

# REGIONAL GUIDELINES FOR EFFECTIVE JUDICIAL E-LEARNING IN SEE



Regional Cooperation Council



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# INTRODUCTION

This strategy and guidelines on judicial E-learning has been prepared in the framework of the South East Europe Judicial Training Institutions (SEE JTI) Network, jointly financed by the Regional Cooperation Council and the German Federal Ministry for Economic Cooperation and Development (BMZ). The project is a joint effort of the Regional Cooperation Council (RCC) in South Eastern Europe (SEE) and Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) in supporting the work of the Judicial Training Institutions in SEE.

The Covid-19 outbreak at the beginning of 2020 forced the Judicial Training Institutions (JTIs) in the South Eastern Europe region to halt in-person training and rapidly transition to distance learning. A report completed in 2020 Relevant Experiences in Judicial E-Learning in the SEE Region (E-learning report) showed that the transition to online training brought many challenges for the JTIs including lack of motivation among teachers and learners, and lack of infrastructure and technology.<sup>1</sup> This document builds on the report on the experiences during the pandemic to offer a framework for a better E-learning management in the JTIs.

The overarching goal of this document is to provide specific and practical advice for administrators and teachers at JTIs in the SEE region regarding planning, designing, preparing and conducting online training. In order to maximise its usefulness, the advice builds on the experiences of teachers and learners at the institutions. Their view-

points and preferences have been taken into account in the recommendations. The advice offered is tailored to the type of material covered, group size and learner background. This provides a foundation to offer advice that is general enough to be relevant throughout the region but at the same time specific enough to be useful in planning and designing online training courses.

The report is structured in three main parts, of which the first part connects the current survey to that undertaken in the E-learning report and presents a detailed analysis of the outcome of the current survey. The second part presents the best practices of institutional and legislative development at the European level, with the aim to support the development of judicial training. Finally, the third part reviews the status of technical and pedagogical approaches to E-learning, and concludes with practical proposals how best to implement and apply E-learning methods in judicial training.

Research and drafting of this report has been carried out by Bård Sverre Tuseth from the University of Oslo and Peter Gjørtler from Riga Graduate School of Law. The opinions and recommendations in the report are those of the authors and not their institutions.

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<sup>1</sup> Marina Naumovska, Overview of the relevant experiences in judicial E-learning in the SEE region, Jorida Shytaj and Amer Kapetanovic (eds.), Regional Cooperation Council, Sarajevo 2020



# SURVEY AND ANALYSIS

## Background

Emerging from the pandemic provides the perfect time to evaluate the types of training that should remain on digital platforms and courses that need to return to in-person setting when this becomes possible. The goal of the strategy and guidelines for E-learning should therefore not be to promote online training in all cases but provide nuanced advice on the possibilities, advantages and obstacles to training via internet.

Despite many differences amongst the economies in the SEE region, the teaching efforts of their JTIs have important similarities, as the topics addressed and the backgrounds of the groups of learners are largely the same. This provides a foundation to provide advice that is general enough to be relevant throughout the region but at the same time specific enough to be useful in planning and designing courses for online training.

A challenge in the development of a strategy and guidelines for E-learning is that pedagogical research offers little evidence-based knowledge on what types of training is best suited to achieving different types of learning outcomes. Generally, the advice must rely on the existing research and be coupled with the experience of instructors at the JTIs. Practically, the achievement of the learning outcomes can of course be tested by evaluations of learner performance or retention once a course has been completed.

In order to maximise the impact of the strategy and guidelines for E-learning, efforts relating to online training should be supported at an institutional level. The development of a strategy and guidelines for E-learning will contribute to this. In addition, the RCC could make E-learning efforts a focal point at the annual meetings of the JTIs.

The JTIs covered by the research included:

- Albania - School of Magistrates
- Bosnia and Herzegovina - Centre for Judicial and Prosecutorial Training
- Bulgaria - National Institute of Justice
- Croatia - Judicial Academy
- Greece - National School of Judges
- Kosovo\* - Judicial Institute
- Moldova - Institute of Justice
- Montenegro - Centre for Training in Judiciary and State Prosecution
- North Macedonia - Judicial Academy
- Republika Srpska - Centre for Judicial and Prosecutorial Training
- Romania - Institute of Magistracy
- Serbia - Judicial Academy
- Slovenia - Judicial Training Centre
- Turkey - Justice Academy

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\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence.

## The 2020 survey

The natural starting point for developing a regional strategy and guidelines for E-training is the E-learning report completed in October 2020.<sup>2</sup> The report utilised quantitative and qualitative methods to offer an overview of E-training courses in the region both before and during the Covid-19 pandemic.

The E-learning report showed that half the JTIs surveyed had more than five years of experience in providing online training. This fact underscores the need to integrate the experience of local instructors into the development of strategies and guidelines, and to consider their preferences in the recommendations. However, since the statistical data and analysis in the E-learning report aimed to provide only an overview of distance training provided by JTIs, the report did not offer a sufficient basis for developing an E-learning strategy.

The 14 respondents to the survey were representatives of JTIs, presumably the coordinators of their educational programmes. They would of course have intimate knowledge of the courses and training their institution offers, but their experiences and perspectives might have been very different from that of the teachers conducting the training and the learners enrolled in the courses.

In addition to a wider array of respondents, the survey could have benefitted from a greater specification of the parameters measured. In order to provide effective and practical strategy and guidelines for E-learning in JTIs, more detailed information is needed on courses offered both in-person (before the pandemic) and online. The advice offered needs to be tai-

lored to the material covered, size of the group and background of the learners.

The E-learning report documents how the Covid-19 pandemic forced a rapid move from face-to-face training in JTIs to an improvised E-learning format.<sup>3</sup> This period of experimentation has exposed previously reluctant teachers and learners to working in digital formats. The pandemic experience has influenced attitudes of both teachers and learners, and has therefore removed a major obstacle to introducing permanent E-learning where it is appropriate.

## Survey of coordinators

The present survey also includes the coordinators of the JTIs, with replies coming from 11 institutions. A common trait is that all institutions appear to cater for both judge and prosecutor candidates, while only a smaller number cater for current judges and prosecutors, and some for other groups such as legal advisors.

The size of the teaching staff varies between approximately 100 and 300, with a single institution reaching approximately 500 teaching staff members. This includes external staff members, and the numbers correspond to that of a medium-sized university. The intensity of training appears medium high, with between 4 and 8 hours of training delivered per day.

The switch to online training because of the Covid-19 pandemic seems to have had a variable impact, with some institutions performing around 60% of pre-pandemic training levels, while others appear to have performed only 15% as online training. However, there appears also to be substantial differences in the level to which in-person training continued to be performed.

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<sup>2</sup> See above in footnote 1

<sup>3</sup> E-learning report, page 5



Hardware solutions for online training appear in general to have been based on existing facilities, including mainly built-in microphones, speakers and webcams in laptop computers, although some institutions did buy external units to be connected to existing computers. The software platforms were mainly commercial, centred on the use of Zoom, but also Cisco Webex was used, as well as the Moodle software.

## Survey of teachers

### Methodology

The survey included seventeen questions, which were to be answered online. The link was distributed by email to the SEE JTIs on 6th October and the deadline for submissions was set for 15th October, but eventually extended until 1st November. The questions in the survey are included as Annex 1.

When the deadline had passed, the survey had received 28 responses. These responses originated from teachers of nine JTIs.<sup>4</sup> A majority of responses (82 %) originated from only four institutions. The largest participation was from Bulgaria and Montenegro with eight and seven responses respectively. The survey received four responses from Albania and Bosnia and Herzegovina respectively. In addition, there was one response each from five other institutions.

From a statistical perspective, it would have been beneficial to have more responses and a more even geographical spread in the responses.<sup>5</sup> Even though the data set is too small for statistical analysis, the responses provide insight into the viewpoints of teachers on key elements of their online teaching experience.

Some questions may be raised about the quality of the data the survey provided that could warrant reservations regarding the validity of the conclusions drawn from it. Since the survey was open to anyone with access to the relevant link, there was no way to make sure that only teachers at JTIs responded or that no one answered more than once. Because most of the responses originate from only a handful of institutions, the platforms and pedagogical tools used there may not be representative of all the institutions and this may skew the impressions from the survey.

In addition, there may be uncertainty regarding the level at which the responses constitute an accurate representation of the attitudes of the respondents or an objective evaluation of their online teaching experience during the pandemic. More specifically, that raises the following concerns:

Firstly, the effectiveness of a class is dependent on many factors including the abilities and efforts of the teacher. Responses relating to the effectiveness of online training may therefore be more positive than an objective assessment could justify.

Secondly, questions that require a graded response are influenced by a social-desirability bias. Respondents are more likely to give a reply that will be viewed favourably by others, for example by choosing a more positive response or favouring the middle ranked responses and avoiding the extremes. This type of bias is a problem in all types of self-reported data and has probably also influenced the responses to this survey.

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<sup>4</sup> Albania, Bosnia and Herzegovina, Bulgaria, Greece, Moldova, Montenegro, North Macedonia, Serbia and Turkey.

<sup>5</sup> It is not clear whether the low response rate reflects the interest among teachers in participating or shortcomings in how the invitation was distributed.

Thirdly, there is a chance that key terms in the survey questions or the alternatives in the answers may not have been understood in the same way by all the participants. The potential for misunderstandings is amplified when communicating in a foreign language. Since the survey was self-selecting and based on self-reporting from a non-representative sample, the general conclusions that can be drawn from it are limited. The responses can however serve as examples of the experiences of teachers during the pandemic and thereby inform and improve the guidelines for E-training at SEE JTIs.

The statistical analysis was carried out and graphs were created using the IBM SPSS statistics software package (Version 27).

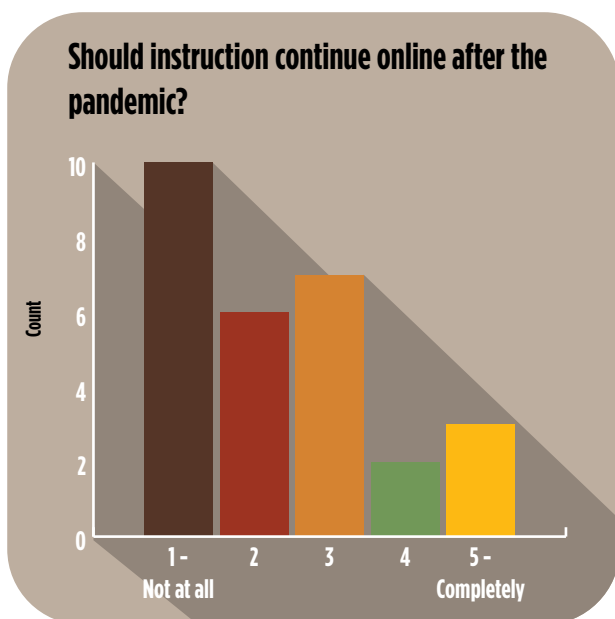
### Views about online training

The teachers surveyed are mostly negative to the proposition that courses should continue online after the pandemic. More than one third of respondents (10) wholeheartedly disagreed with this statement.

It must however be stressed that the question only measures the attitudes to continuing the practice from the pandemic when nearly all training sessions were on-

line, and does not give any indication as to the level of online training the respondents felt was suitable.

A little more than half (57%) of teachers reported that they had experience with online training prior to the pandemic. Prior experience does not seem to influence views on continued online training. In fact, there was no statistically significant correlation between experience in online training and attitudes to continued online training. This means that those without experience teaching online had the same views on continuing the practice from the pandemic as those more familiar with teaching online. One possible explanation of this observation is that the teachers without experience in teaching online gained a more positive view of online training during the pandemic.



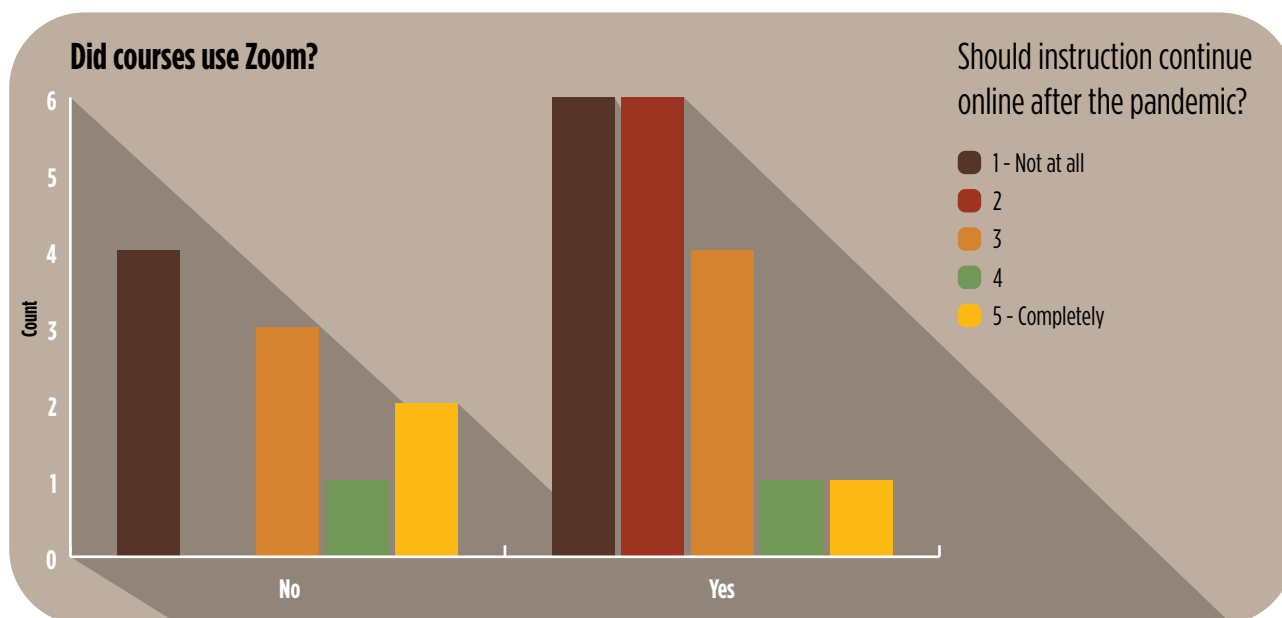
Teachers reported utilising several different tools for online training. Some are commercially available, while others are bespoke platforms created by various governments or teaching institutions. The tool with the widest distribution was Zoom, which was mentioned by 18 respondents. Usage of each of the other





tools was reported by 1-3 teachers. Since Zoom is among the most popular online teaching tools worldwide, with a broad range of features, it is possible to hypothesise that teachers who were able to use Zoom had more positive experiences with

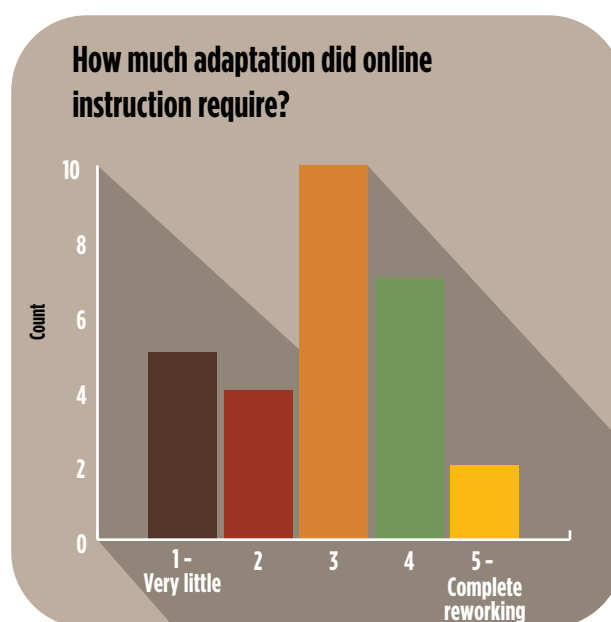
online training than did other teachers. There was however no statistically significant difference in attitudes to continued online training among teachers who used Zoom compared to others.

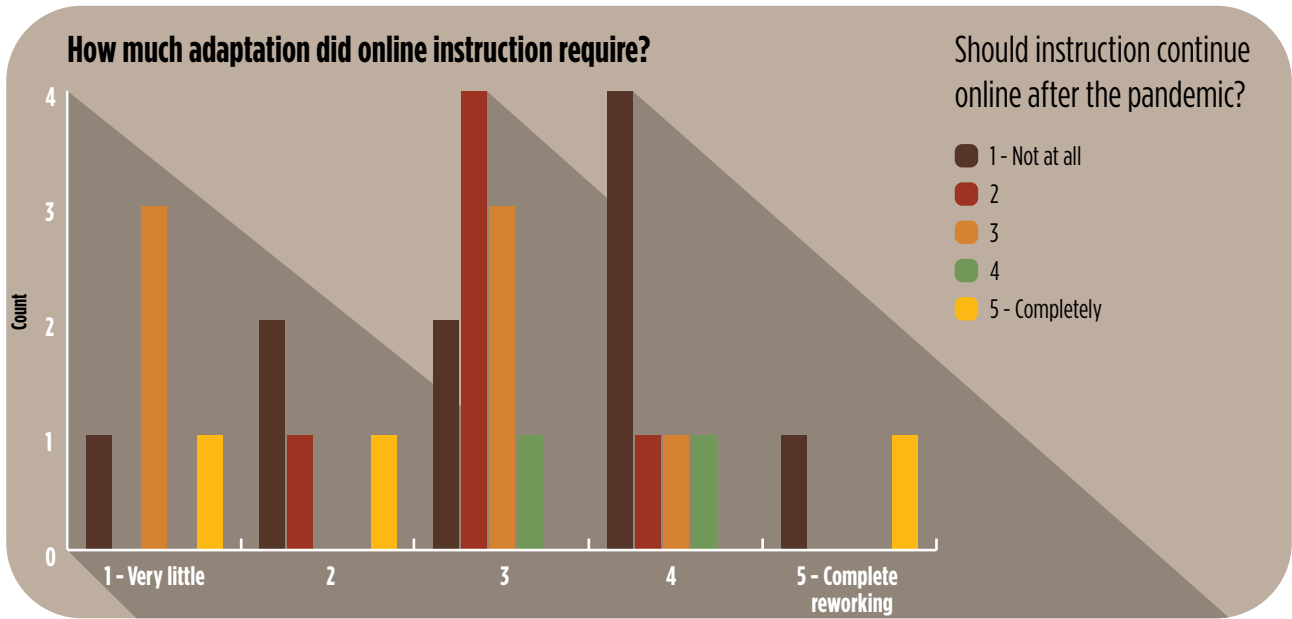


### Adaptation to online training

More than two thirds of teachers reported that moving from in-person training to online classes required a significant adaptation of their courses, but only two reported that a complete reworking of their course was required for the course to be compatible with online training.

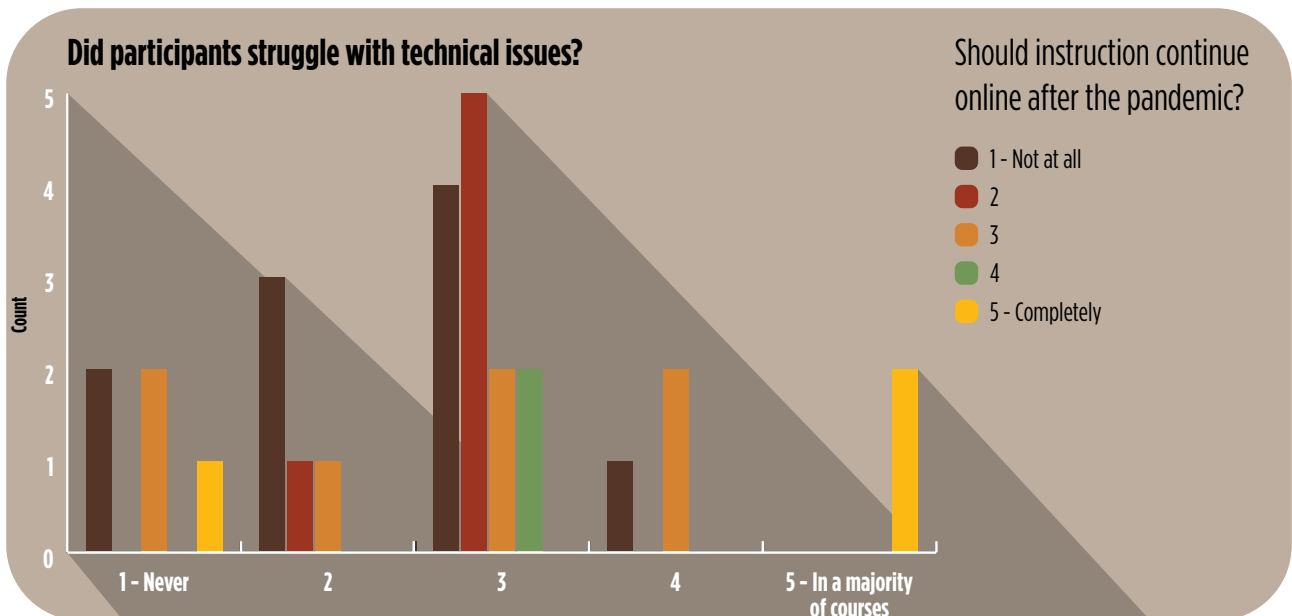
The required amount of adaptation did not seem to influence the teachers' attitudes to continued online training after the pandemic. There was no statistically significant correlation between the reported need for adaptation and views on online training going forward.





The teachers experience with technical issues in their classes does not have a significant statistical correlation with their attitude to continued online training. There seems to be a paradox in the responses to this question because two thirds of the strongest proponents of continuing online

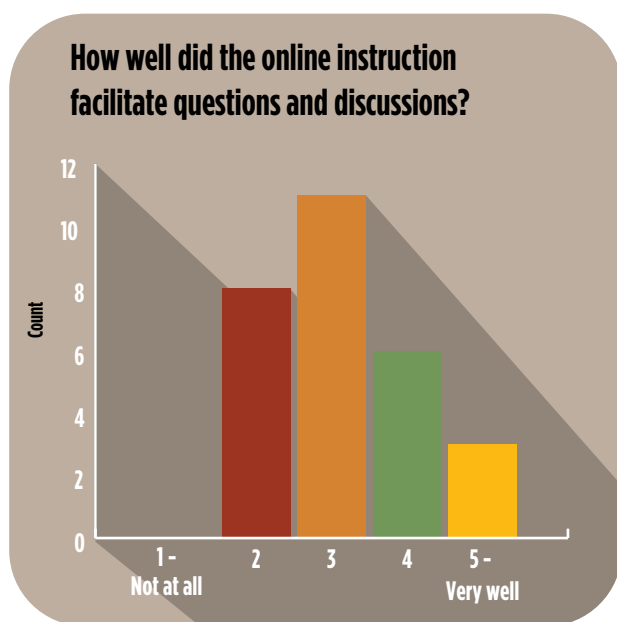
training also reported learners experiencing technical issues in majority of their courses. This could mean that they felt that training ought to be offered online despite these difficulties or that the question was unclear.





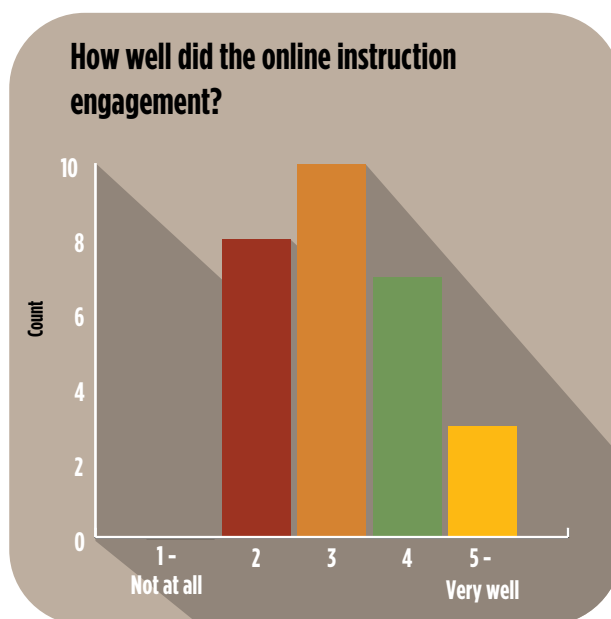
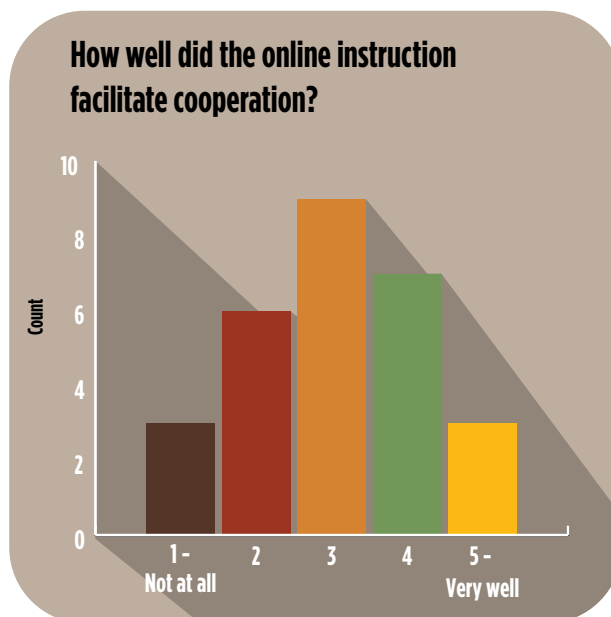
## Effectiveness of online training

The responses on how well the online classes facilitated questions and discussions were grouped in the middle of the graph. The average response was 3.14. The data can be interpreted to mean that teachers found it challenging but not impossible to facilitate questions and discussion while teaching in an online format.



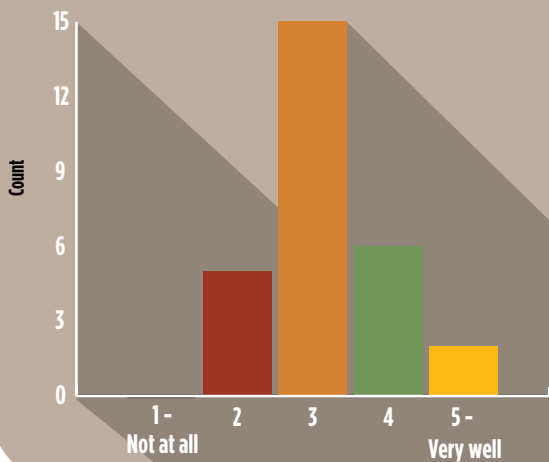
Similarly, the answers about cooperation during the online classes were grouped in the middle of the graph. The average response was only slightly lower than for questions and discussions (3.04). This is interesting since the expectation is that it is particularly difficult to facilitate cooperation among learners in an online teaching environment.

The online format created challenges to learners' engagement with the course material. The majority of teachers responded on the low end of the spectrum, with the average response being 3.18.



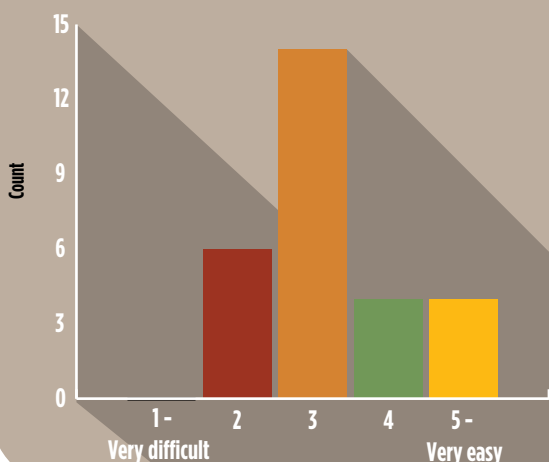
More than half of teachers rated the question on how well the online classes facilitated learning at the level of 3. This could be interpreted as meaning that the teachers saw challenges in teaching online, but that they felt the classes still gave learners significant benefits. The average response was 3.19.

**How well did the online instruction facilitate learning?**



Likewise, almost all teachers found it somewhat challenging or very challenging to communicate with learners in an online environment. None of the respondents rated communication “very difficult” and the average response was 3.21.

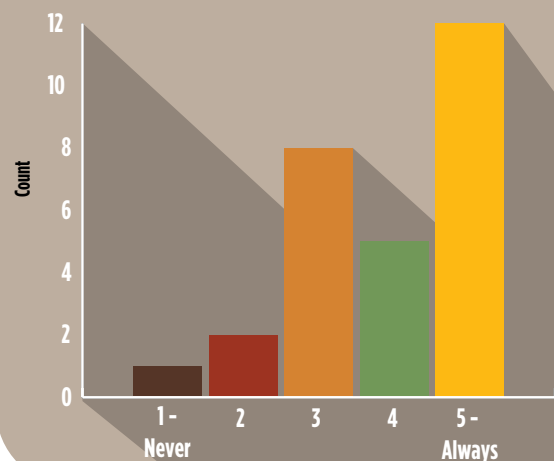
**How was the communication with learners?**



**Use of technology**

Live video was the most common online teaching technology reported, with only one respondent answering that they never used live video.

**Did courses use live video?**

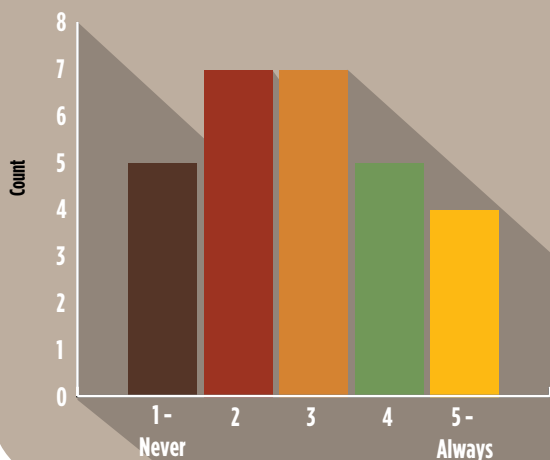


The reported use of recorded video was less common, with 19% (5) of respondents reporting that they never used recorded video. The grouping of answers indicates that most respondents only occasionally used recorded video. The data does not provide any distinction between recorded video produced specifically for courses during the pandemic and instructional videos recorded before that time.

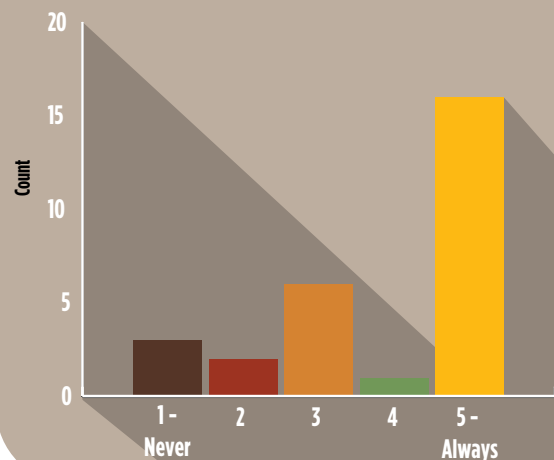
Close to half of the respondents (46 %) reported that they always used live chat during their online classes. Nearly all teachers used such technology occasionally in their classes. The high rate of use of chat can be attributed to the fact that this feature is built into the most popular platforms for online training.



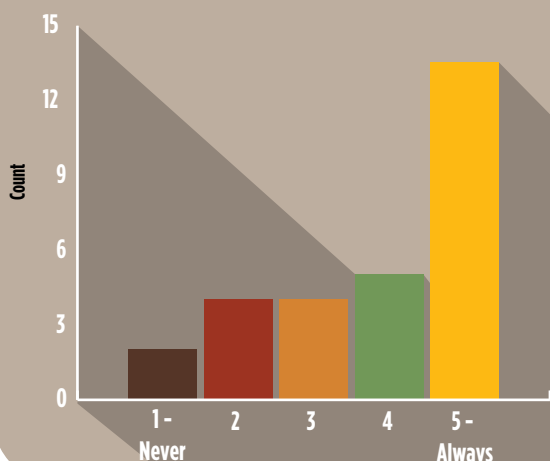
### Did courses use recorded video?



### Did courses use instruction by email?



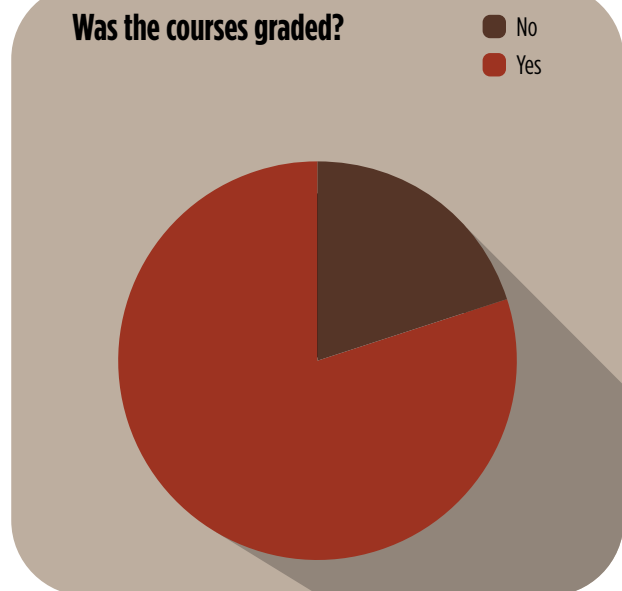
### Did courses use live chat?



### Grading

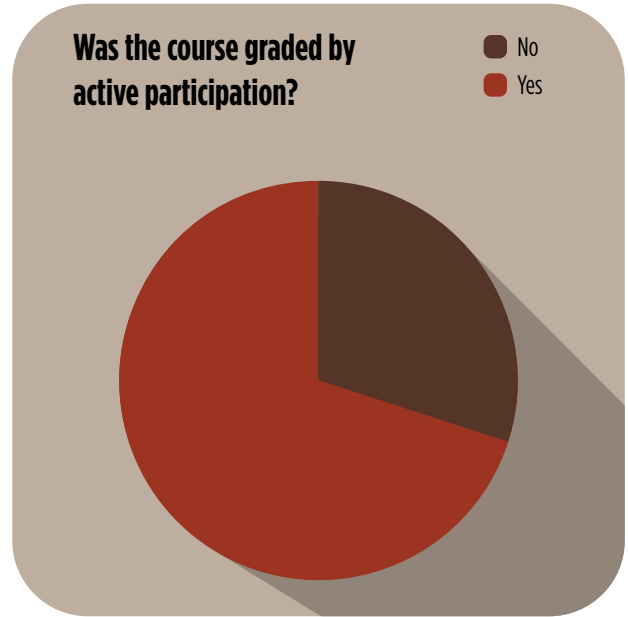
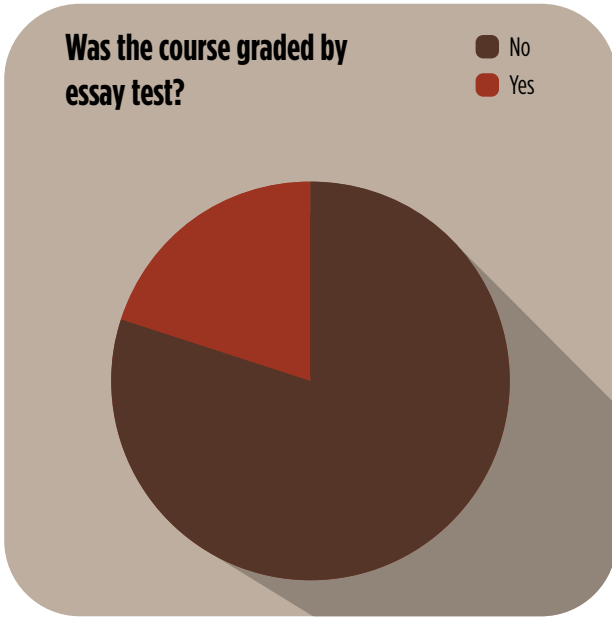
Only 21% of respondents (6) reported that their courses did not use any form of evaluation of the learning outcomes.

### Was the courses graded?

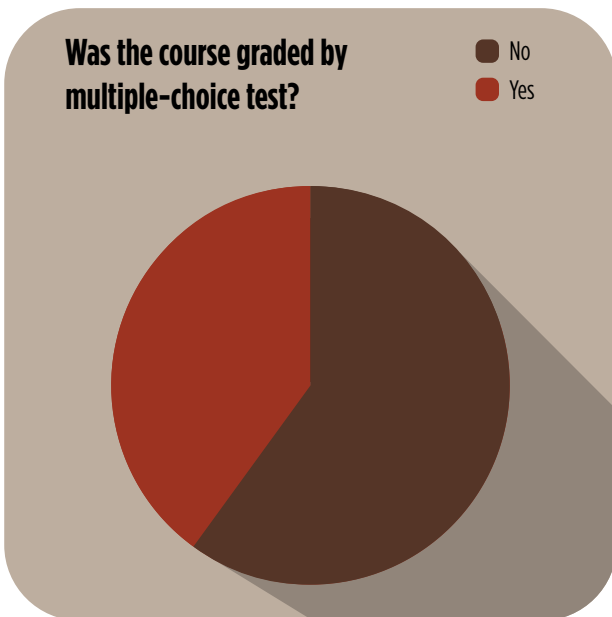


More than half of respondents reported always using instructions by E-mail. Judging by the responses regarding other teaching technologies, this was a supplement to other forms of training.

It was not common for courses to be graded by an essay test. Only 18% of respondents (5) reported using this form of evaluation of the learning outcomes.



A little over one third of teachers (10) reported using multiple-choice tests for evaluating the learning outcomes in their courses.



Two thirds of teachers (19) reported using active participation as a basis for grading. The way this question was structured it is not possible to discern to what extent this method was used alone or in conjunction with other methods.



## Survey of learners

### Methodology

The survey included sixteen questions and was carried out online. The link was distributed by email to the SEE JTIs on 6th October and the deadline for submissions was set for 15th October, but eventually extended until 1st November. The questions in the survey are included as Annex 2.

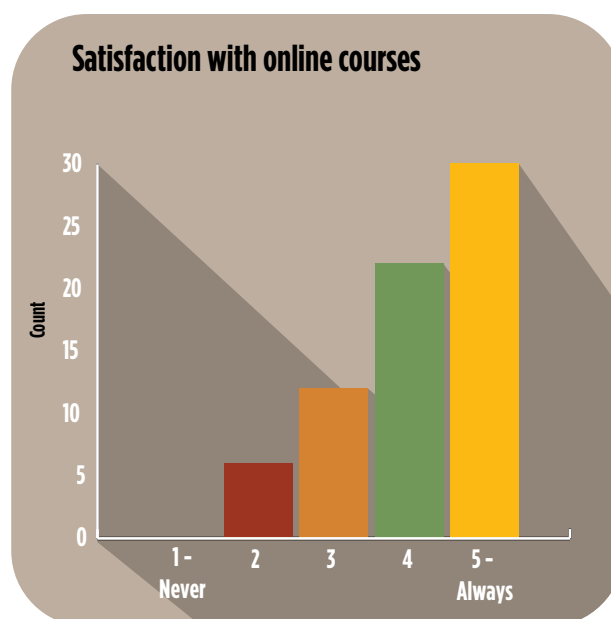
When the deadline had passed, the survey had received 73 responses. These responses originated from six JTIs.<sup>6</sup> A majority of responses (90%) originated from only two institutions. The largest participation was from Bulgaria and Bosnia and Herzegovina with 39 and 27 responses respectively. The survey received two responses from Albania and Montenegro respectively. In addition, there was one response from three other institutions and one of unspecified origin.

As with the survey of teachers, it would have been beneficial if there had been a greater geographical spread in the responses, but the data set is large enough for statistical analysis. Most of the qualifications regarding the validity of conclusions drawn from the survey of teachers are also relevant for the survey of learners. Please refer to the section on background and methodology of the teachers' survey for an outline of these questions.

As with the teachers' survey, the statistical analysis was carried out and graphs were created using the IBM SPSS statistics software package (Version 27).

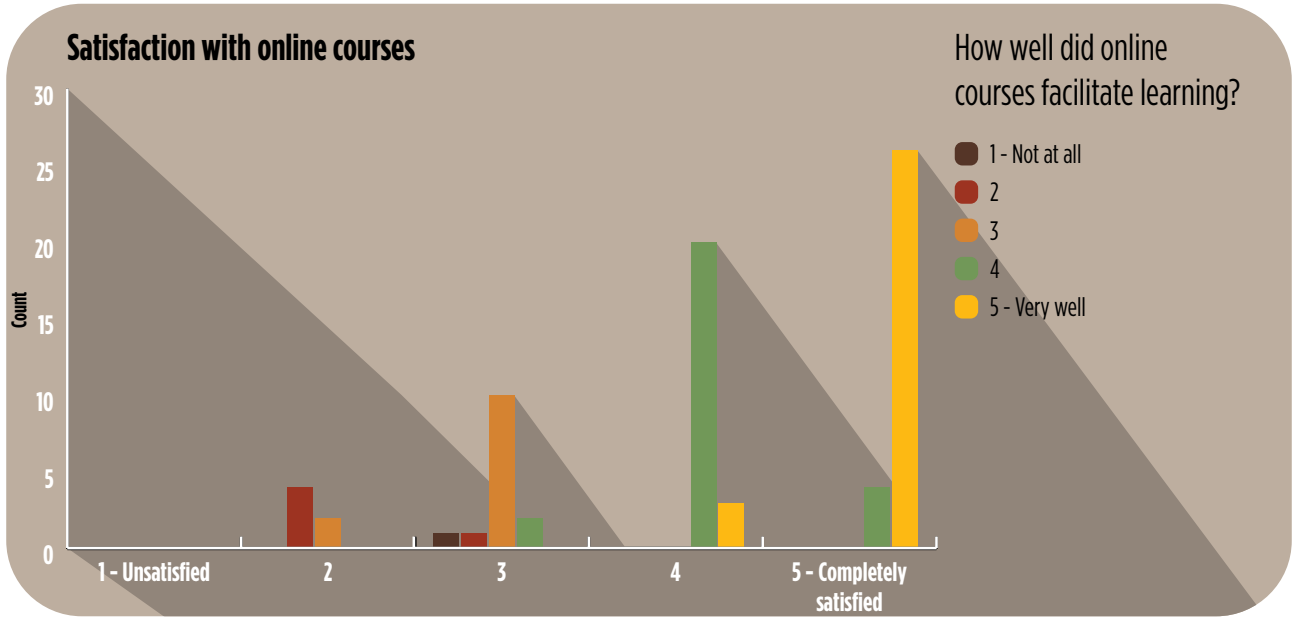
### Satisfaction with online training

The learners who responded to the survey were very satisfied with the online training they had received. The average response was 4.05 with no one rating their satisfaction lower than 2 and 72% of respondents answering either 4 or 5.



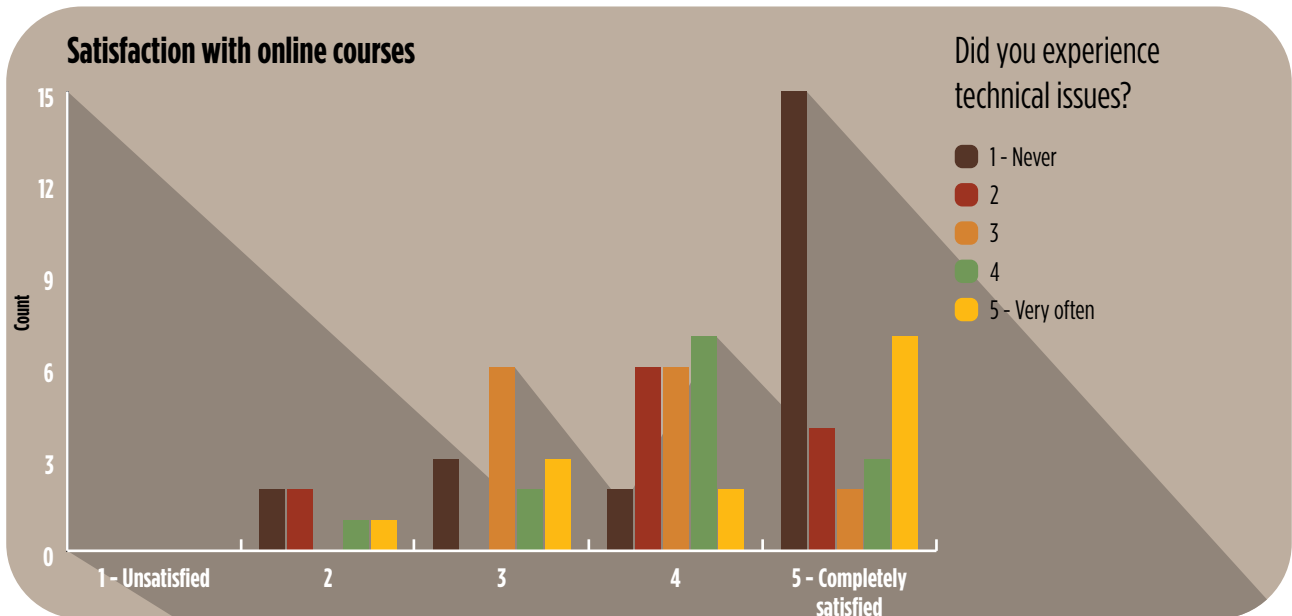
There is a statistically significant (0.01) strong positive correlation (0.88) between the views on effectiveness of the online training and satisfaction with the courses.

<sup>6</sup> Albania, Bulgaria, Bosnia and Herzegovina, North Macedonia, Montenegro and Turkey.



Having experienced technical issues does not seem to influence the satisfaction expressed. There is no statistically significant correlation between the rating of technical issues experienced and the overall satisfaction with the online learning experi-

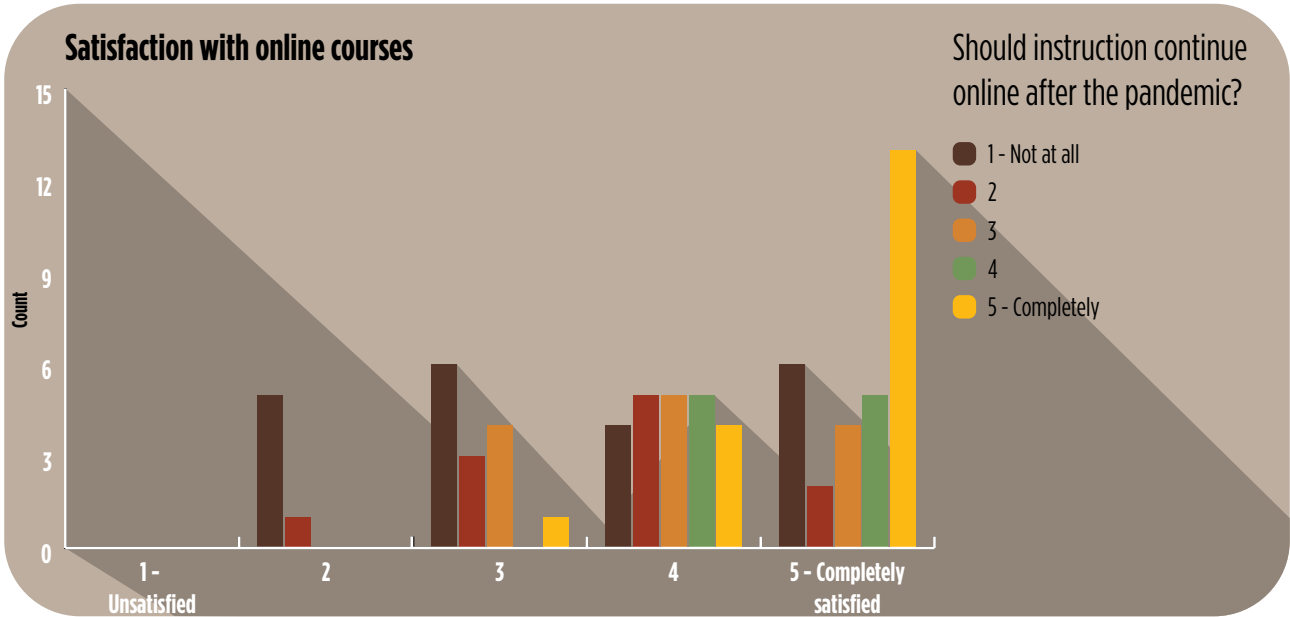
ence. Two thirds of the respondents who reported never experiencing technical challenges also reported being completely satisfied with their online courses.



The satisfaction with the online training has a statistically significant (0.01) moderate correlation (0.48) to their views on

continued online training after the pandemic.

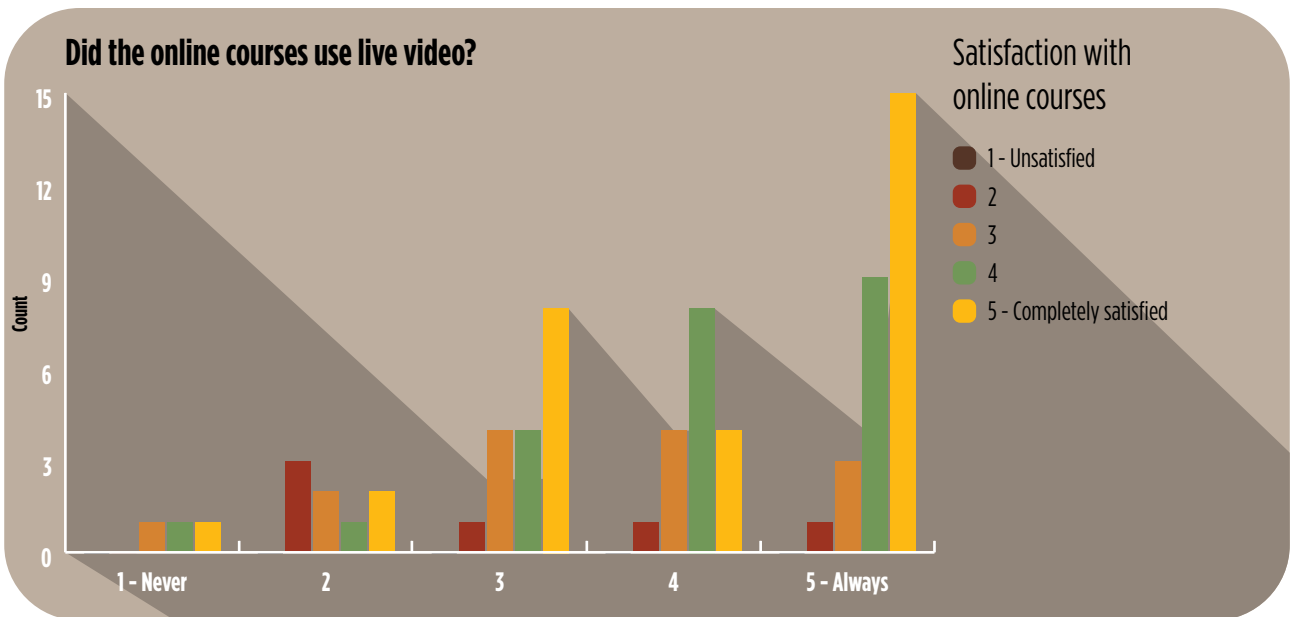




### Use of technology

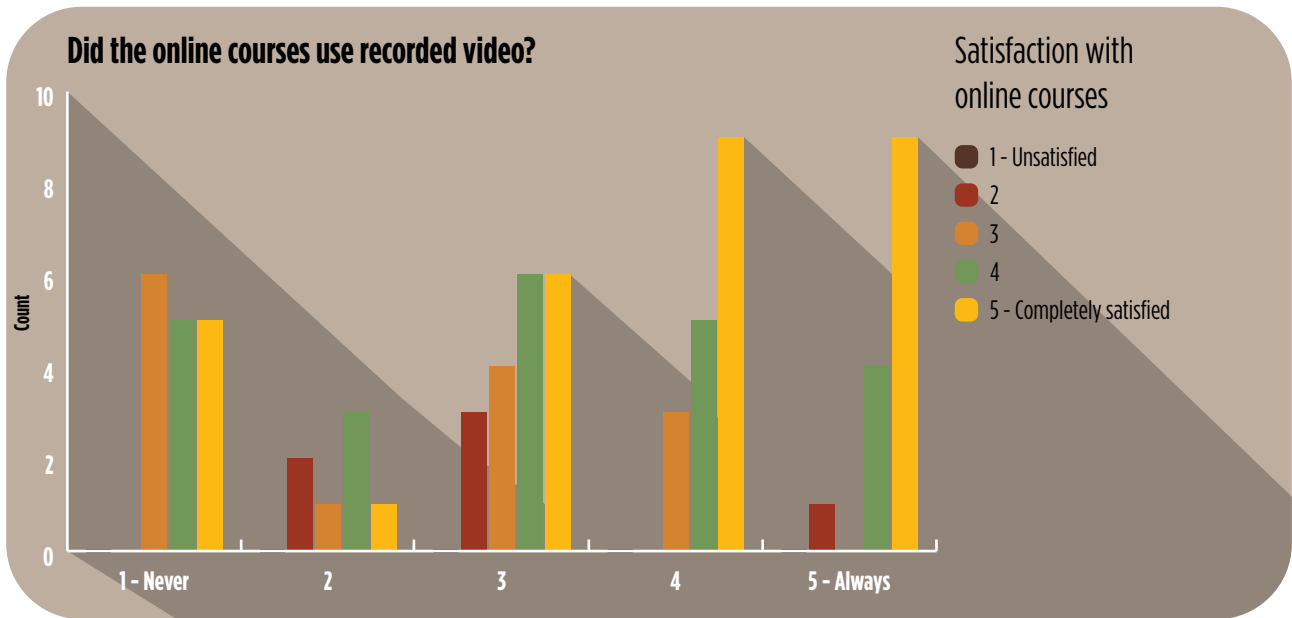
The frequency of live video instruction seems to have a positive influence on satisfaction with the online courses. There is

a statistically significant (0.05) weak correlation (0.25) between the reported use of live video instruction and satisfaction with the online training.



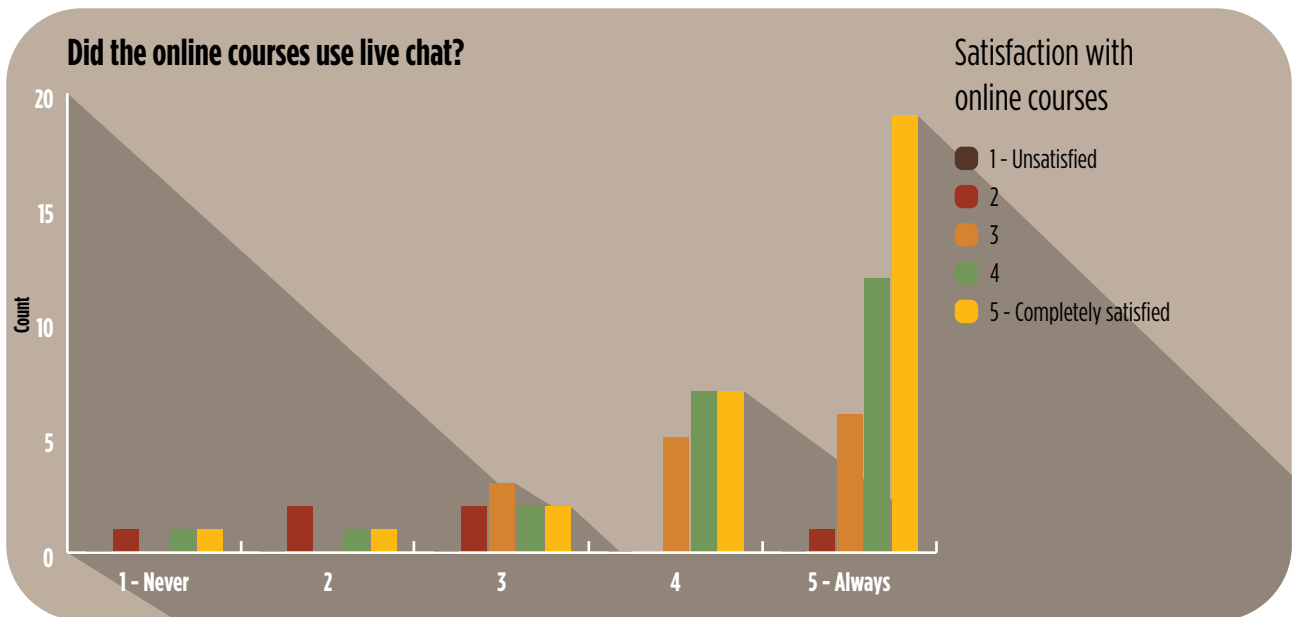
Learners were also positive about the use of recorded video in courses. The frequency of use of recorded video also seems to have a positive influence on satisfaction. There was a statistically significant (0.05)

weak correlation (0.26) between the reported frequency of use of recorded video instruction and satisfaction with the online training.



The use of live chat seems to have a slightly greater positive influence on satisfaction with the training than the use of both live and recorded video. There was a statisti-

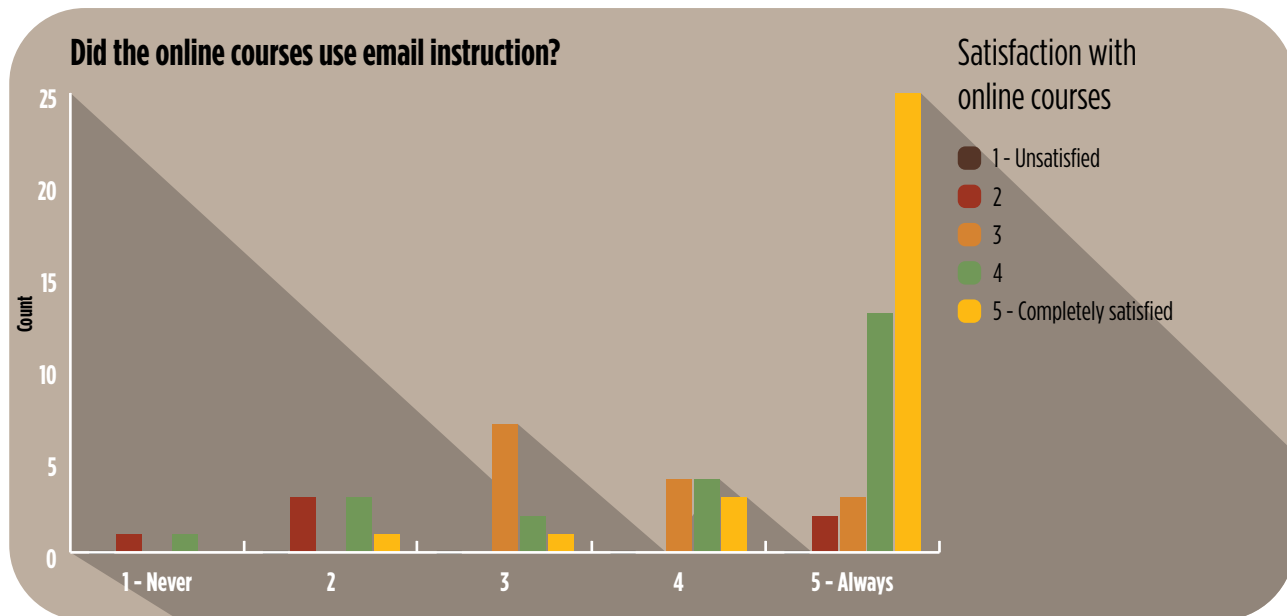
cally significant (0.01) weak correlation (0.32) between the reported frequency of use of live chat and satisfaction with the online training.





The use of email instruction also seems to influence satisfaction with the online training. There is a statistically significant (0.01) weak correlation (0.39) between

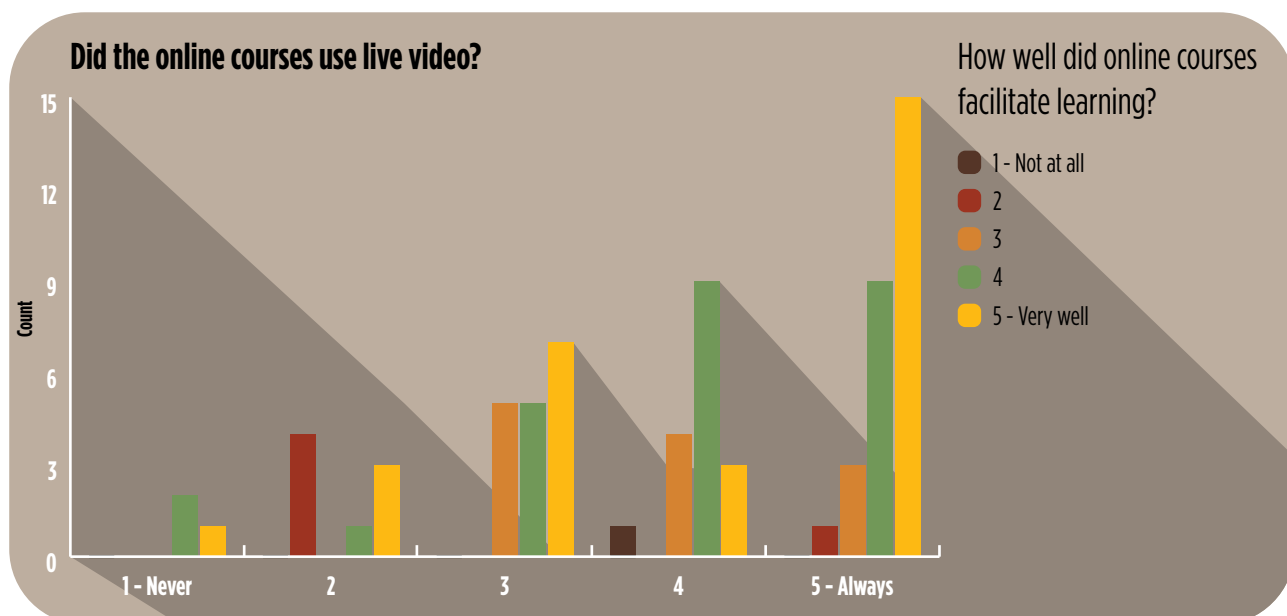
the frequency of use of email instruction and satisfaction with the online courses.



### Effectiveness of online training

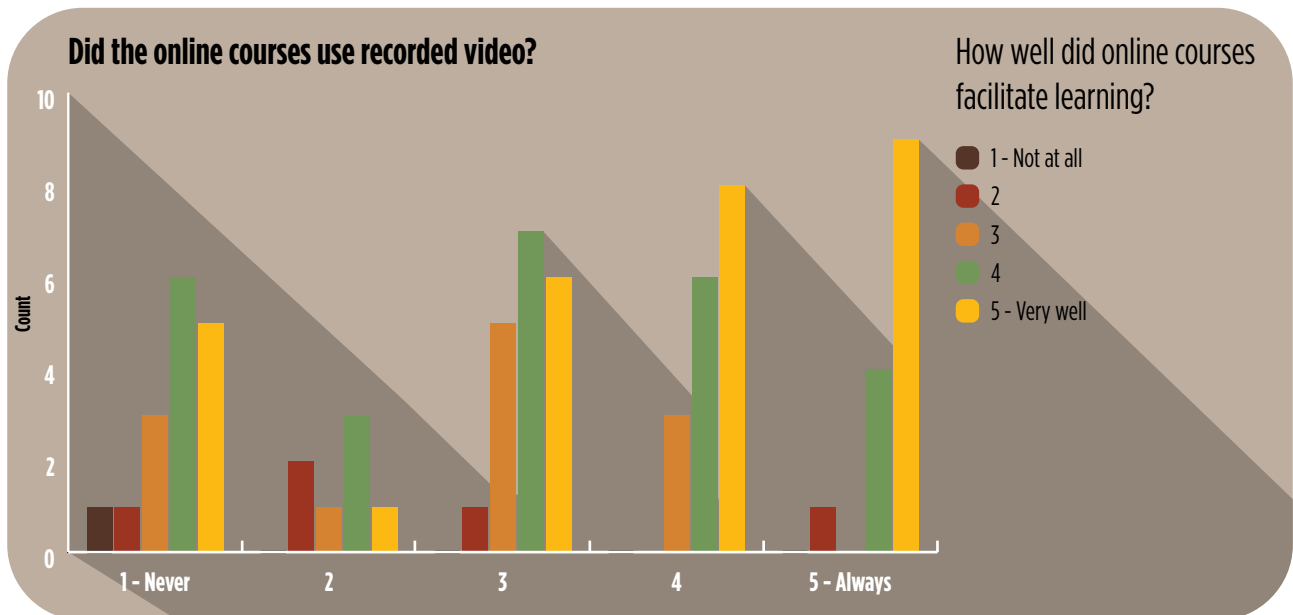
There was no statistically significant correlation between the frequency of the use

of video and the question of how well the courses facilitated learning.



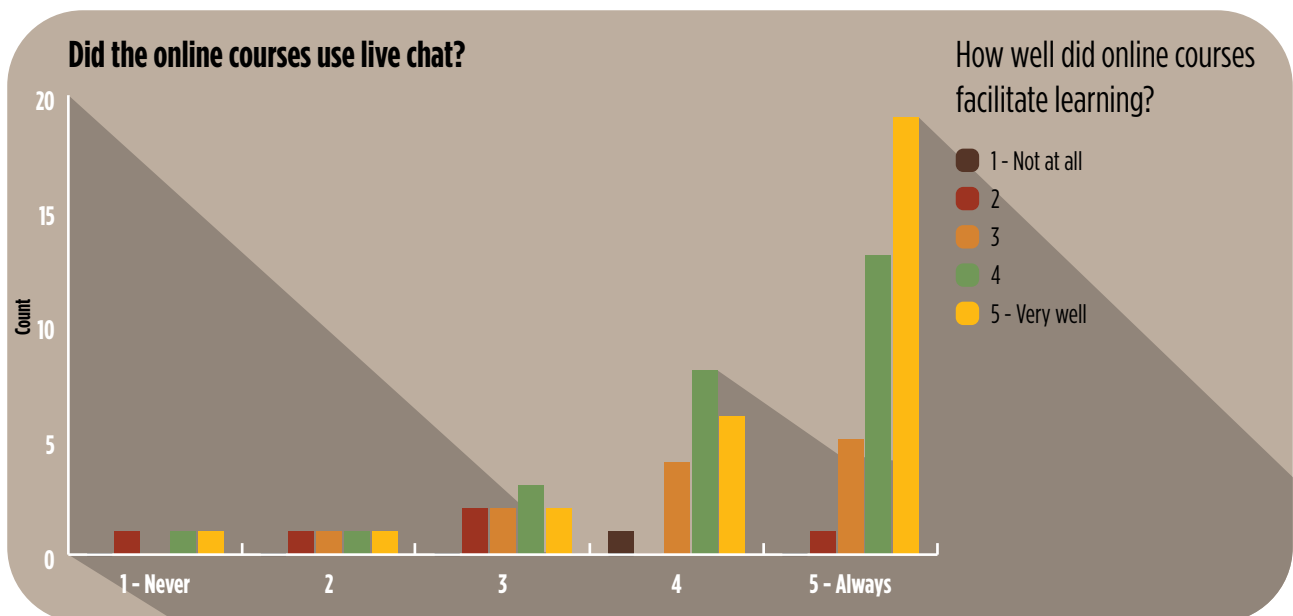
The responses showed a statistically significant (0.05) weak positive correlation (0.29) between the frequency of the use

of recorded video and the perceived effectiveness of the training.



There was a statistically significant (0.05) weak positive correlation (0.29) between

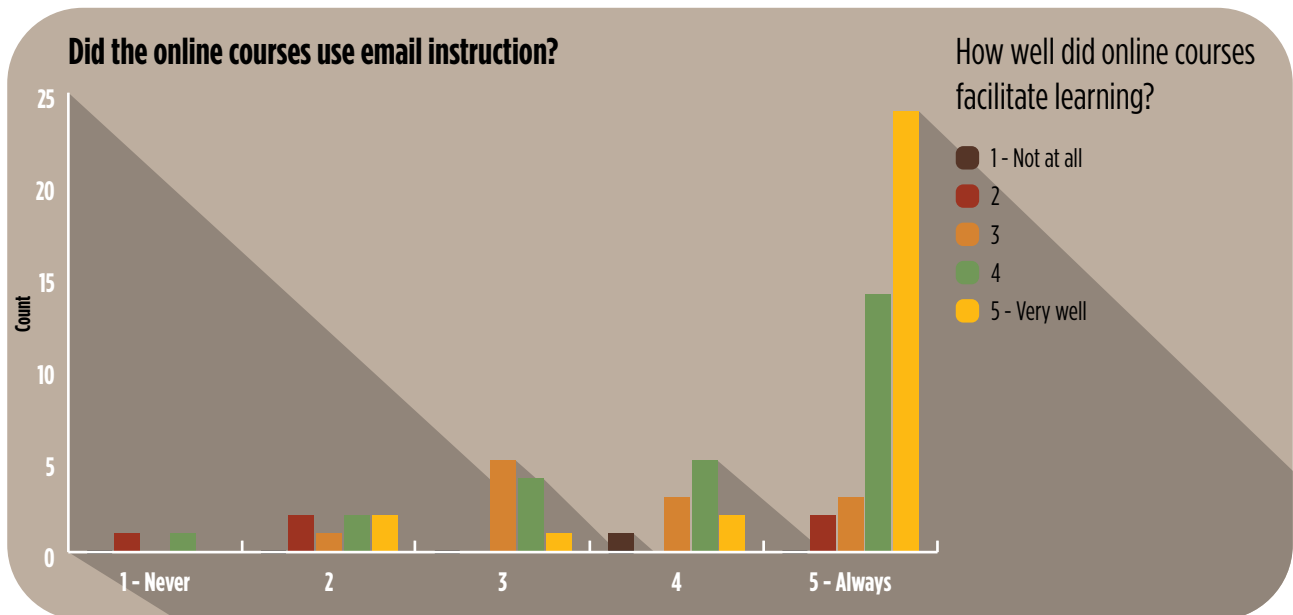
the reported use of live chat and the view of the effectiveness of the online training.





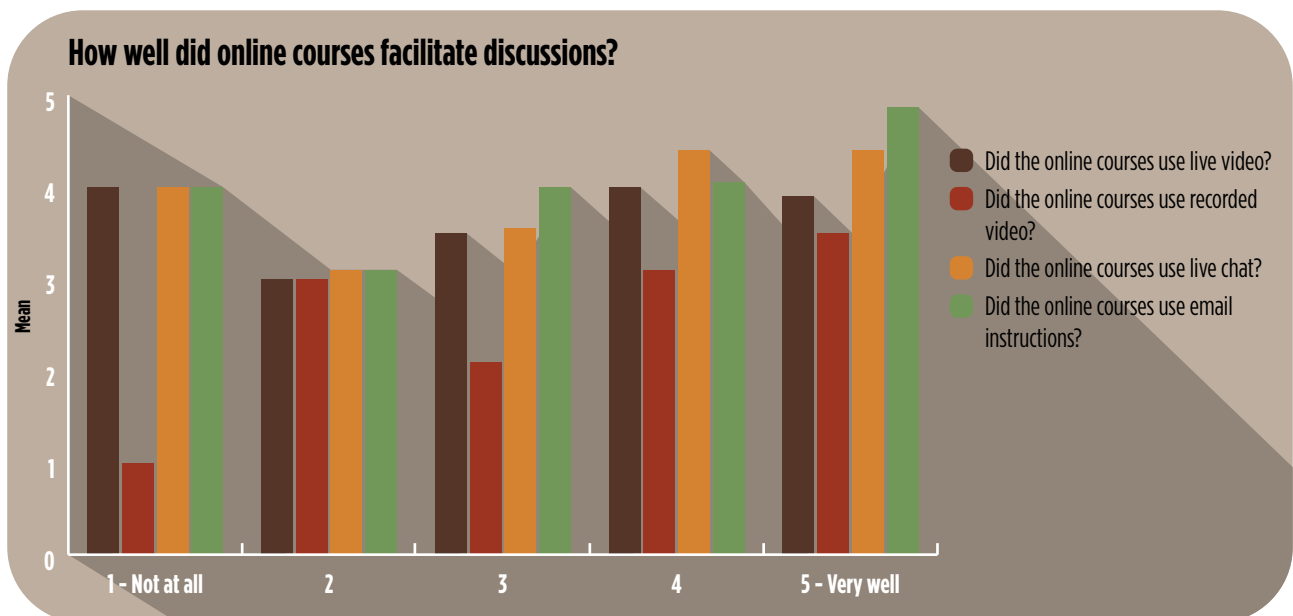
There was a statistically significant (0.01) weak positive correlation (0.39) between the frequency of use of email instruction

and view of the efficacy of the online courses.



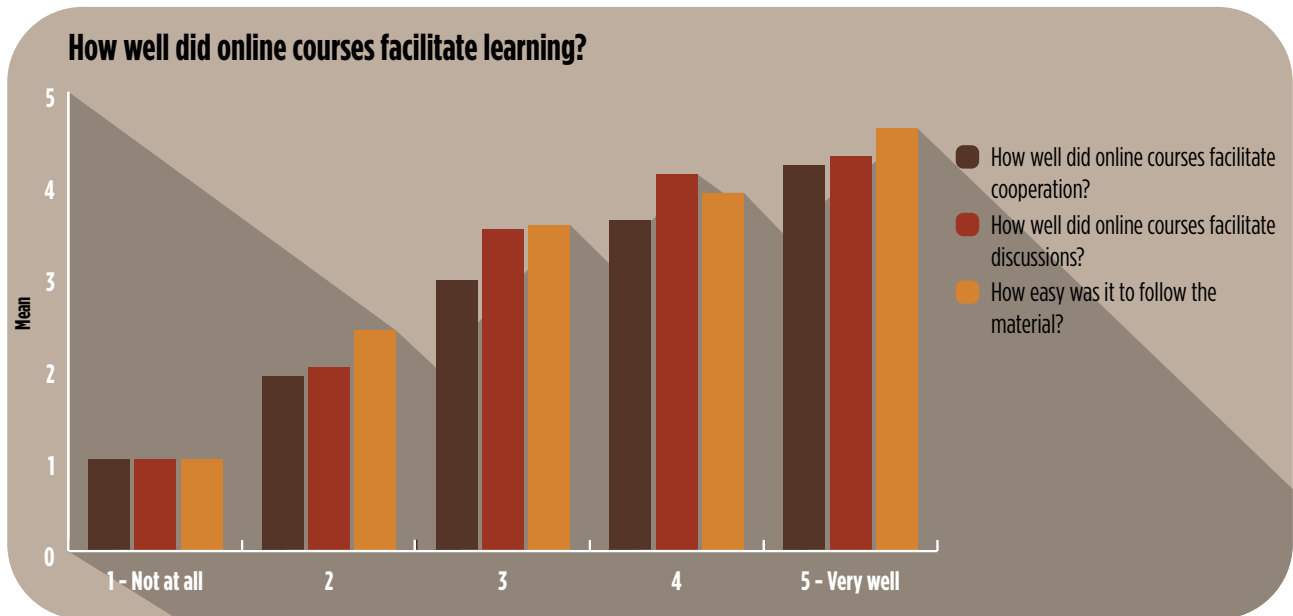
There were statistically significant correlations between the reported frequencies of use of recorded video, chat and email

instruction to how well the courses facilitated discussions.



The respondents, who found that courses facilitated cooperation and discussions, and that the material was easy to follow, were also happy with their learning outcomes. There was a statistically significant

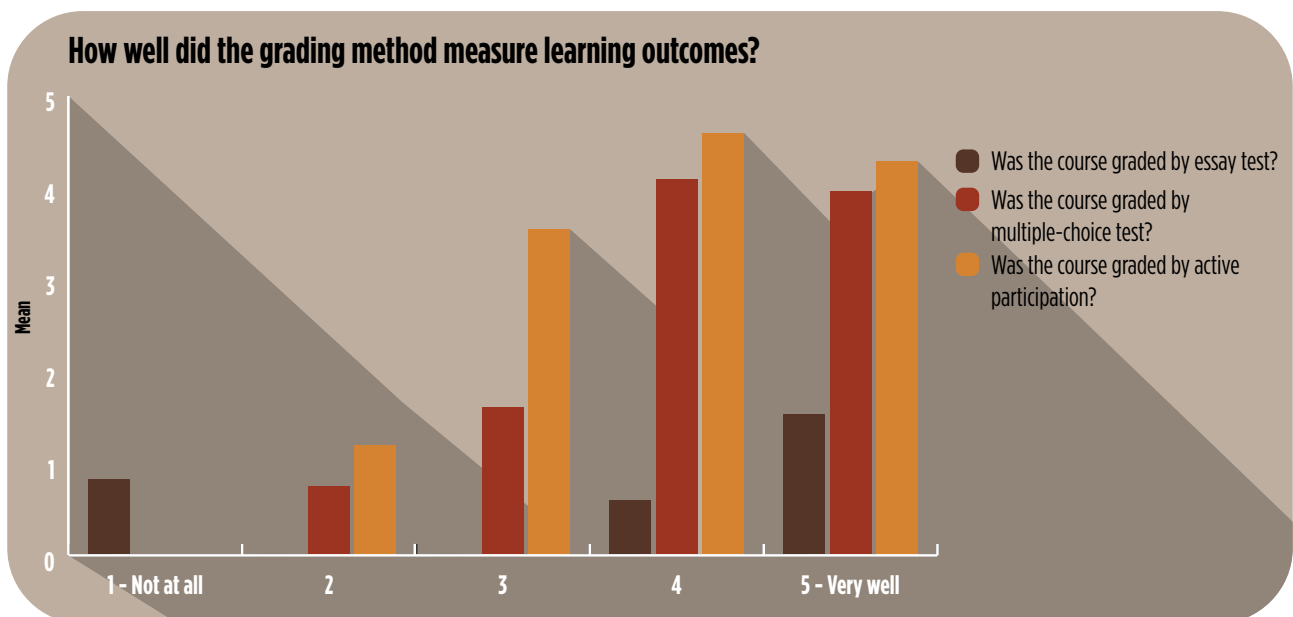
(0.01) moderate to strong correlation between facilitation of cooperation (0.70), facilitation of discussions (0.66) and easy to follow material (0.70), and how well the online courses facilitated learning.



### Grading

The respondents reported differences in how well different grading methods measured the learning outcomes. There was no statistically significant correlation between the use of essay tests and the ques-

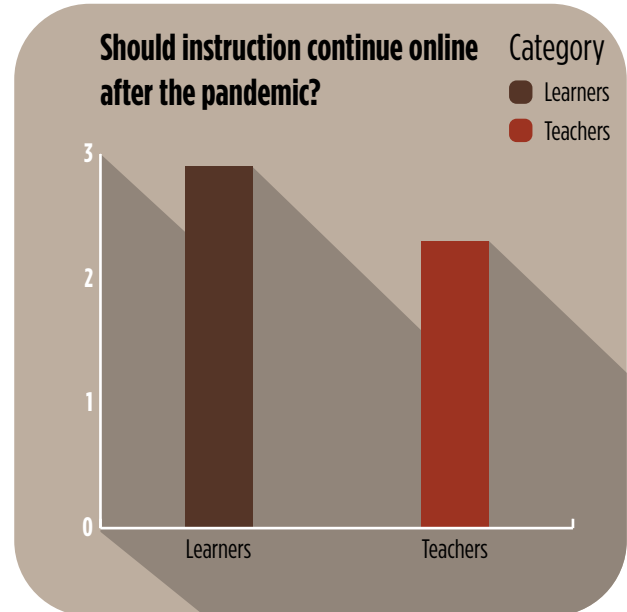
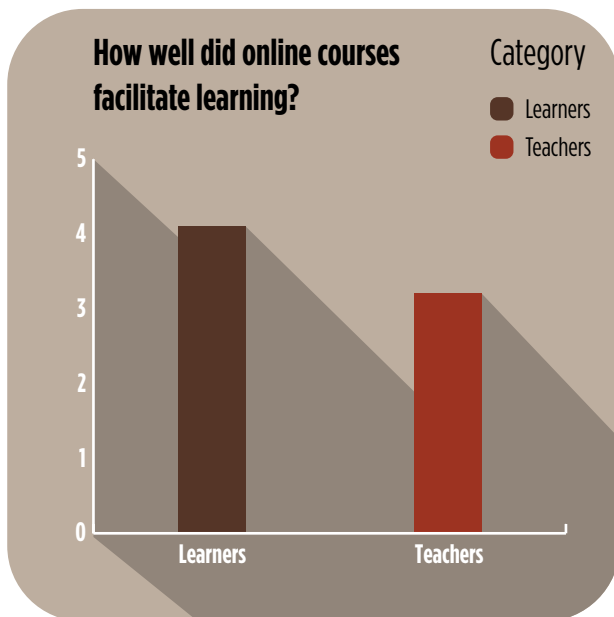
tion of how well the grading measured the learning outcomes. Both multiple-choice tests (0.41) and active participation (0.39) had a statistically significant (0.01) positive correlation with views on the efficacy of the grading.





## Comparing teachers and learners

The questions posed to both teachers and learners allow for a comparison of key metrics between the groups. The responses show that learners rate the efficacy of online training higher than the teachers do. In fact, their average response is 31% higher than that of the teachers.



Overall, both teachers and learners are sceptical towards continuing online training after the pandemic. On average, the learners are 18% more positive towards online training than teachers. One hypothesis for explaining this difference could be that the attitude to online training is related to the impression of its efficacy: Learners have a better impression of the online learning outcomes and are therefore more positive to continued online training.

# EUROPEAN BEST PRACTICE

## Training strategies

The European Union has taken several initiatives to promote judicial training strategies, including the Communication from the European Commission to the European Parliament and the Council concerning judicial training from 2006.<sup>7</sup> The Commission based this initiative on the fact that with the Amsterdam Treaty coming into force in 1999, the EU had gained a new dimension, as it was now tasked with creating an ‘area of freedom, security and justice’.

That initiative had focus on a wide range of learners, comprising judges, prosecutors and lawyers, but also had a narrow subject focus since the initiative was to support the ‘sound application of the Community legislation and full respect for the fundamental freedoms recognised by the Treaty’. Thus, the initiative in 2006 did not aim to harmonise the training of judges, prosecutors and lawyers, but only to ensure an adequate knowledge of EU law.

On the one hand, this entails that EU initiatives do not offer direct support for the operation of JTIs in Member States or economies in the process of integration into the EU, both of which form part of the SEE region. On the other hand, the EU initiatives may be regarded as examples of how cooperation between JTIs may be developed, which is essential for operation of cross-border aspects of the area of freedom, security and justice.

<sup>7</sup> COM(2006) 256 final of 29 June 2006.

<sup>8</sup> COM(2011) 551 final of 13 September 2011.

<sup>9</sup> SWD(2019) 380 final of 25 October 2019.

## Networks and associations

The 2006 initiative also refers to the European Judicial Training Network (EJTN), which was established in 2000 to support the building of a genuine European area of justice and to promote knowledge of legal systems, thereby enhancing the understanding, confidence and cooperation between judges and prosecutors within EU states. The EJTN works with the European Commission and nearly 40 EU national judicial bodies, covering judges and prosecutors.

For lawyers, the Council of Bars and Law Societies of Europe (CCBE) represents the bars and law societies of 45 countries and, through them, more than 1 million European lawyers. The CCBE acts as a consultative and intermediary body between its Members and between the Members and the institutions of the European Union on cross-border matters of mutual interest. Although the training of lawyers falls outside the direct scope of JTI strategies, the views of the CCBE regarding the EU initiatives remain of interest.

The 2006 initiative was followed up in 2011 by the communication from the Commission on building trust in an EU-wide justice, which was presented as a new dimension to European judicial training.<sup>8</sup> The strategy was later reviewed in the Commission staff working document on the 2011-2020 European judicial strategy,<sup>9</sup> which underlined that European judicial training is a





shared competence and requires action by the justice professions, as well as the Member States and the EU. A focus point for the review was as assessment of the financial support related to European judicial training in Member States, as well as in candidate and potential candidates that were preparing for membership and the neighbourhood countries.

The review concluded that the judicial strategy had created political momentum, which prompted increased commitment to judicial training by both EU and national bodies, if it was backed up with additional funds. However, the operational objective remained narrow in the sense that it was defined as training half of all legal practitioners on EU law between 2011 and 2020, which was to be achieved by training 5% of each category of judicial practitioner each year.

The EJTN has been widely praised for high-quality cross-border training offered to judges and prosecutors in the EU, and for its contribution to increasing the number of participants, training activities and exchanges. The role of other EU-level training providers, such as ERA in Trier and EIPA in Luxembourg, and networks, such as CNUE for notaries and CCBE for lawyers, has also been deemed instrumental in furthering training on EU law for these professions.

## Approaches to judicial training

It has been underlined that the nine 'Judicial training principles' established by EJTN have become a general reference in the judicial world. These principles comprise in summary:

- Multidisciplinary and practical training, essentially intended for the transmission of professional techniques and values complementary to legal education
- Initial training before or on their appointment
- Regular continuous training
- Training as part of the normal working time
- Judicial independence in the design, content and delivery of judicial training
- Delivered by judges and prosecutors
- Active and modern educational techniques
- Member States to supply sufficient funding and other resources
- Highest judicial authorities to support judicial training

In that regard, training may be characterised as having either an inspirational or an instructional character. In practice, most training includes a combination of both approaches, as one may support the other. Thus, classic university education aims mainly to be inspirational so that the student is motivated to seek knowledge through research. However, in order to undertake independent studies, the student may need instruction in research skills and basic knowledge of the subject area.

Likewise, while instructional training seeks to transfer a static set of skills, the trainee will benefit also from inspirational training in order to promote updating those skills through independent studies. However, it seems clear that the nine principles have focus on distinguishing professional training from university studies, and on providing updating through continuous professional training that is to form part of the working life.

With that approach, many of the reservations that traditional university programmes would have with the diminished interpersonal contact in E-learning may become less relevant for professional judicial training. At the same time, many universities have moved legal education from inspirational towards instructive training, partly in response to students having work obligations and less availability for research and independent studies.

That has implications also for JTIs since unlike what is stated in the first of the nine principles, it cannot always be assumed that trainees will have the prerequisite learning skills that form the basis for benefiting from purely instructional training to be provided by the JTI. In turn, that increases the demands on JTIs to overcome the limitations imposed by E-learning.

### Training strategy

At the EU level, a new judicial training strategy was presented in 2020 by the Communication from the Commission to the Parliament and Council, as well as the Economic and Social Committee, representing business interests and civil society, and the Committee of Regions, representing local interests within Europe.<sup>10</sup>

Delivered at the time of the Covid-19 pandemic, the strategy might have been ex-

pected to have a central focus on the use of E-learning. However, the text mainly underlines that top-quality E-learning and access to E-resources on EU law should become a reality for all professionals. They should complement and multiply the benefits of in-person activities with up-to-date material and stand-alone learning tools in order to make the best possible use of E-justice.

More specifically, the strategy underlines that training should make better use of new technologies to reach a wider audience and support the quality of training. In a footnote, this is exemplified as:

- Virtual face-to-face training: interactive virtual classroom
- Virtual reality: virtual training environment accessed with digital devices
- Augmented reality: a real-world environment enhanced by computer-generated perceptual information
- Mixed reality: virtual elements added to the reality

Reference is made to the *Advice for training providers* developed by the Commission,<sup>11</sup> which states that technology-based training can have several advantages:

- It makes it possible to reach more participants
- It can be more cost-effective than face-to-face training
- It works with legal practitioners' busy schedules
- It caters for an alternative learning style
- It needs to be updated regularly.

<sup>10</sup> COM(2020) 713 final of 2 December 2020.

<sup>11</sup> Advice for training providers - European judicial training (2015), ISBN 978-92-79-51007-6.



Further, the Commission defines three main forms of E-learning tools:

- Webinar (short for web-based seminar): presentation, lecture, workshop or seminar that is transmitted over the internet using video conferencing software
- Podcast: audio or video recording of face-to-face training that is available in digital format for download over the internet
- Massive open online course (MOOC): course made available free of charge to a very large number of people, delivered online in the form of videos and exercises

Likewise, reference is made to the *Handbook on judicial training methodology in Europe* developed by EJTN,<sup>12</sup> which states that technology-based training has emerged as an alternative to instructor-led training, and that the benefits of E-learning are at present well established if the resources are taken into account. The major advantage is the number of people that can be trained, and that E-learning is more cost-effective, as it allows judges to combine their duties with the continuous learning process.

However, the handbook also underlines that a practical approach to training involves more than online interventions in distance learning, and it promotes blended learning:

- Different methods to facilitate learning: lecture, discussion, guided practice, reading, games, case study, simulation
- Different delivery methods: live classroom or computer mediated

- Different scheduling: synchronous or asynchronous
- Different levels of guidance: individual, instructor or expert led, or group or social learning

Against that background, the handbook concludes that web-based training can never and should never replace in-person learning, especially in initial or induction training. On the other hand, it is also stated that introductory E-learning modules may result in a more homogeneous standard within a group of trainees before the actual group training starts. Both of these statements would seem to place distance learning in a limited and subsidiary position.

However, the handbook also refers to multimodality, as a concept loaned from theory of communication and social semiotics, which is used in training strategies to combine several training methods in an appropriate training architecture. An example is provided for multimodal training that comprises:

- Brainstorming
- Short lecture
- Group work for problem solving
- Feedback
- Lecture to summarise results or a debriefing

Thus, blended learning may be characterised as a first step, where different training methods are brought together, while multimodal training forms a second step where different elements of blended learning are placed in a sequence that adds further to the learning effect.

The 2020 strategy was the subject of a conference organised 6-7 May 2021 to

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12 EJTN Handbook on Judicial Training Methodology in Europe (2016).

discuss modernising EU justice systems by boosting the training of justice professionals, which also produced a report.<sup>13</sup> The conference was based on the conclusions adopted by the Council of the EU,<sup>14</sup> and the report states that all justice practitioners will additionally need training on non-legal knowledge and skills provided by such professionals as behavioural and social scientists, as well as psychologists.

The EJTN Handbook was presented at the conference, and national reports on training methodologies included the Law Society of Ireland, which uses Moodle open-source platform that encourages interactivity. Additionally, on-demand lectures are recorded through the Panopto software, with courses that are compatible across all devices.

The main conclusions of the conference included:

- Emerging training needs require increasing the capacity of judicial training providers – this is where funding is important
- A key advantage of digital platforms is that training actions are recorded and freely accessible to those who cannot attend
- Blended training can help to encourage trainees and judicial staff to be autonomous, skilled and motivated, and to cultivate an engagement with the learning content
- Training in the future is likely to be multifaceted and to make use of a mixture of both online and onsite tools and events

The EU was represented by the Directorate-General for Justice and Consumers, which presented the concept of E-capsules that forms part of the 2020 strategy. The objective is to encourage training providers to make more use of E-capsules to deliver focused E-training targeting immediate needs, and the implementation foresees:

- Identification of a list of topics for E-capsules
- Identification of an IT environment in which E-capsules will be delivered
- Development of a template for E-capsules
- Delivery of E-capsules that can be easily updated by anyone, beginning with pilots

Finally, the report concluded that the European Training Platform (ETP) would help all types of justice professionals to train themselves on EU law-related matters. This platform is a search tool where legal practitioners and justice professionals may find training courses and self-learning materials. Training providers are supposed to supply information regarding the training activities they organise in the EU, and the Commission will contribute to the platform with ready-to-use training materials or handbooks.

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<sup>13</sup> Modernising EU Justice Systems by boosting training of justice professionals (2001), ISBN 978-92-76-40540-5.

<sup>14</sup> 6926/21 of 10 March 2011.



## Council of Europe

In the same manner as the EU has placed focus on the learning of EU law, the Council of Europe has focused especially on the learning of the principles of the European Convention on Human Rights. This includes the Human Rights Education for Legal Professionals (HELP) courses, which are freely accessible online.

However, in the Kyiv Recommendations on the Content and Methodology of Judicial Training,<sup>15</sup> training methodologies are addressed, and it is stated that judicial training should strive to ensure that theoretical knowledge is combined with

instruction and practical assignments on how to apply it in practice, in particular, by using interactive training methods, including Socratic methods and moot court exercise methods, so that each judicial training beneficiary will be able to apply the learning in daily work.

More specifically, the importance and benefits of self-learning as well as the IT tools and online learning platforms available, are underlined and it is recommended that national institutions for judicial training should encourage participation in distance learning courses and facilitate the use of available resources.

# TECHNOLOGY AND TRAINING

## Learning goals

It is best practice that every course has explicitly stated learning goals. Such goals ensure that each course contributes to the overarching objectives of the educational programme. Specific and measurable learning goals are also essential for designing a course and measuring its success. The goals guide the teachers in choosing the pedagogical approach and type of assessment. They also help learners understand the expectations of the institution and teachers.<sup>16</sup>

Learning goals can be divided into three categories: *knowledge*, *competencies* and *skills*.<sup>17</sup> *Knowledge* refers to the information on the concepts (ideas, methods, theories, approaches, perspectives, and themes) that learners should absorb during the course. *Competencies* relate to learners gaining a deeper appreciation of how different concepts relate to one another, being able to question or criticise assertions presented and form their own opinions on the issues covered. *Skills* involve using this information to solve specific questions or practical proficiency in finding new information when necessary.

Not all learning goals will be equally important for the objectives of the course. The level of achievement that is expected for each one needs to be stated explicitly. Some knowledge and skills will constitute prerequisites or background, other constitute the core purpose of the course. The goals should therefore specify what is expected from learners. This may for instance be specified as “an overview”, “a familiarity” or “a firm understanding” of a specific topic.

Since the learning goals play a key role in course design and choice of pedagogical approach, the goals will also influence the parts of a course that are best suited for online training.

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<sup>16</sup> An example of the learning goals of a hypothetical course is included as Annex 3.

<sup>17</sup> These categories are a simplification of Bloom’s taxonomy (Bloom, Benjamin S. Taxonomy of educational objectives, New York, McKay, 1956).



## Assessment and systematic ranking of E-learning tools

### Tools in use today

The E-learning tools reported to be in use among JTIs in the SEE region represent the most up-to-date commercially available software. They all contain the core

functions necessary for usage in online training. Offering video chat, screen sharing, sharing of recorded video, text chat and usage on different types of devices from the same platform have become an industry standard. The following table provides a comparison of the most popular platforms among the JTIs in SEE region:

| Platform        | Participants | Video chat | Screen share | Share recorded video | Text chat | Breakout rooms | Raise hand | iOS / Android app | Use in browser | Costs <sup>19</sup> |
|-----------------|--------------|------------|--------------|----------------------|-----------|----------------|------------|-------------------|----------------|---------------------|
| Adobe Connect   | 1-1500       | ✓          | ✓            | ✓                    | ✓         | ✓              | ✓          | ✓                 | ✓              | € 1 368             |
| BigBlueButton   | 1-100        | ✓          | ✓            | ✓                    | ✓         | ✓              | ✓          | x                 | ✓              | Free                |
| Cisco Webex     | 1-100        | ✓          | ✓            | ✓                    | ✓         | ✓              | ✓          | ✓                 | ✓              | € 285               |
| Google Meet     | 1-100        | ✓          | ✓            | ✓                    | ✓         | ✓              | ✓          | ✓                 | ✓              | € 84                |
| Microsoft Teams | 1-300        | ✓          | ✓            | ✓                    | ✓         | ✓              | ✓          | ✓                 | ✓              | € 132               |
| Zoom            | 1-300        | ✓          | ✓            | ✓                    | ✓         | ✓              | ✓          | ✓                 | ✓              | € 228               |

### Criteria for assessment

Since these E-learning tools have similar core functionalities, it is challenging to find many objective criteria for assessing and ranking them.

The subscription price is of course an objective criterion for ranking different platforms. Although open source alternatives, such as BigBlueButton, are free to download and use, they require local

hardware (a server) and support from trained IT-personnel. Such setup and running costs for open source software may be higher than purchasing commercially available products. When comparing the price of E-learning tools the comparison needs to be based on the true cost of usage of the software. The subscription cost for the commercial alternatives is highly dependent on the number of simultaneous meeting participants required and

<sup>18</sup> The price is calculated per host / per year. Prices are taken from publicly available price lists in November 2021.

type of licence. The prices outlined above are for individual licenses. The per-licence cost will drop to a fraction of this when purchasing in bulk or as a site licence. In addition, many JTIs will be included in common procurement schemes so that the platforms chosen by others will be free for them. The main downsides of such arrangements is that the JTIs may have little influence over what platforms are chosen and may be barred from purchasing other video conferencing software if they feel the provided option has deficiencies. The price, seen in isolation, is a poor criterion for choosing E-learning tools. In most cases, it would be a false economy to choose the cheapest option if it does not simultaneously offer the greatest potential for learning. The price should not only be compared to the alternative platforms, but should be judged by the savings effective online training can offer compared to in-person instructions. JTIs may save more than the software costs on travel, rent of meeting rooms and catering.

Ease of use is not an objective standard, but it should nevertheless be an important criterion for choosing a software platform. The primary concern should be how easy teachers and learners find using a specific E-learning tool. In the surveys, both groups reported that technical issues cropped up in a significant number of their classes. Even though the questions did not address the extent to which such problems disrupted learning, the goal needs to be to choose technology that minimises such issues. One way to reduce the frequency of technical issues is to choose software that is well proven and with which the users are familiar. Introducing new software will require time during the beginning of a course to explain how everything works, for example how learners can communicate with other participants and how they

can get the teachers' attention. From the user's perspective, it is better to choose a single platform for online training than switching between different ones.

The choice of software should also take into consideration the equipment the learners have available. If courses are conducted during office hours, when learners are at work, in most cases they will have access to modern computer equipment and a fast internet connection. If the learners are attending a course from home, the computer equipment they have available may not be of the same standard and the internet connection may not be fast and stable enough to sustain video conferencing. Unless their employers have provided computers learners can use at home, the capabilities of the learners' equipment may vary greatly. Some may not have access to a computer capable of running the newest software, while others may lack a web camera or a microphone. The emphasis should therefore be to choose a learning platform that supports older hardware on slower connections and offers flexible options for connecting, for instance through an app on a smart phone or a tablet.

Consideration of the equipment available is even more crucial for teachers. Unless they are teaching from their regular office or a dedicated studio, the teaching institution should provide the necessary hardware, including a computer, microphone and web camera. If they teach from home, it may also be necessary to upgrade their home internet connection in order to accommodate the required bandwidth.<sup>19</sup>

The main considerations, when choosing a platform for E-learning needs, will be to include a review of costs, specific capabilities and existing contracts. Institutional constraints relating to budgets and public procurement may make it difficult to

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<sup>19</sup> As a rule of thumb at least a 1.5 Mbit connection is required for video conferencing.





accommodate the specific preferences of teachers and learners in the choice of software. The primary concern should nevertheless be the effectiveness of the training they can facilitate.

### **Ranking and assessment**

As mentioned above the core functionality of the E-learning tools assessed and ranked are very similar. The differences between them should therefore not be exaggerated. In addition, the E-learning tools available and the functionality that they offer increases continually. The evaluations offered below may therefore quickly become outdated.

#### **No. 1: Zoom**

Zoom Meetings was a new and relatively unknown app before the pandemic, but quickly became the industry leading video conferencing software. It offers top-notch performance combined with affordability. Its generous free plan means that many learners will have used it for video calls privately and are more familiar with its functionality for use in an E-learning context. Zoom is the most popular E-learning tool both among JTIs and in general around the world. It reportedly has 300 million daily meeting participants and facilitated more than 3 trillion meeting minutes in 2020. Zoom's usage in everything from primary education to broadcasting proves its flexibility and ease of use. In addition to the core video conferencing functionality, Zoom offers learners the ability to raise a hand, indicate a thumbs-up or clap, functions that are useful for improving interactivity in online education.

#### **No. 2: Microsoft Teams**

Microsoft Teams offers a diverse range of features and connectivity with other Microsoft apps. Although it is geared toward managing a remote workplace, it has the flexibility to function in an online teaching

environment. Teams has around 145 million daily users and it is therefore not as prevalent as Zoom. Four of the teachers surveyed reported using Microsoft Teams, but none of the JTIs seems to offer it as an option for E-learning. Like Zoom, Microsoft Teams offers functionality to raise a hand, but no simple gestures for voting or indicating satisfaction.

#### **No. 3: Cisco Webex**

Webex is a video conferencing solution geared towards business. It offers an intuitive interface and many options for collaboration and screen sharing. Although Cisco offers free plans, the commercial subscriptions necessary for JTIs are more expensive than its competitors are.

#### **No. 4: Adobe Connect**

Adobe Connect is, like Webex, geared towards business use. It offers integration with other software that is essential for collaborative work online, but is not particularly useful for E-learning. Adobe Connect does not offer any free options, so it is unlikely learners will have experience with the software or its interface from before.

#### **No. 5: Google Meet**

Google Meet offers generous free options and reasonably priced subscriptions for medium-sized organisations such as JTIs. Google Meet does not require an installation of a separate app if the learners have the Chrome browser. This also means that Google Meet offers excellent cross-platform compatibility. The seamless integration with other Google apps such as Calendar and Google Drive is also very useful.

#### **No. 6: BigBlueButton**

BigBlueButton is open source software developed for use in E-learning and not primarily for meetings or online collabora-

tion. The main selling point for the software is that it is free to install and use. The main drawback is that JTIs will need to provide their own servers and IT support or purchase these services through

an online provider. BigBlueButton runs in any modern web browser and it does therefore not require the installation of a separate app and offers excellent cross platform capability.



## E-learning methods

### Distance learning

The use of distance learning does not constitute a new phenomenon, since correspondence courses have existed for a very long period, and since electronic communication has been used for this purpose for more than 20 years. However, the blended approach has been common to previous forms of distance learning, whereby online training would be combined with in-person training elements.

With the onset of the Covid-19 pandemic, training institutions have been faced with the need to remove the in-person training elements in order to limit the further spread of the pandemic. One of the questions raised in the present survey was whether this practice should continue after the pandemic subsides.

As reported above, teachers mostly disagreed with this proposition, with one third disagreeing strongly. This may be regarded either as a sound pedagogical point of view or alternatively as a deeply conservative view. Likewise, on the one hand, the well-established nine judicial training principles of the EJTN include the recommended use of modern educational techniques, but on the other hand, the EJTN Handbook states that online training can never and should never replace in-person learning.

We would agree with this reserved approach to whole-scale distance learning, which is based on personal experience from more than 35 years of teaching. Even with the pedagogically fragile format of a lecture for several hundred of students, situations will occur that may be compared with an impression of surfing. Through the eye contact and the physical presence of the lecturer, the entire body of students embark on a journey of learning discovery,

and important principles are both disseminated and internalised.

That collective experience appears very difficult to recreate in distance learning, and it may be compared with the difference between recorded and live experiences of artistic performance. Likewise, it may be compared with the dispensing of justice in the courtroom, where again the eye contact and physical presence of the parties and the judiciary serve to create the moment where justice is not only seen to be done, but also dramatically experienced as having been done. That view would seem to place limits also on the possible use of E-justice.

### Technology and learning

As acknowledged above, the restrictive approach to E-learning may be dismissed as purely conservative in the sense that it invokes a revival of the Luddite protest movement during the days of the early industrial revolution, calling for a storm against and destruction of the new machines of the industrial age. On the other hand, as reported above, learners expressed a high level of satisfaction with distance learning, which correlated significantly with their view on whether distance learning should continue after the pandemic.

This might be explained by the presence of a new generation of learners, who more than previous generations have grown up with media relations as a part of daily life. This includes both passive formats, such as the watching television, and active formats, such as exchanges on social media. Indeed, this has become a problem for in-person training, since students may be physically present in the classroom, but mentally absent in the social media.

One reaction to this, which may also characterised as Luddite, has been the banning

of laptops and other means of electronic communication from the classroom. However, such bans negate the advantages of electronic note-taking, availability of texts on which discussions are based, and the possibility of checking information. These are all tools that the trained lawyer will also rely upon in the present day courtroom.

A similar problem exists in relation to examinations, where limitations on the use of electronic tools may diminish the risk of cheating. However, this also skews the examination, as the student is forced to adopt a different set of working methods for the sole purpose of the examination. The better response would seem to be adopting different forms of examination that are less open to cheating, and combining this with electronic countermeasures against the seeking of advice from outside parties.

The adoption of different training formats would likewise seem to be the better response to the loss of student attention in the classroom. Thus, the EJTN focus on blended learning again becomes relevant, as engaging the trainees in different active forms of learning will serve to diminish the risk of loss of attention. However, that calls for an active management of the blended learning, which the EJTN refers to as multimodality.

### **Artisan training methods**

The nine training principles developed by EJTN include that training intended for judges and prosecutors should be delivered by judges and prosecutors. This may be compared with the dilemma in legal translation, where emphasis may be placed on either the linguistic skills or the legal knowledge of the translator. The Court of Justice of the European Union has made a clear choice in this regard, as it only employs lawyers as translators.

The focus on training done by subject professionals may also be compared with the artisan training performed in previous generations. The focus was on the skills of the master artisan, who would pass on those skills to apprentices employed by the artisan. In many economies, this also used to be the main approach to bar qualifications. Furthermore, teaching by professional lawyers has been a practice of many universities, without much focus on the pedagogical skills of the teacher.

Such approaches may be questioned for many reasons and in many economies artisan training has largely been replaced by or at least supplemented with professional training programmes. This also applies to bar qualifications, which in most economies now are subject to attending training programmes and passing bar examinations. However, such changes do leave open the question of whether the trainer should better be an artisan or a pedagogue.

At the university level, it may be argued that a balance exists, whereby illustrious professors may deliver the inspirational training referred to above, whereas artisans from the legal professions may transfer specific skills. Thus, this mix may be regarded as a vague form of blended learning for the law degree. However, as also noted above, especially private universities have in some economies moved away from inspirational training, replacing it with only the transmission of skills.

That can lead to an increased challenge for JTIs, which may face learners that have been insufficiently trained and inspired to undertake own research, who have become accustomed to a high level of passive media watching, and who are easily diverted by interaction with social media. It may be questioned whether the traditional artisan teacher is the best-placed person to counter these challenges.



We would agree with placing a focus not only on blended learning, for the purpose of activating the trainees, but also on multimodal training, whereby the different elements of the blending learning will come to represent not only diversity, but also a carefully developed plan for pedagogical interaction with the purpose of enhancing learning outcomes. This would seem clearly to call for a training staff with strongly developed pedagogical skills.

This is not to refute the value of artisan intervention, which firstly may serve the purpose of transmission of skills. Secondly, high-level artisans may also supply inspirational elements of training, which JTIs may need to consider as the possible reliance on the inspirational elements of university education diminishes in some economies. However, our main point is that the mix of elements in the blended learning must be carefully managed by pedagogical professionals.

## **Live and recorded training**

It is interesting that the survey of learners indicated that no substantial distinction was made between the use of live streaming and recorded video as long as these elements were combined with an interactive platform, such as chat rooms. Managing recorded video will also increase the possibility for quality control, editing and transmission, since any interruption may be addressed by reconnecting.

Against that background, the initiative of the European Commission to create a library of video nuggets may serve as a possible basis also for cooperation in the SEE. While language differences may diminish the possibilities for using a common library of such nuggets, the library may still serve as a source of inspiration for the participating JTIs.

## E-learning grading

### Definitions

Transitioning courses from in-person to online training must not mean a reduction in the achievement standards for the learn-

ers. In order to verify the achievement of the learning goals, it is crucial to have an effective evaluation system. Unfortunately, not all types of evaluation are suited to online training in the same manner as for in-person courses. Various grading forms include:

|                       |                                                                                                 |
|-----------------------|-------------------------------------------------------------------------------------------------|
| Multiple-choice tests | Tests consisting of a number of questions with pre-determined answer alternatives.              |
| Essay test            | Tests requiring a longer text that answers a specific question or discusses a designated topic. |
| Active participation  | Grading based on the learners' contribution and involvement during the course.                  |

### Multiple-choice tests

Multiple-choice tests can be an effective measurement of how much knowledge the learners have retained from the course, in essence what facts they remember. It is however challenging to create multiple-choice questions that are difficult enough to check the learner's level of knowledge and are not easily answered by those who did not pay attention. The key is to offer incorrect alternatives (distractors) that seem plausible. Sometimes the multiple-choice format can contribute to make the tests easier than it should be. For instance, if all the questions offer four alternatives, learners may be able to exclude one or two distractors, and thereby have a good chance of guessing the correct answer even when they do not remember it from the course. One technique to make multiple-choice tests more effective is to make them less predictable. In addition to the correct alternative and three distractors, it is possible to add two additional alternatives: "All of the above" and "None of the above". The tests could then include questions where all the alternatives

are correct, or none of them answers the question. This would make it substantially harder to guess the correct response and thereby make it a more robust test of what knowledge the learners have retained.

The main advantages of multiple-choice tests are that they can be completed and graded quickly. In an in-classroom setting it is possible to limit the sources that the learners have available while completing the test. This is more difficult if the test is administered online. Some platforms offer options of timing the test so that looking up the answers becomes more difficult, but in general any test taken over the internet should be considered open-book and the difficulty needs to be adjusted accordingly.

The main limitations of multiple-choice tests are that they only measure knowledge. In addition, it may require a considerable time and effort to formulate questions and plausible distractors.



## Essay test

Essay tests are a good way to measure the competencies learners have gained through a course. In order to make the learners aware of what is expected of them and limit the time needed for grading, the required length of essays should be specified. Generally, a maximum number of words are preferred as a limit of the extent of an essay. Defining a minimum length is not as important, since writing styles vary and short submissions often fail to answer the questions adequately. Setting the limits as a number of pages is not very practical, as it invites manipulation of typography (fonts, spacing and margins) to conform to the constraints of the assignment.

Specifying one or more questions that the essay should address can ensure that the learners stay on topic. Such an approach will also make it easier to create a rubric, a set of criteria that determine what grade a submission should receive. At the same time, the similarity of such essays will make them quicker to grade. Allowing the learners to choose their own topic that discusses the contents of the course is a more challenging test. Having to reformulate the contents of the course in their own words, and applying it to new issues, will reveal how well the learners have understood the contents. Essays with varying topics will of course be more difficult to grade.

The main disadvantages of an essay test are the demand they place on the learners: they require both time and a sustained effort to complete. Essay tests are also time consuming to grade and if the learners are free to choose their own topic, it may be difficult to find a uniform rubric for the grading.

While grading of a multiple-choice test is clearly objective, the learners may not fully understand the criteria for evaluation of essay tests and feel that the grading is subjective. This may explain why learners in the survey had split opinions on their efficiency as a grading method.<sup>20</sup>

## Active participation

Grading a course on participation will generally be easier and more straightforward in an in-person learning situation than in online training. The online environment is less conducive for questions, discussions and other interactions than physical meetings. Unfamiliarity with the other participants and the inability to read body language makes learners less likely to speak during online training. Structuring the learners' contributions, for example through a flipped classroom or by assigning responsibility for comments, can ensure a minimum of activity in an online course.<sup>21</sup> Applying such methods will provide better grounds for grading a course based on the learners' participation.

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<sup>20</sup> See page 21.

<sup>21</sup> A flipped classroom means that learners prepare, under guidance from the teacher, a question or topic that they present for the rest of the course.

# STRATEGY AND GUIDELINES

The following recommendations for strategies and guidelines related to E-learning are based on the preceding analysis of learning methods and technology. The purpose of this final part of the report is to transpose the analytical conclusions to constitute practical steps in developing and applying the best approach to E-learning as a technological and pedagogical tool.

## Benefits and risks of E-learning

### Main benefits

One of the main problems encountered in training institutions is the management of human and room resources for in-person training. In relation to human resources, this involves the scheduling of trainers as well as trainees, where overlaps need to be avoided and where gaps in the training plan may be considered either advantageous pauses or problematic disruptions in the training day. Furthermore, changes imposed by cancellations, due to illness or other reasons, may set in motion a long chain of disruptions.<sup>22</sup>

In relation to room management, differences in the size of groups and needs for technical equipment may make it difficult to maintain a balance between overbooking and effective use of available rooms. Once more, changes imposed by cancellations or subscription to classes

may have downstream effects on other classes.

These problems are not automatically removed by switching to E-learning, but several problems are diminished, especially since recorded sessions may be used. With recorded sessions, also referred to as asynchronous training, the trainers have flexibility in undertaking the recording at their preferred time, while trainees will have similar flexibility in choosing when to attend the training session.<sup>23</sup>

As a further advantage, the use of audio-visual aids may be perfected rather than relying on the trainer writing and drawing on a blackboard or whiteboard, and rather than relying on the trainer undertaking the use of visual aids, such as slides, websites and video streams, while at the same time performing the training itself.

Several of these advantages will not be gained when switching to real-time E-learning, also referred to as synchronous training, since scheduling again becomes required, both for trainers and for trainees. However, a significant advantage remains in geographical coverage, since training may reach the entire economy, without the trainees having to travel to training centres.<sup>24</sup>

During the Covid-19 pandemic, this spreading of locations has also been applied to trainers, especially in relation to cross-border training. However, the trade-off is that

<sup>22</sup> Mirjana Radovic-Markovic: Advantages and Disadvantages of E-learning in Comparison to Traditional Forms of Learning, Annals of the University of Petrosani 2010

<sup>23</sup> E. Pollard and J. Hillage: Exploring E-learning, Institute for Employment Studies 2001.

<sup>24</sup> Aminul Islam, Noor Asliza Abdul Rahim, Tan Chee Liang and Hasina Momtaz: Effect of Demographic Factors on E-Learning Effectiveness in a Higher Learning Institution in Malaysia, International Education Studies 2011.





access to electronic communication becomes dependent on the facilities available to the trainer, which typically amount to the built-in camera, microphone and speakers of a laptop.

However, nothing apart from budget restrictions will prevent dissemination of more advanced equipment, especially to in-house staff. Also the budget implications need not be very large, as just having access to a mobile green-screen will allow for better use of virtual backgrounds, and such screens are available for mounting on, amongst other, a standard office chair.

Likewise, external microphones are available with modest investment for significantly better results, while most laptops already provide limitations on acoustic feedback, thus removing the need for the trainer to use a headset, which in itself is not technically significant, but which lends a more normal look to the appearance of the trainer on-screen.

However, the fact remains that the remote trainer will have to assume full responsibility for internet connection, picture management and application of training tools, such as sharing of documents and use of online whiteboards. Only to a limited extent will a centralised IT management be able to provide assistance during the training session.

Additionally, the more quality and facilities that are added to the video production at the location of the trainer, the more demanding the requirements for the internet connection available to the trainer will become. That again will require consideration of the budget of the training institution, but this problem is shared with most enterprises, where staff members are allowed to work from home.

As a further consequence of working from home, national requirements for work-

ing spaces may apply, thus setting quality criteria for desks and chairs, as well as lighting and other issues that may have a long-term impact on the health of the employee. Most such considerations were set aside during the improvised solutions to continuing work during the Covid-19 pandemic, but in the longer run, that will not be sustainable.

For the trainees, such considerations may also be applicable. University students cannot claim an employment relationship with the place of learning, but it may still be in the interest of the university to support adequate reception facilities at the place where the student receives learning. Furthermore, for the trainees at JTIs, it will depend on the national system whether they are considered students or employees that are receiving training as part of their employment obligations.

### **Main risks**

As part of the yearly Salzburg festival, a stage production of Don Giovanni by Mozart was recently shown in a format where a gauze screen was placed in front of the stage. The artistic idea was presumably to emphasise the distance between the reality of the spectator and the fantasy of the theatre.

One of the side effects was mild irritation on the part of spectators, because the limitation of the image quality acted also as a filter for the enjoyment of the performance. This was even more noticeable in video renditions of the performance, since the ability of the human eye to adapt to the viewing conditions was now replaced by the technical limits of the camera filming the performance.

The same applies to E-learning, where a gauze screen may seem to have been applied where the video quality is not optimal, and where in any case that glass of

the screen places a distance between the reality of the trainer and that of the trainee. This becomes even more significant where limitations on the internet connections lead to trainees turning off video to optimise the sound transmission.

Without two-way video transmission, the trainer is essentially addressing a dark room, without any feedback apart from questions asked, either via the audio connection or via a chat function. Additionally, the operation of a chat function will further distract the trainer from direct communication, and therefore ideally it should be done by a teaching assistant.

Even with two-way communication, the screen-size available to the trainer may impose limits on the possibility of experiencing a direct communication with the trainees, who may appear as very many and very small images on the screen of a laptop. This is frequently increased when the trainer is using screen sharing, unless access to an additional screen has been ensured for the trainer.

As referred to above, in-person training may at best reach a point where the trainer and trainees share a common experience that may be compared to the sensation of surfing. This depends on several factors, such as the abilities of the trainer and receptiveness of the trainees, and even at its best, this remains only one element of blended or multimodal learning where information and ideas are transferred from the trainer to the trainees.

However, this is the fundamental limitation on E-learning since, just like in the case of real surfing, the joint experience of surfing in training will depend on minute feedback adjustments by the trainer, adjusting to the reactions of the trainees. Likewise

here, the gauze effect of the glass screen prevents or at least significantly limits that feedback and the possibility of relevant adjustments.

That problem also presents itself in spectator sports, where the players will miss the sound of the audience and the spectators will miss the feeling of any reaction from players in response to the chanting and cheering, as well as the feeling of sharing the emotions of the spectacle together with the rest of the audience.

On the other hand, spectator sports gain from the availability of high-class technical video and sound transmission, which allows for focus on details that could not be perceived from all seats available for the live audience. Furthermore, without major investment from spectators, their televisions may allow for some control of viewing angles and replays.

Such advantages may also be reached in E-learning, but the financing available for JTIs may have difficulties matching that available for the televised transmission of spectator sports, essentially due to the difference in volume between the sports audience and the number of trainees. Much has already been achieved by the various conferencing systems presented above, but limits are still imposed by the equipment available to trainers and trainees.<sup>25</sup>

For trainers, E-learning presents the additional challenge that online training may be recorded by the trainees. This may naturally also happen at in-person training, but the visibility of microphones and other recording equipment will normally make the trainer aware that such recording is being performed and typically the trainee will request permission for the recording. Howev-

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25 Majdi Abdellatief, Abu Bakar Sultan, Marzanah A. Jabar and Rusli Abdullah: A Technique for Quality Evaluation of E-learning from Developers Perspective, American Journal of Economics and Business Administration 2010.



er, with online training, the trainer will not necessarily be aware of the recoding.

For some trainers, this will not be a major issue, and it may be appreciated that the student will wish to return to training session for reconsideration of details that might have been difficult to grasp during the session, especially where new concepts are introduced. Trainers having this view will typically also allow for recording at in-person sessions.

However, other trainers may wish to object for reasons of personal integrity and copyright issues. Others again may object that the online training was meant to be only a here-and-now experience, and that if the training was to be recorded and replayed, a different approach would have been taken to the style and content of the training.

Currently, it would seem difficult to prevent such unannounced recording, just as television stations face difficulties in limiting recording of their broadcasts. This concerns both technical limitations as well as attitude issues. The former may at times be settled, but they seem quickly to be overcome by new developments in recording technology. The latter requires agreement between the trainer and trainees in the line of the Chatham house rules, whereby what happens in the online training stays in the online moment and it not taken elsewhere.

## Training methods for E-learning

### Approaches to training

E-learning constitutes a medium for training and is not in itself a method of training.

Thus, it remains important, in the same manner as for in-person training, to define the training method that will be applied to E-learning. However, it also becomes important to take into consideration the advantages and constraints that the medium of E-learning imposes on the training possibilities.

Traditionally, a distinction is made between the behaviouristic, cognitive and constructivist approach to training.<sup>26</sup> More recently, also the connectivist approach to training has been proposed.<sup>27</sup> The four approaches represent a historical development from generalised instruction under the behaviouristic approach, over individualised instruction under the cognitive approach, to cooperative instruction under the constructivist approach, and finally the challenge of information chaos under the connectivist approach.

This development may be summarised as a movement from instruction by the trainer, over increasing involvement of the trainee in the development of the training, to resignation in the face of chaos, where neither the trainer nor the trainee have control of the learning procedure. This follows the same line of development as the World Wide Web (www), originally as Web 1.0 in the form platform for publisher-controlled information, later as Web 2.0 with user participation, and most recently as Semantic Web, possibly constituting Web 3.0.

The Semantic Web is based on technology whereby information is annotated in order for the information to become aware of itself. This leads on to artificial intelligence (AI) and thereby connects to the chaos view of the connectivist approach to training. In the same manner, it is possible to

26 Felix Mödritscher: E-learning Theories in Practice - A Comparison of three Methods, Journal of Universal Science and Technology of Learning 2006.

27 Mohamed Ally: Foundations of Educational Theory for Online Learning, in Theory and Practice of Online Learning, edited by Terry Anderson, AU Press 2008.

identify E-learning 1.0 as asynchronous training, where interaction cannot take place in real-time, and E-learning 2.0 as training that incorporates synchronous elements,<sup>28</sup> while E-learning 3.0 is referred to as intelligent learning, involving artificial intelligence.<sup>29</sup>

### **Realising the advantages of E-learning**

One of the concerns raised by the cognitivist approach is the risk of information overload, which under that approach ideally should be assessed on an individual basis. This would be difficult to accommodate in traditional class training, but an approach has been made by the limitation of training sessions to chunks of 45 minutes, separated by breaks of 15 minutes, with two chunks forming one lecture.

Much of current E-learning replicates this structure, without considering the option of operating much smaller chunks. However, the latter approach is taken by the European Union in the production of training nuggets, as referred to above. Those nuggets form asynchronous elements, which are available for use at any time by the trainee.

The nugget approach could be taken to any traditional lecturing that is to be included in the E-learning, which should therefore be recorded and form a library that the trainee may consult in order to prepare for synchronous and interactive elements of the training. This has the added advantage that such interactive elements likewise can be separated into chunks that each have focus on the learning obtained from a sequence of one or more chunks or nuggets.

Following the constructivist approach, emphasis may be placed on peer cooperation between trainees, since E-learning also makes possible the use of WIKI modules, which essentially are temporary webpages for sharing information within a group of trainees, who may upload and modify information shared by the group. This diminishes the scope for direct instruction, but calls on increased work efforts by the trainees and increased assessment by the trainers.<sup>30</sup>

More generally, there will be a trade-off between delegation and assessment. Under the behaviourist approach, the trainer will mainly be focussed on the substance of the training, which is to be disseminated by lecture and possibly reinforced by interactive tasks. The main assessment is traditionally made by exams that measure whether the trainees have learnt the intended behaviour.

Such assessment will not be sufficient when the task of meeting learning goals is delegated to groups of trainees. Instead, increased feedback and communication will be required, thus taking more time for the trainer. Additionally, the use of E-learning tools raises the possibility of direct supervision by the trainer, which will take even more time and raise issues of privacy.

### **Mitigating the disadvantages of E-learning**

The main disadvantage in any distance learning lies in the very fact that it is done at a distance and the challenge for E-learning will be to overcome that distance. Essentially, this does not concern the learning methodology, but instead the

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28 Ulf-Daniel Ehlers: Quality for new Learning Cultures, University of Duisburg-Essen 2011.

29 Neil Rubens, Dain Kaplan, and Toshio Okamoto: E-Learning 3.0, Social and Personal Computing for Web-Supported Learning Communities 2011.

30 Ileana Hamburg, Christiane Lindecke and Herbert ten Thij: Social aspects of E-learning and blending learning methods, E-Comm-Line 2003



quality of the manner in which learning is presented.<sup>31</sup>

This calls for professionalism at both a personal and technical level. The trainer will need to be trained in screen appearance and be given full technical support for an optimised audio and video connection. The current television video quality is referred to as 4K, soon being overtaken by 8K, which refers to the number of pixels by which the on-screen image is rendered.

That quality level forms part of the daily life of most people, and the expectations for E-learning will be at the same quality level. As also addressed above, this will require substantial investments from the JTIs, especially during an initial phase when E-learning capacities are being developed.

Likewise, E-learning will require investment in training management software, especially where advantage is taken of distributing training over smaller chunks and nuggets. Both trainers and trainees will require access to software systems that provide intuitively understandable overviews, as well as guidance in composing workable learning menus.

Finally, the effective implementation of E-learning will also require that study materials are available online. Currently, most university training is based on students purchasing textbooks, and to some extent it has become possible to purchase such textbooks in an electronic format. However, in many economies the trainee funds and book prices do not match up, and with the ease of modern day scanning, markets have developed for scanned textbooks, with resulting complaints and cases concerning copyright.

It would therefore seem more correct for the training institutions to take charge of ensuring that study materials are available electronically, and to settle any copyright issues with the publishers. That would naturally place a strain on the budget of the training institutions, but interactive study methods will work only if trainees do have access to relevant study materials, and the costs may possibly be covered by tuition fees, depending on the status of JTI trainees.

As an alternative route to overcoming the distance element in E-learning, the platform does open up for increased use of blended learning in a multimodal manner. Naturally, this is also possible with in-person training, but the use of smaller chunks and nuggets of information in E-learning facilitates the creation of a multi-faceted blend of learning formats.

This adds to the requirements for learning management, as the blend of formats should be based on the multimodal evaluation of how best to ensure that learning is achieved. As noted above, that moves focus away from the subject trainer and on to the pedagogical expert, who should take responsibility for ensuring the optimal blend of formats. However, it will also require close cooperation, since the subject trainer will remain responsible for the substance to be covered, but not the format.

During an introductory phase, it might be difficult to obtain agreement on this approach, since many subject trainers may retain the notion that since they know the substance, it should follow that they would also be the best to pass on that knowledge. Indeed, that is the foundation of the artisan training tradition, but as argued above, that tradition does not necessarily fit with E-learning.

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31 Evelyn Kigozi Kahiigi, Love Ekenberg, Henrik Hansson, F.F. Tusubira and Mats Danielson: Exploring the E-learning State of Art, *Electronic Journal of E-learning* 2008.

The argument would not be to refute the merits of artisan training, but merely to underline that by insisting on that approach, JTIs would run the risk of foregoing the advantages that can be obtained from the use of E-learning.

## Methodology in E-learning management

### Technical choices

These choices have two facets, an overarching question relating to the selection of software platforms for online training that has already been covered and a more specific question relating to the technology used to teach specific content. The questions are related because the capabilities of the selected platforms may limit the options for teaching methods.

The choice of technology for training should be guided by the learning goals the course is aiming for. Conveying *knowledge* may not require live interaction between the teacher and the learners. Recorded video that learners can play back and repeat as needed could be an effective technology for achieving such learning goals. Imparting *skills* in most cases will require hands on exercises where learners with the teacher's guidance can try to complete tasks on their own. Achieving these learning goals will require a level of interactivity that may be difficult to achieve on an online platform. Similarly, ensuring that learners achieve *competency* in a subject area requires reflection and discussion of the material. This can be difficult to achieve during online training, particularly in larger groups.

The survey of learners revealed no clear preference for one type of pedagogical approach in the online training over the others. There was a correlation between the reported frequency of use of all the

teaching methods with both effectiveness and satisfaction. Perhaps varying the approaches used during a session would be useful for keeping learners engaged in the content and keep them from becoming mere spectators. It may for instance be possible to intertwine segments with questions or discussion that require activity and more passive segments such as live and recorded lectures.

Overall, lectures are well suited for online training, either in the form of live or recorded video. The contents covered in lecture could for example be topics of substantive or procedural law, or recent developments in case law. The main benefits of recording lectures is that they can be viewed by the learners at a time of their choosing, can be reviewed if necessary and may be reused for subsequent courses. The easiest approach for recording a lecture is to start a video meeting with the teacher as the only participant and record the session. This way the teacher can share slides while at the same time having their face in a corner of the screen in the video. The benefits of this approach are that the software and hardware is the same as is required for a video conferencing, without having additional costs. A more elaborate recording in a studio using professional help is usually only worthwhile if the lecture can be reused many times. Since content is far more important than production quality, recorded video lectures should be updated frequently and therefore need to be regularly re-recorded.

### Human resources

The survey of teachers revealed that only a little more than half of JTI teachers had experience with online training prior to the pandemic. Despite this, there was no significant correlation between prior experience and attitudes to continued online training once the pandemic has passed.



Overall, teachers were sceptical to an E-learning only approach, with more than a third wholeheartedly disagreeing with the statement that courses should continue online after the pandemic.

Teachers at the JTIs need to be experts on the topics they teach, but at the same time have the pedagogical competency required for effective instruction. The skills required for teaching in-person have many similarities to the ones required for teaching online. The main differences being that E-learning requires a technical proficiency in the tools used and an appreciation of the special challenges the online environment poses.

Unfortunately, there is no specific course or programme that can prepare teachers for online training focused on adult learners in an online environment. The only way to become an effective online teacher is to practice and try continually to improve performance. Obviously, the more a teacher teaches online, the better at it they will become. This also dictates that teachers who feel uncomfortable with E-learning should be allowed focus on in-person instruction or be offered development opportunities that allow them to perform well in an online teaching environment. One useful technique for raising pedagogical competency is colleague guidance. For example, teachers who are new to E-learning can sit in classes held by a more experienced teacher. They can then learn how to best utilise the options the E-learning platform offers and how best to help solve any issues the learners may encounter. Building competency and confidence will make the inexperienced teachers more effective.

The feedback from learners on their satisfaction with the course and to what extent they achieve the learning outcomes can give pointers on how well a teacher

is performing. The value of such feedback should not be overestimated as learners' satisfaction may reflect popularity of the teacher rather than the effectiveness of the instruction. If there are deficiencies in the attainment of the learning outcomes, it may just as well be caused by a lack of motivation and effort among the learners as by any shortcomings in the pedagogical skills of the teacher.

### **Approach based on target groups**

The biggest groups of learners in the JTIs are judge candidates and prosecutor candidates. Around half the JTIs also cater to other groups within the judiciary. These learners are all highly qualified professionals. Distinguishing the use of E-learning or specific techniques based on the groups the learners belong to makes little sense, the variations in skills and abilities within these groups are probably larger than communalities within each group.

The survey of learners revealed that a significant proportion had experienced technical issues during online training. The question does not offer any elaboration on how these issues influenced learning, but such problems clearly have the potential for being disruptive and a distraction. The ability to remedy technical issues that arise is dependent on the IT-competency of both teachers and learners. As a rule of thumb, learners who are proficient computer users and familiar with the E-learning tools used will be more satisfied in an online learning environment. Those who are less skilled may struggle to utilise all the functions available to interact with the teacher and the other learners, and as a result do not learn as much.

To some extent, there may be a correlation between age and technological proficiency. The assumption is often that younger learners are more comfortable with modern technology than their older colleagues

are. Although there may be some truth to this, the difference in experience and interest in use of technology is a better indicator of proficiency than age. On average, however, such observations may give grounds for a greater reluctance in using E-learning in continuing education than in the initial training of new candidates.

## Guidelines for THE use of E-learning

### Introduction of E-learning

In response to the Covid-19 pandemic, many JTIs were forced to switch immediately to E-learning, without any chance for a proper introduction and planning of this new training format. It also forced wholesale use of E-learning, without any possible use of blended learning in the form of mixing in-person and online training.

The purpose of the guidelines that form the final part of this report is to outline how best to undertake such training and planning of E-learning when there are no outside pressures driving its introduction. This may be described as a procedure of four main stages, from identification of the training needs to the evaluation of the developed E-learning system.<sup>32</sup>

Between those outer points comes a period of developing the E-learning system that is to be introduced, taking into account institutional, budgetary, pedagogical and legislative requirements. Following that stage, the actual implementation strategy will need to be developed, especially as JTIs will typically continue to provide training during the period of transition towards either pure or mixed E-learning, which may also be a gradual development.

### Needs analysis

The first question to be asked is the reason for which E-learning is taken under consideration. That may be for several reasons, including dissatisfaction with the current training methods. Thus, at one university, there was a wish to promote the institution with a wide screen picture taken from the back of a large and beautiful auditorium.

The picture was technically perfect, but it had the downside that it was very clear to see that a disproportionate number of students had their laptops open not for notetaking, but for checking social media. That sparked a wish for a change that did not lead to E-learning, but to an in-person use of blended learning that included focus on task setting and group work on practical problems.

Reasons for preferring E-learning over in-person training may have many roots.<sup>33</sup> Thus, the JTI may have reached a training volume that is no longer possible to plan effectively within current building facilities, or it may have obligations to ensure regional training that entails mobility costs beyond the scope of current budgets.

For many universities, reasons for preferring E-learning include students that have daytime jobs and face difficulties with in-person training during evening hours, and even where they are able to maintain class presence, the student body is often underprepared or even unprepared to a degree that negates any basis for interactive training. It is important to underline that E-learning as such does not provide a solution to these problems, but it does provide some flexibility that may alleviate that problem.

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<sup>32</sup> Nikola Kadoic, Nina Begicevic Redep and Blaženka Divjak: E-learning Decision Making - Methods and Methodologies, European Distance and E-Learning Network 2016.

<sup>33</sup> Renée E. DeRouin, Barbara A. Fritzsche and Eduardo Salas: E-Learning in Organizations, Sage Publications 2011.





For both the JTIs and the trainees, it will be necessary to assess whether they have the necessary basis for a transition to E-learning, in both a motivational and technical sense. If the current staff members of the JTIs and their trainees are not willing to engage in E-learning, it will be difficult to impose such learning as a management initiative.<sup>34</sup>

In the technical sense, the level of computer awareness amongst staff members and trainees will also be important, but that is an issue that can be more easily resolved with appropriate training, as long as the willingness to engage is present. Such retraining will add to the budgetary costs of implementing E-learning.

Furthermore, stocktaking will be required to establish the level of technical equipment available to both trainers and trainees, as well as the budget facilities available for upgrading technical equipment, which as referred to above may reach far into the JTI, touching also on the budget and functioning of library services.

Some of those aspects, such as technical equipment and budget facilities, may be assessed by suitable audit methods, while other aspects may require the use of questionnaires and analysis of the responses. As set out above, the questionnaires used for this report had only limited response, which appears to have been the case also in many other such surveys. Accordingly, questionnaire surveys may have to be supplemented by professional assessments based on interviews with selected staff members and trainees.

The review of budget facilities must also involve the funding authorities to determine the degree to which additional fund-

ing may be relied upon, and in several of the SEE economies this may include external funding through development agencies such as USAID and the World Bank, as well as the institutions of the European Union and the Council of Europe.

## Development of E-learning

Once the decision to introduce the concept of E-learning has been made, the next task will be to develop the learning model to be implemented. This may reach from the introduction of E-learning tools to be used as part of in-person training, to the implementation of a fully online system of synchronous E-learning.<sup>35</sup>

Several options lie between these extremes, including blended learning in a format where in-person lectures are combined with interactive elements that are offered online. One advantage of this option will be a diminished disruption to existing practices, as lecturing staff may continue their well-established teaching formats, except that they will see lecture hours diminished to make room for interactive elements.

In order to meet the needs for larger regional coverage, such in-person elements may be subject to video recordings, which may be released either in a synchronous or asynchronous format. The disadvantage will be, as with live transmissions of cultural events, that the static camera will produce video of limited quality and attraction, while a more active filming may have disruptive effects on the lecture or performance.

Moving to wholly online use of E-learning will bring a choice between individualised and collaborative learning, which will be possible for in-person training only

<sup>34</sup> David Castillo-Merino and Enric Serradell-López: An analysis of the determinants of students' performance in E-learning, *Computers in Human Behaviour* 2014.

<sup>35</sup> Valentina Arkorful and Nelly Abaidoo: The role of E-learning, advantages and disadvantages of its adoption in higher education, *International Journal of Instructional Technology and Distance Learning* 2015.

to a much smaller degree. Many universities offering graduate law degrees face a problem that students arrive with very different undergraduate knowledge. Thus, the teacher is forced to seek an impossible balance between being understood by all and presenting teaching of interest to all.

With E-learning and the option of dividing training into various chunks and nuggets of information, it becomes much easier for the trainer to assign schedules for individual students that match their learning needs and take into account their previous training, in accordance with the cognitive approach. However, it must be acknowledged that just as the additional feedback needed for interactive training, this adds significantly to the workload of trainers.

Finally, also for the full online use of E-learning, a choice may be made between asynchronous and synchronous training. The advantage of the asynchronous mode is, as referred to above, that it can be very professionally developed in advance, and that it can be entered into a learning library from which trainees can take out modules, as they need them.

However, this places the training on the same level as older forms of distance learning. The trainee is passively watching to receive information. Naturally, a more complex model may be developed, where the trainer foresees possible questions and pre-records answers to them so that the training manager may devise a system whereby the trainee can be led through different learning paths, depending on the questions they ask.

Once more, such complex models will require additional funding and time, and the question arises as to whether the subject specialist necessarily remains the relevant presenter of the information, or whether

this should be delegated to a professional presenter.

Finally, the fully synchronous online use of E-learning represents the attempt to move the classroom into the Virtual Learning Environment (VLE) without disbanding the original idea of the trainer directly addressing the trainees in a live session held for their collective benefit. This format places the highest demands on technical equipment to limit the gauze effect of the glass screen as referred to above, but it may also be the transition model most acceptable to well-established lecturers.

For asynchronous events, an additional question arises as mentioned above, since it will be easy to record them and thus allow trainees the option of revisiting the session, or catching up on sessions that they missed, irrespective of whether these are traditional lectures or interactive sessions. It may be argued that recording will reinforce the gauze effect, obscuring the sensation of live performance. However, it will be difficult to prevent private recording.

### Implementing the E-learning

Once the methodological parameters of E-learning have been decided upon, it will be necessary to select the technical basis for the E-learning platform, and to commence populating that platform with the chunks and nuggets of training. Finally, it will be necessary to add a system for access to the platform, which allows for the scheduling of trainers and the signing-up to training sessions by the trainees.<sup>36</sup>

The advantages and disadvantages of some of the main E-learning platforms are set out above, but it may be argued, in general, that most of them allow for video presentation, two-way communication,

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<sup>36</sup> Andreea-Maria Tirziu and Catalin Vrabie: E-Learning Methods, *Procedia Social and Behavioural Sciences* 2015.



chat functions, and sharing of screens with slides and other information to be shared during the training sessions.

An important aspect can therefore become the seeking of regional cooperation, where chunks and nuggets may be shared between JTIs, based on dubbing or subtitling where common languages are not available, although this once more may increase the psychological distance between trainers and trainees.

If such avenues are to be explored, choosing platforms that allow for simultaneous interpretation channels may be important. This will also allow for the use of international trainers, which might be an easily available basis for international donor support. With the increasing use of English as a common language of younger generations, the need for interpretation may also become less important.

Such development is seen in the work of the Nordic Council, which previously relied almost exclusively on the mutual understanding of the Scandinavian languages, which resembles the mutual understanding of Serbo-Croatian languages. With the younger generations, that mutual understanding is becoming replaced in the Nordic area by a common access to the English language.

Indeed, in several European countries, universities are increasing the number of courses and programmes that are offered in English, and as an example, Latvia has some university institutions in the fields of law and economics that exclusively offer degrees in English. This is not to propose that JTIs should adopt this approach, but merely to underline that accepting some training to be done in English will significantly increase the access to international and shared resources.

As argued above, one of the manners in which the disadvantages stemming from E-learning, in the form of distance between trainer and trainee, may be compensated could be the increased use of blended and multimodal training, based on the use of smaller chunks and nuggets of training elements. That will impose a double layer of complexity on the introduction of E-learning.

Firstly, it will be necessary to establish internal procedures for how to evaluate and calculate the different lines of training that should be available to trainees. This will require an expert pedagogical evaluation of how best to obtain the advantages of the blended and multimodal format, taking into account also the cognitive approach with focus on the individual needs of trainees.<sup>37</sup> Already in the traditional planning of course programmes this involves competence delineations between subject specialists, which may become more complex with the addition of the pedagogical planning.

Secondly, the level of organisational complexity will increase. Already with traditional lecture-based training on a multidisciplinary Bachelor law programme at one university, the organisation involved more than 100 courses to be scheduled on a rolling three-year basis, with a mix of mandatory and elective courses. Organising that schedule with simple tools, such as Excel spreadsheets, stretched the task to the limits of the possible.

Thus, with the blended and multimodal approach involving a significant number of elements to be planned and scheduled, additional software support will be needed for effective management of the resources, especially since the need of trainees to prepare for the various sessions must

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37 Djamshid Tavangarian, Markus E. Leybold, Kristin Nölting, Marc Röser and Denny Voigt: Is E-learning the Solution for Individual Learning, *Electronic Journal of E-learning* 2004.

also be taken into account, as must be the fulfilment of working group tasks between sessions.

This will apply irrespective of whether only partial or exclusive use of E-learning is planned for the first stage of implementation. Presumably, the available space within the JTI will not be increased, but in future it will have to be shared between on the one hand traditional classrooms and lecture halls and on the other hand recording and transmission studios for E-learning.

Naturally, as a first stage, it might be argued that reliance on the integrated web facilities of laptops and the offices of trainers might be sufficient, but this approach raises two problems, as mentioned above. Firstly, that will diminish the technical quality of the output, once more adding to the distance between trainer and trainee. Secondly, relying on the existing network infrastructures may be difficult with several sessions ongoing simultaneously, as the bandwidth becomes used up.

Accordingly, an important part of the implementation of E-learning will be the remodelling of the JTIs to include the proper recording and transmission studios referred to above, as well as a significant upgrade of the infrastructure of the JTI network, both internally and in regards to internet access. It will also be necessary to accommodate the increased use of access to the network-based library of training resources that form an integrated part of E-learning.

In that regard, it may be relevant to switch from traditional network systems, based on local servers, to a system of cloud service, which will diminish the traffic flow

at the training institution, effectively outsourcing some of the technical investment to the operator of the cloud service, which naturally will impose subscription costs on the JTI.<sup>38</sup>

Against that background, a working group should be established to oversee the implementation of the E-learning. This group should be sufficiently broadly composed to cover substance knowledge, pedagogics, technical issues and budget issues, but also small enough in number of members to be an effective working tool that may cooperate with the JTI management. It may also be necessary to establish subgroups that can assist the working group with more detailed planning in various sectors, such as networking and scheduling.

### Evaluation of E-learning

Evaluation of learning methods and results forms an important and common part of the activities of most training institutions, including also universities and JTIs. Especially in relation to accreditation requirements, such evaluations form an important input for the committees and experts that undertake accreditation.

Apart from the external need for accreditation, evaluation may also form an important basis for internal management of the training programme. This requires that evaluation is undertaken continuously and seriously, and that the outcomes of evaluations are presented in a form that is accessible for the staff members undertaking programme management.<sup>39</sup>

One possible step is making fulfilment of evaluation obligations a formal part of completing elements of the training. With the use of multiple chunks and nuggets,

<sup>38</sup> Anwar Hossain Masud and Xiaodi Huang: An E-learning System Architecture based on Cloud Computing, World Academy of Science, Engineering and Technology 2012.

<sup>39</sup> Olojo Oludare Jethro, Adewumi Moradeke Grace and Ajisola Kolawole Thomas: E-Learning and its effects on teaching and learning in a global age, Indian Journal of Education and Information Management 2012.



this calls for a careful consideration of the intervals at which such evaluation is called for. If evaluation is required too often, that may cause user fatigue, which in turn may lead to superficial evaluations.

A similar problem arises with the format of the evaluation, where extensive sets of questions may also cause fatigue, which may especially be the case where free text replies to questions are required. Additionally, use of free text replies also increases the complexity of processing the evaluations. Thus, the designing of evaluation forms will require very careful consideration.

Such procedures should not only comprise evaluation of the trainers by the trainees, but also an evaluation of the trainees. Some prefer the latter to be performed, in line with the cognitive approach, by imposing tests throughout the course programme, which add up to the grade awarded for the course, as also addressed above. Others prefer, more in line with the behaviourist approach, to measure the abilities of the participants at the end of the course, and use trainee evaluation during the course as a basis for addressing individual problems, such as attendance and activity level.<sup>40</sup>

Finally, it should be underlined that the main outcome of evaluation should not necessarily be sanctions against trainers or trainees that underperform. Rather, such results should call for careful consideration by the programme and institution management of whether there are systemic weaknesses in the recruitment, implementation and training procedures of the institution that require reconsideration and possible amendment.<sup>41</sup>

In that regard, it will be necessary also to consider the systemic weaknesses that are inherent to E-learning, most importantly the distance between trainer and trainee, and the need to compensate for such weaknesses by allocating the necessary budget resources in order to establish the best possible technical platform and management of the E-learning system.

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40 Timothy Rodgers: Student Engagement in the E-learning Process and the Impact on Their Grades, International Journal of Cyber Society and Education 2008.

41 Ellen B. Mandinach: The Development of Effective Evaluation Methods for E-learning, teachers College Record 2005.

## CONCLUSION

In general, the learners surveyed for this report were reasonably satisfied with on-line training. Teachers were however more sceptical to the effectiveness of online training than the learners. It is sound advice to consider the topic or material when deciding it should be taught as an in-person course or is suited for online training. Courses that impart knowledge are generally well suited for online training, courses focusing on problem solving or influencing the attitudes of the learners are less so.

For the online training assessed by the survey, a mixture of approaches seems to have positive influence on both satisfaction and effectiveness. It is therefore sound advice to vary the teaching methods, for instance breaking up a live video lecture with discussions or pre-recorded segments.

All courses, both online and in-person should have clearly defined learning goals. Each course should also be accompanied by an assessment of the degree to which those goals have been achieved. This will specify the expectations for both teachers and learners, and will provide a way to evaluate the effectiveness of the course design and pedagogical efforts.

The choice of platform for E-learning should be guided by the functionality offered, the ease of use and flexibility for the learners. In many cases, it will be a false economy to choose the cheapest options if it reduces the potential for achieving the learning outcomes.

Against that background, our recommendation is that the JTIs of SEE should develop learning strategies that focus on the following:

- Training should be based on both in-person and online elements, subject to the continuing requirements of Covid-19 countermeasures, since in-person learning provides a core element of human interaction, which currently seems difficult to recreate in online training
- Training should be planned as multimodal blended learning, relying not only on different teaching formats, such as lectures, exercises and simulations, but also on the pedagogical planning of how different elements interact to ensure the learning goals
- Training may be conducted by legal artisans, such as judges and prosecutors, but this should be done in accordance with an established plan for multimodal blended learning, including both inspirational training and transfer of skills
- Online training may be conducted as live streaming or recorded video, but in either case, the training should be supplemented by chat facilities that allow for interaction between training staff and learners
- Training should recognise the technological tools that will be used by trainees in their future work and allow for use of similar tools during the training period in order to ensure that skills are transferred in a rele-



vant manner and use of the tools is encouraged

- Examinations should be closely aligned with the learning goals in order to measure whether the learning goals have been reached, and learning has been obtained in a manner that is relevant for the future work of the trainees

# ANNEX 1:

## Teachers' survey questions

|                                                                                                     |                                                                                                                        |
|-----------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
| 1. Please indicate your Judicial Training Institution:                                              | [Choice from a list]                                                                                                   |
| 2. Did you have experience with online training prior to the pandemic?                              | Yes   No                                                                                                               |
| 3. What software platform(s) did you use for online training?                                       | [Text input]                                                                                                           |
| 4. Did the online course(s) use live video interaction?                                             | 1 - Never   2   3   4   5 - Always                                                                                     |
| 5. Did the online course(s) use recorded video presentations?                                       | 1 - Never   2   3   4   5 - Always                                                                                     |
| 6. Did the online course(s) use live chat-rooms?                                                    | 1 - Never   2   3   4   5 - Always                                                                                     |
| 7. Did the online course(s) use instruction by email?                                               | 1 - Never   2   3   4   5 - Always                                                                                     |
| 8. What was the method for grading participants at the end of the course(s)?                        | [ ] None<br>[ ] Essay test<br>[ ] Multiple-choice test<br>[ ] Active participation<br>[ ] Other (specify) [Text input] |
| 9. How much adaptation of previous lesson plans did the move to online training require?            | 1 - Very little   2   3   4   5 - Complete reworking                                                                   |
| 10. To what extent did participants struggle with technical issues before or during online classes? | 1 - Never   2   3   4   5 - In a majority of courses                                                                   |
| 11. How well did the online course(s) facilitate questions and discussions?                         | 1 - Not at all   2   3   4   5 - Very well                                                                             |
| 12. How well did online course(s) facilitate cooperation among participants?                        | 1 - Not at all   2   3   4   5 - Very well                                                                             |
| 13. How well did online courses facilitate engagement with the course material?                     | 1 - Not at all   2   3   4   5 - Very well                                                                             |
| 14. How well did online course(s) facilitate learning?                                              | 1 - Not at all   2   3   4   5 - Very well                                                                             |
| 15. How easy was it to communicate with the learners during the course(s)?                          | 1 - Very difficult   2   3   4   5 - Very easy                                                                         |
| 16. Are there changes that would have improved learning during the online course(s)?                | [Text input]                                                                                                           |
| 17. Do you agree with this statement: "Courses should continue online when the pandemic is over"?   | 1 - Not at all   2   3   4   5 - Completely                                                                            |





## ANNEX 2:

### Learners' survey questions

|                                                                                                   |                                                                                                                                                                                                                                 |
|---------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Please indicate your Judicial Training Institution:                                            | [Choice from a list]                                                                                                                                                                                                            |
| 2. How satisfied were you with the online course(s) in general?                                   | 1 - Unsatisfied   2   3   4   5 - Completely satisfied                                                                                                                                                                          |
| 3. How well did online course(s) facilitate learning?                                             | 1 - Not at all   2   3   4   5 - Very well                                                                                                                                                                                      |
| 4. Did the online course(s) use live video interaction?                                           | 1 - Never   2   3   4   5 - Always                                                                                                                                                                                              |
| 5. Did the online course(s) use recorded video presentations?                                     | 1 - Never   2   3   4   5 - Always                                                                                                                                                                                              |
| 6. Did the online course(s) use live chat-rooms?                                                  | 1 - Never   2   3   4   5 - Always                                                                                                                                                                                              |
| 7. Did the online course(s) use instruction by email?                                             | 1 - Never   2   3   4   5 - Always                                                                                                                                                                                              |
| 8. Did you experience technical issues before or during online classes?                           | 1 - Never   2   3   4   5 - Very often                                                                                                                                                                                          |
| 9. How well did the online course(s) facilitate questions and discussions?                        | 1 - Not at all   2   3   4   5 - Very well                                                                                                                                                                                      |
| 10. How well did online course(s) facilitate cooperation among participants?                      | 1 - Not at all   2   3   4   5 - Very well                                                                                                                                                                                      |
| 11. How well did online courses facilitate engagement with the course material?                   | 1 - Not at all   2   3   4   5 - Very well                                                                                                                                                                                      |
| 12. What was the method for grading participants at the end of the course(s)?                     | <input type="checkbox"/> None<br><input type="checkbox"/> Essay test<br><input type="checkbox"/> Multiple-choice test<br><input type="checkbox"/> Active participation<br><input type="checkbox"/> Other (specify) [Text input] |
| 13. How well did the grading method measure what you learned in the course(s)?                    | 1 - Not at all   2   3   4   5 - Very well                                                                                                                                                                                      |
| 14. How easy was it to communicate with the trainer during the course(s)?                         | 1 - Very difficult   2   3   4   5 - Very easy                                                                                                                                                                                  |
| 15. Are there changes that would have improved your learning during the online course(s)?         | [Text input]                                                                                                                                                                                                                    |
| 16. Do you agree with this statement: "Courses should continue online when the pandemic is over"? | 1 - Not at all   2   3   4   5 - Completely                                                                                                                                                                                     |

## ANNEX 3:

### Example of learning goals

#### Recent case law of the European Court of Human Rights

##### **Knowledge**

Learners are expected to understand the role of the European Court of Human Rights in the interpretation of the Human Rights Convention. They also need an overview of the procedural rules relating to bringing complaints before the court. In addition, learners need to be familiar with key concepts in human rights law such as the principle of proportionality and the doctrine of margin of appreciation.

##### **Skills**

Learners should be able to identify legal questions where the European Convention of Human Rights is applicable and determine the relationship between different rules that cover the issues. They also need to be able to find relevant case law in the HUDOC database, determine if such decisions are final or are may be appealed, and whether they have been superseded by case law that is more recent.

##### **Competencies**

Learners should be able to analyse and interpret the rules of the European Convention of Human Rights and the decisions of the European Court of Human Rights. They should be able to critically assess the impact of these rules on national legislation and be able to use this insight to solve contemporary legal issues.





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