hours).



4.4.2. Department personnel of the judiciary

In 2009, the JTI organized 13 different trainings (i.e. 13 different titles) which all of them comprised 423 working days (2.538 hours).

In 2010 (the year is still ongoing) the JTI will organize in total 20 different trainings (20 different titles) which all together took 649 working days (3.894 hours).

