

## HELP Network Conference

The HELP Network Conference took place on 16-17 June 2014 in Strasbourg at the Council of Europe Headquarters. This year's event was entitled "From good training to good judgments: challenges, methodologies and perspectives". The topic took its source of inspiration from the [speech](#) that Mr Nils Muižnieks, Council of Europe Commissioner for Human Rights, delivered on the occasion of the last year's HELP Conference. He stated inter alia that [good training should result in good judicial decisions](#). Furthermore, he suggested that the identification of the main obstacles that might prevent good training from resulting in good judicial decisions should be part and parcel of the training efforts.

The conference was organised under the CoE Chairmanship of Azerbaijan. The event was opened by [Mr Christos Giakoumopoulos](#), Director of Human Rights (DG-I), and [Mr Togrul Musayev](#), Deputy Minister of Justice of the Republic of Azerbaijan.

The event gathered representatives from all member states of the CoE and from several national and international professional organisations involved in capacity building of legal professionals.

Mr Giakoumopoulos reminded of the significance of the HELP Project, which meets its goal to be recognised as the platform for all human rights capacity development endeavours. HELP has developed international links and extensive joint initiatives with national bodies. Its role is to support, assist and facilitate domestic specialist training bodies, not to replace them. Training will be most successful through integration and cooperation with the national systems. The HELP Network, including Focal and Info Points, contribute a lot to its success. HELP is a crucial tool in securing the common vision of Convention member states.

Deputy Minister of Justice of the Republic of Azerbaijan, Mr. Togrul Musayev, considers this form of training an effective and progressive one, structured to accommodate the needs of the target audience. Through the work of the HELP Programme, domestic judicial institutions will continue to integrate Convention standards in their daily work and through this, HELP is achieving an improvement in the quality of courts' activities. Through the fruitful working relations with training institutions, HELP becomes accessible to practitioners and students, building the way for further developments in the implementation of ECHR principles and case law.

Key note speakers included [Mr Guido Raimondi](#), Vice-President of the European Court of Human Rights (ECtHR) and President of Section on Protocol No. 16 to the European Convention on Human Rights (ECHR), and [Ms Danutė Jočienė](#), Judge of the Lithuanian Constitutional Court, former Judge of the ECtHR on the role of national courts in defending human rights and preserving the human rights protection system.

Mr Guido Raimondi reminded that the purpose of the Strasbourg bodies is not to directly deal with fundamental rights and freedoms; this is the remit of the national bodies. The number of cases before

the Court nonetheless shows that some issues require a response from the Court. The introduction of Protocol 16 is a positive step in improving the domestic protection of human rights and achieving the Court's goals. Dialogue on an international level is crucial to the success of the ECHR and the possibility of an advisory opinion will give states the opportunity to engage in a productive dialogue, in order to best implement Convention standards and principles.

This innovative procedure will place a burden on the Court's resources, but the Court is allowed to refuse to give an opinion when the subject is not on questions of principle relating to the interpretation or application of the rights and freedoms defined in the Convention. The opinions will not be binding. The aim is to strengthen the subsidiary character of the system and allow an international court to decide questions of law in non-litigation as part of a dialogue between national tribunals and the ECtHR.

Dr. Danutė Jočienė presented the role of national courts in defending human rights and preserving the human rights protection system. She examined this role in two threads: firstly the system of the European Court of Human Rights ("ECtHR"), as part of the European protection system, and its interaction with national systems; secondly the role of national authorities in this area.

The European Convention on Human Rights ("ECHR") relies on two fundamental principles – subsidiarity and effectiveness of rights. Consequently the ECtHR is not intended to deal with errors of fact or law allegedly committed by a national court or to substitute its own assessment for that of the national courts, unless there is a potential violation of Convention rights and freedoms. The main role of the Court is to ensure that the member states meet their obligations under the ECHR. With regards to the effectiveness of rights, the Convention should be applied in such a way as to ensure the rights are practical and effective. This requires a dynamic approach, which should also be considered by national bodies, in order to prevent the Court becoming overburdened due to a restrictive approach to ECHR standards.

With respect to national bodies, it is important to emphasise that national authorities have the primary responsibility for ensuring the effective implementation and enforcement of the Convention. This role involves ensuring the compatibility of domestic legislation and practice; sufficient prevention and redress; and protecting the roles of the judicial authorities. Both positive and negative obligations are placed on the State to meet the Convention standards as the States have all ordinary powers and jurisdiction to implement this.

The Lithuanian system was a particular example examined and it was recognised that steps have been taken nationally to apply the Convention directly in both criminal and administrative courts. This is an example of good practice in domestically enforcing the ECHR. Such advances have been made in the administrative courts that cases against Lithuania from Strasbourg can also be relied upon. However there have been issues with different courts acting in distinct manners. In principle, the relationship between constitutional courts and ECHR should be based on the effective co-operation with Constitutional courts should be guided by the principles of the Strasbourg case-law; on the other hand, the ECHR takes utmost account of national constitutional courts' decisions. However conflicts may still

occur. Fortunately the tendency of Constitutional Courts is to protect fundamental freedoms, in line with the ECHR.

While there are areas for improvement, particularly in relation to the roles of national courts in implementing the ECHR, the relationships between domestic authorities and the ECtHR are collaborate in order to achieve the best protection possible.



**Working groups conclusions and recommendations**

Three working groups discussed various aspects regarding human rights training methodology, co-operation among international organisations on capacity development to improve the implementation of the ECHR, obstacles to practical application of human rights knowledge, co-operation with national institutions in view of assessing the longer-term impact of human rights training on the work of legal professionals, HELP methodology for distance and blended human rights learning, etc.

**OSTACLES TO THE PRACTICAL IMPLEMENTATION OF HUMAN RIGHTS KNOWLEDGE**

The Steering Committee for Human Rights of the Council of Europe has prepared a recommendation which aims to help reduce the overburdening problem the Court currently faces. The reform focuses on education and training within member states. Mandatory training, establishing best practices and specific training on day-to-day issues are among the suggested measures. Teaching human rights at national level can face challenges such as a lack of interest or a lack of qualified teachers. Translation on a wide scale can be problematic.

Three kinds of obstacles can be faced when implementing human rights knowledge:

Problem	Causes	Solution Proposed
Methodological obstacles	Legal professionals' habit of not referring to the case law (including the ECtHR).	HELP assists in transferring knowledge and improving skills
	Autonomous concepts of the ECHR which could be interpreted differently at the national level.	Improving first generation training.
		Second generation training focusing on knowledge and application of the ECHR.
		Training judges to automatically refer to the ECHR at all levels.
		Potentially introducing compulsory training.
		Potentially setting up specialist Human Rights advisers in Courts as reference points.
		Incentives for training.
Technical obstacles	The length of judgments	Improve access to relevant case law.
	Difficulties in identifying the parts which should be relevant to the legal professional's work	Databases, easily searchable to find relevant cases.
		Dissemination of (summaries of) judgments.
		Thematic research in HUDOC.
		Thesaurus in HUDOC.
Political and cultural obstacles	The widely spread perception of the ECtHR case law as a "foreign/international" right	Limited suggestions.
		Emphasise the obligation of States to implement ECHR; it is not a "foreign" law.

**CO-OPERATION AMONG INTERNATIONAL ORGANISATIONS ON CAPACITY DEVELOPMENT TO IMPROVE THE IMPLEMENTATION OF THE ECHR**

Recommendations:

- Creating synergies among training providers to avoid overlapping and to ensure that all the relevant topics are covered
- Mapping existing relevant training initiatives to provide legal professionals with a clear picture of what is developed by each training provider. A lack of coordination could be confusing for practitioners receiving training on the same topic from different providers
- Involving HELP Focal and Info Points in getting information about existing training activities provided at the national level in the view of such a mapping
- Inserting all the HELP training initiatives in the existing EJTN catalogue
- Ensuring the constant update of training materials as well as taking into account the execution of the relevant ECtHR judgments



Graphic of Working Group 1: conclusions and recommendations

ECHR TRAINING METHODOLOGY: ASSESSMENT OF NEEDS, INCENTIVES AND TRAINING OF TRAINERS / HELP METHODOLOGY FOR DISTANCE AND BLENDED HUMAN RIGHTS LEARNING

**I. EVALUATION OF NEEDS ASSESSMENT:**

The needs for training of legal professionals must be **reassessed regularly** in order to match evolving needs of legal professionals.

Involve not only the institutions but also the legal professionals themselves.

Attention should be given to the curriculum: HR must be an intrinsic component of the courses.

Problems identified:

<b>Problem</b>	<b>Solution proposed</b>
Language barrier	Regional activities. The exchange of experience would be beneficial in some regions. Provide adequate translations
Time problems / busy schedules	interactive tools in distance-learning activities
Budget and resources	Partnerships -> better co-operation with NTIs also concerning budget allocated for HELP courses. Simplify the model curriculum. Adaptation is additional costs and difficult to realise. Multi-professional courses could be further developed.
The training might not always be adapted	Involve legal professionals in the training needs assessment phase, giving them the initiative. Assess the content (streamline HR) as well as the form of training (more interactive tools). Not all countries have the same needs (not the same level of background knowledge.)

Further recommendations:

- Develop interactivity through different types of activities: Peer to peer, case studies, role plays, gamification.
- Focus on skills, not knowledge.
- Individualisation of needs assessment should be encouraged, while keeping in mind the need to equalise knowledge.
- Learning is incidental to experience. The accent should therefore be put on **developing skills and attitudes** rather than to focus on knowledge only.

**II. INCENTIVES:**

<b>Problems</b>	<b>Recommendations</b>
Lack of incentive	Good practice shows it is better to use the carrot rather than the stick, offering continuous professional training. Certification + reward for the best student(s)

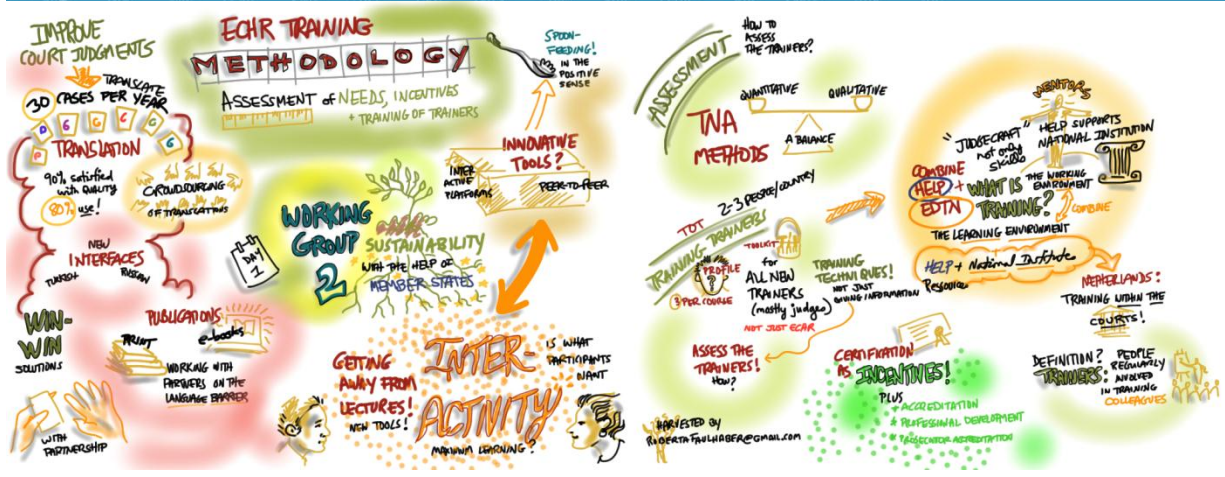
	An interactive course provides more incentive for the participants.
Relevance of learning	The tools used might depend on the needs/preferences of the institution. Different formats could be used according to the specific needs.
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Efficacy of training according to specific needs	Making the training more pleasurable ensures a more effective training. Interactive tools have proven to be very efficient. Develop that aspect of the course further. (Role plays, good communication techniques, gamification).
	Use hybrid pedagogy: Active learning using techniques such as gamification should be considered. These would be a powerful incentive: play to win, interaction, healthy competition, emotional response of participants. Sensitivity training. E.g. how to treat people captured in combat: used by the army. Games could be developed in the form of scenarios with clues and leads to follow. Teams can be created.

**III. TRAINING OF TRAINERS:**

<b>Problem</b>	<b>Recommendations</b>
Not adapted to local needs	Selection of the trainer is crucial and should be done at the national level, meet the training objectives and answer specific predefined criteria. A pool of accredited trainers could be developed, with a few experts on HR training in each MS.
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	<p>level, meet the training objectives and answer specific predefined criteria. A pool of accredited trainers could be developed, with a few experts on HR training in each MS.</p> <p>Include educational specialists in our institutions.</p> <p>HELP should provide the knowledge and support to HR training, but the national institutions need to implement it. More involvement is needed from the NTIs.</p> <p>We all take home your “HELP” and assistance and use it”</p>
<p>Standardisation of training internationally</p>	<p>Attention on skills, attitudes, cascade training, monitoring.</p> <p>Trainers’ toolkit to be made available.</p> <p>Pb of dissemination of skills acquired during ToT. We can facilitate the use of our resources and tools - ToT in Strasbourg in EN: more accent put on the trainers because the good training depends on a well-trained trainer. More co-operation should be developed in that sense between the CoE and the NTIs and Bas, e.g. to share the costs.</p> <p>Good training depends on a well-trained trainer. More co-operation should be developed in that sense between the CoE and the NTIs and Bas.</p> <p>Training management cycle helps trainers stick to the objectives.</p>
<p>Trainers required for a variety of topics</p>	<p>Training methodology is more or less the same, but bear in mind that trainers to be trained also teach other topics (civ, crim) where HR are streamlined.</p> <p>Mentoring or coaching should be considered and a pool of trainers specialised in HR training could be developed, including educational specialists.</p>





Graphic of Working Group 2: conclusions and recommendations

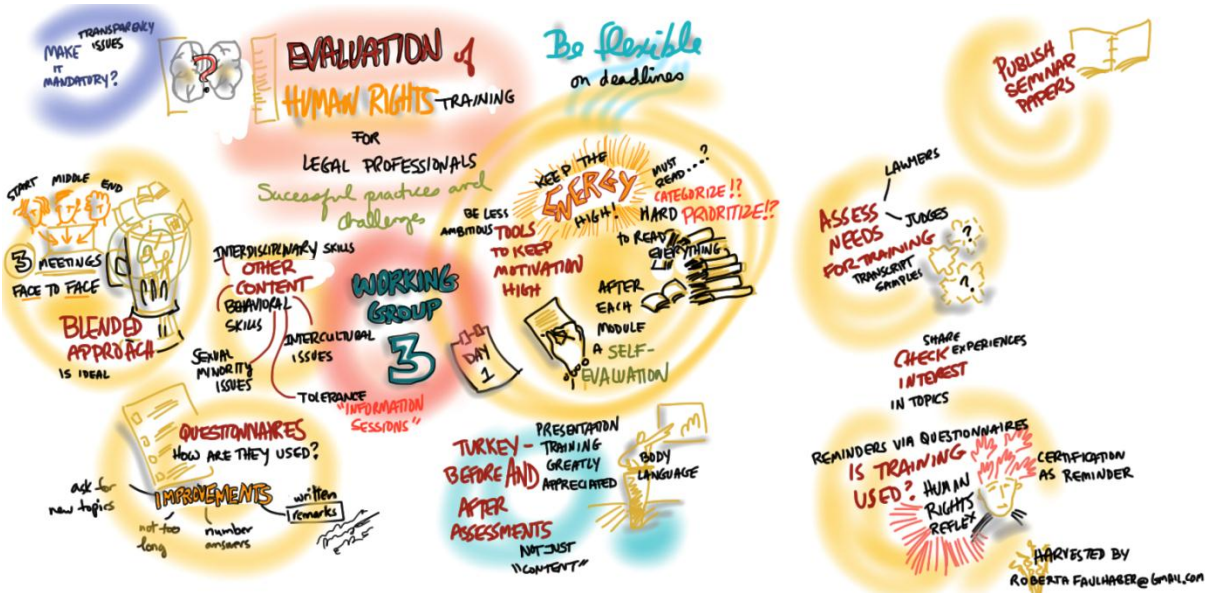
THE EVALUATION OF HUMAN RIGHTS TRAINING FOR LEGAL PROFESSIONALS: SUCCESSFUL PRACTICES AND CHALLENGES

- There is no single format to evaluate the effect of the training.
- The immediate learning is easy to assess, but behaviour change is harder, if at all possible within solely training context.
- Little is currently being done to measure the long-term effect of training.
- There are sensitivities and questions related to independence of the legal professionals that need to be taken into consideration when designing systems of evaluating training impact.
- There are methods to capture issues in longer-term, such as the court case analysis system used in Estonia. This method can be adopted to use in other countries.
- Time of evaluation is important, but longer-term post-training evaluations may face difficulty of trainees being unable to attribute certain experiences to training after significant time has passed. Feedback questionnaires.
- We have to be humble on what we can achieve through HELP and training in general.
- Evaluation of e-learning courses must take into consideration the technical aspects of perceiving the course.
- Difficulty of collecting data: who? When? What?

Recommendations:

- We need to use an assortment of methods to evaluate short and long-term impact of training.
- Assessment must contain methods relying on a combination of objective/scientific and subjective data, which have to be determined at the outset of the course.

- The evaluation/assessment of both the content and the impact of the training should be planned at the stage of designing the course, with consideration of the specific country, topic and target group. It must be included at different stages of the training process.
- HELP methodology should include guidelines on designing the evaluation.
- Any evaluation must take into account some sensitive issues, such as independence of a given legal profession.
- It may be worthwhile to commission a research to take an inventory of existing assessment methodologies and designing new methods of evaluation, especially aimed at measuring the impact of the training.



Graphic of Working Group 3: conclusions and recommendations

**HELP Roadmap 2015**

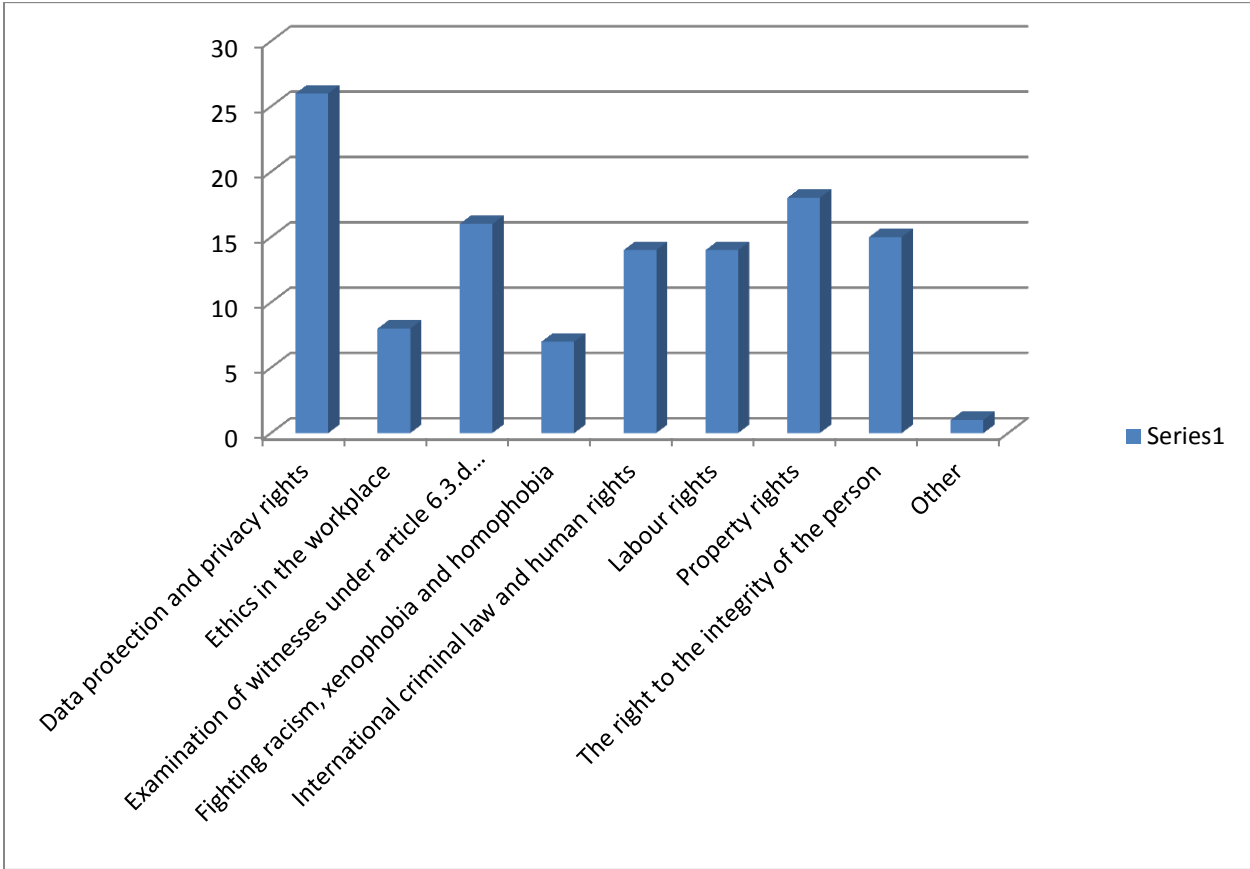
The HELP Programme was awarded an EU Grant, starting in January 2015. The following courses will be developed under this project:

- Fight against racism, xenophobia and homophobia;
- Data protection and privacy rights;
- Labour rights;
- Right to the integrity of the person.

Furthermore, the following courses will be developed under the budget of the Council of Europe:

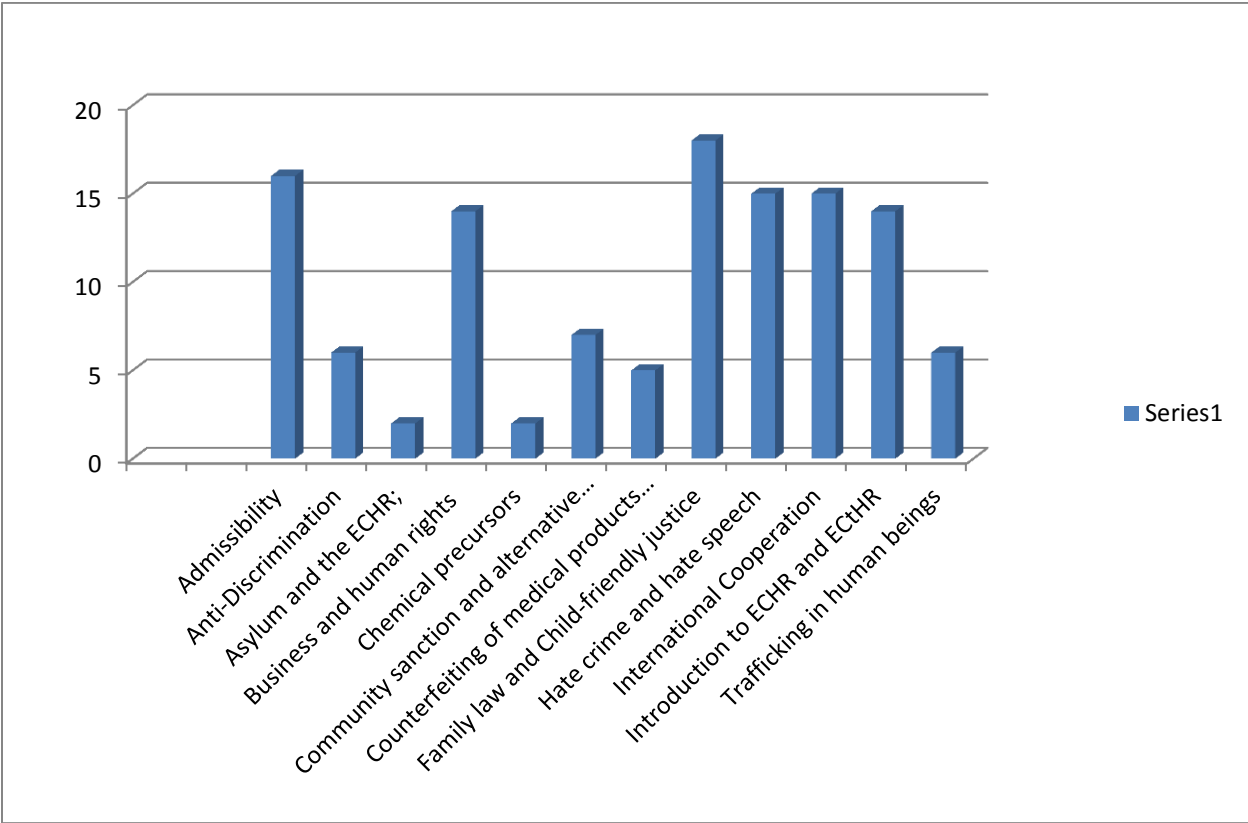
- The examination of witnesses under article 6.3.d
- International criminal law and human rights
- Property rights

This information was based on the analysis of the questionnaire distributed to members of the HELP Network, asking which topics would be a priority for their institution in 2015.

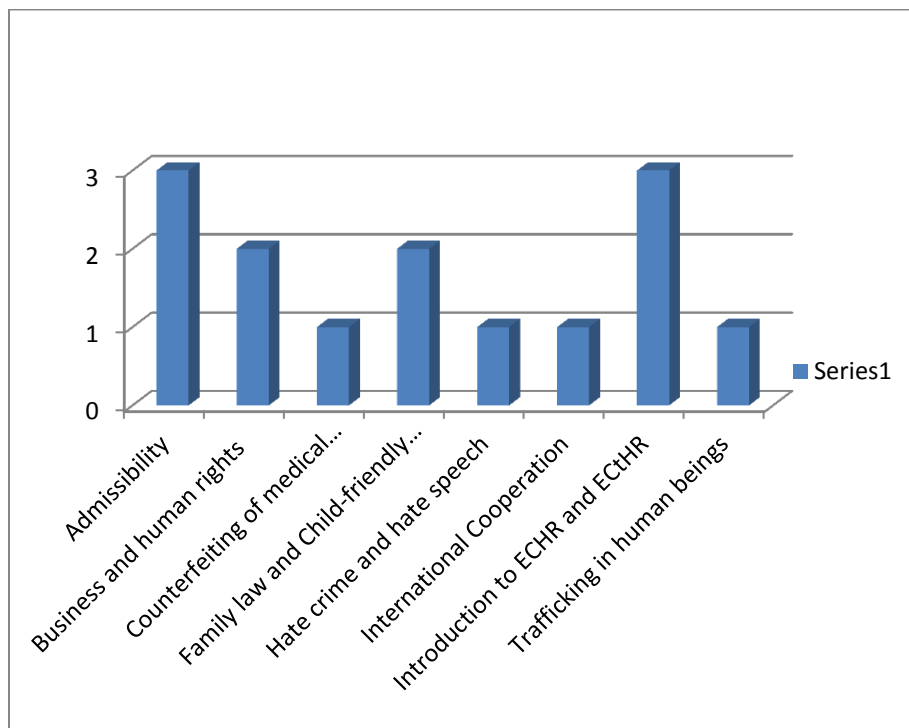


Some already existing courses will be launched in 2015 in various member states of the Council of Europe. They include:

- Admissibility criteria
- Anti-discrimination issues
- Asylum and the ECHR
- Business and Human Rights
- Chemical precursors
- Community sanctions and alternative measures to detention
- Counterfeiting of medical products
- Family Law and Child-friendly justice
- Hate crime and hate speech
- International cooperation in criminal matters
- Introduction to the ECHR and the ECtHR
- Trafficking in human beings



80% of the members of the HELP Network expressed the wish to organise multinational courses on the following topics:



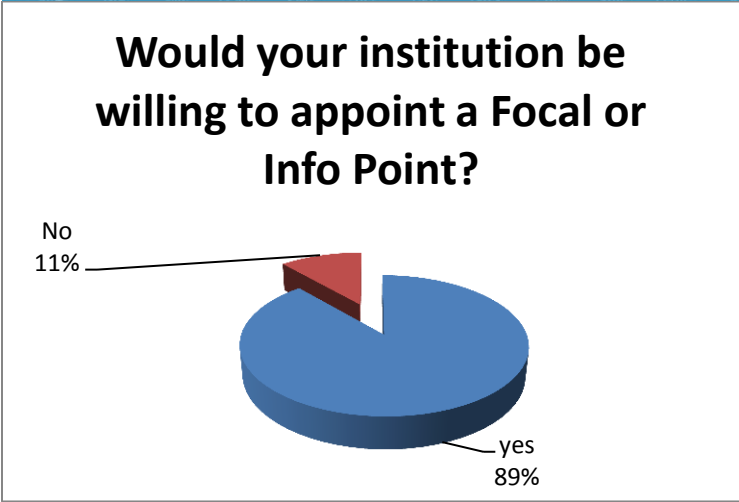
### **Focal and Info Points**

The role of Focal and Info Points was deemed essential to the good functioning of the HELP Programme. HELP Focal Points liaise with national training institutions and HELP Info Points liaise with Bar Associations, with the aim of promoting the HELP training methodology and HELP materials in each of the Council of Europe Member States.

HELP Focal and Info Points could also be involved in collecting information about existing training activities provided at the national level. This would allow for a general mapping of training activities, and would be useful in the assessment of training needs.

It will be made possible for anyone to contact the HELP Focal and Info Points directly through the HELP website.

Most institutions that do not yet have a Focal or Info Points are willing to appoint one. Four members of the HELP Network have already done so since the HELP Network conference.



**HELP certified trainers**

One of the discussions during the HELP conference referred to the need for a pool of HELP certified trainers, who would follow the HELP methodology and be able to use the tools provided. From now on, the HELP Programme will organise longer training sessions for trainers, and provide NTIs with a list of certified trainers. 97% of institutions in favour of this are willing to propose a selection of national experts. The first training of this kind will take place in the beginning of November.



**HELP Website**

The HELP Secretariat will regularly inform members and partners of the Network as well as Focal and Info Points on the work in progress. A list of available courses and a list of courses being developed will be made available.

The database of publications will be regularly updated and made available as self-learning material to any users of the HELP website.