

Initial Training Guide

Centre for Legal Studies

Initial Training, Court Secretaries 2013

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Training Guide. Initial Training of Court Secretaries

2013

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I. INTRODUCTION

TRAINING - A DUTY TO SOCIETY:

The Centre for Legal Studies' commitment to a theoretical-practical approach

To a great extent, the quality of justice depends on the training of judges, public prosecutors and court secretaries.

Training is not only a right to which all court secretaries are entitled but also represents a real duty to society as a whole, improving their professional capacity and ensuring faster, better adaptation to their positions, as provided for in Article 96 of the Organic Regulations on Court Secretaries (hereinafter, ROCSJ for its Spanish initials).

Training needs to be a priority throughout a court secretary's career. Therefore, one of the objectives for the initial training period is to ensure that court secretary candidates realise the need for constant, dynamic and transformative training as an instrument for ongoing improvement and a guarantee of real standards of professional excellence.

There is a clear theoretical-practical focus to the initial training period. The aim is not just to enhance the knowledge of court secretaries undergoing training, but also to learn to better manage the theoretical knowledge they have already acquired during the examination process.

On the one hand the aim here is to teach them the profession of court secretary.

On the other, we have not forgotten the need to offer a space for reflection and debate regarding the role that court secretaries are asked to fulfil within the framework of a social and democratic state governed by the rule of law.

The design of the training schedule aims to combine both approaches, seeking the necessary balance between theoretical and practical aspects.

The current Training Plan was designed on the basis of a strategic three-pronged approach which also encompasses the prioritised training objectives:

1. To take a comprehensive look at the organisation and operational model for the justice administration system, in which significant responsibilities are placed on court secretaries who are subject to the principle of legality and impartiality, as well as to that of full independence in exercising their legal authority, while at the same time observing the principle of indivisibility and hierarchical dependency in all other areas. Pursuant to this task, the judicial office shall apply criteria of agility, efficiency, of work, responsibility for management, coordination and cooperation between administrative bodies, ensuring an accessible, high quality service for the public with respect to the rights set out in the Charter of Citizens' Rights in the Justice System.

2. To foster among trainees their professional identity as court secretaries, facilitating the acquisition of skills, abilities and knowledge required for the job. The aim therefore is not only to consolidate existing knowledge acquired during the examination period but also to facilitate its organisation, discovering in the process the aspects that are applicable in those contexts in which a court secretary carries out his or her legal functions and responsibilities.

3. To discover the professional and social context in which a court secretary operates through greater knowledge of the role of other legal professionals and the spheres in which they act, the procedural and extra-procedural environment in which they work, as well as the social context in which court secretaries carry out their functions. In order to achieve this, the training must transcend mere regulatory and technical legal knowledge. This is not sufficient, given the professionalism and multidisciplinary qualification demanded of them by modern society. The main aim of the training plan is to facilitate and favour knowledge of social issues and a greater awareness of the impact that the exercising of a court secretary's professional functions has on society as a whole and on those within it.

Last but by no means least, we must not forget the existence of cross-border legal disputes and the demands and challenges that these throw up, especially within the context of European Union Member States. This is an aspect that has to be borne in mind when defining training approaches and the activities to be undertaken during the initial training period.

These general guidelines are of a cross-disciplinary nature, which governs the choice of course content and the academic and methodological approaches taken.

The initial training of future court secretaries must allow them to gradually acquire the skills and knowledge they need to undertake their chosen profession competently, effectively and efficiently in the various contexts in which they carry out their duties, in full observance of the principles set out in Article 24 of the Spanish Constitution. Here the aim is to guarantee that future court secretaries can carry out their profession independently by providing them with the tools they require.

This objective has not only inspired the choice of course content but also – more importantly – the methodological approaches we have taken.

Within the framework of the three strategic lines mentioned above, the initial training period seeks to ensure that the following objectives are achieved, in terms of the skills to be acquired:

- To ensure comprehensive understanding of the structure and aims of the *Cuerpo Superior Jurídico de Secretarios Judiciales* (Superior Corps of Court Secretaries), as well as increased awareness of current challenges and the specific problems facing the institution they are about to join.
- To discover and fully understand the institutional, social, political, economic and cultural contexts in which they will have to carry out their duties and interpret their new reality and importance of the role they are to undertake.
- To carry out their role in line with the constitutional principles and ethical values that they represent.
- To raise awareness to and reinforce the strategic dimension of coordinated teamwork with

regard to court secretaries in the various areas of action and intervention.

- To acquire the skills needed to draw up court records, procedural steps and rulings as required of a court secretary, as well as the communication skills required to intervene in court hearings.
- To promote the communicative relationship between the future court secretary and other legal professionals, as well as with litigants and the general public.
- To apply the tools required to ensure optimum and effective development of the role of a court secretary.
- To learn to handle and control stressful and tense situations which may arise during their professional life.

II. STRUCTURE OF THE THEORETICAL-PRACTICAL COURSE

A. METHODOLOGY

1. The commitment to case methodology in small groups

Trainees will be divided into groups which will remain the same for the vast majority of the modules, allowing certain stability and a greater reciprocal knowledge between trainees.

In order to achieve the objectives listed above, the "Case Study Method" is considered to be the most appropriate approach to learning. This Case Study Method is based on an approach which is ideal for working on the technical skills related to the functions required of a court secretary.

This method consists in helping trainees to tackle real problems in simulated conditions under the careful guidance of the trainer. When correctly employed it develops the trainees' capacity to resolve problems rationally.

The application of the Case Study Method is based on the following phases:

- a) correctly identifying the cause of a problem in line with the previously highlighted objectives to be met;
- b) professional preparation of appropriate teaching materials;
- c) student-led study and preparation (whether individually or in groups) of the various controversial areas that have been identified;
- d) debate, reflection and presentation of the various positions during the classroom sessions; and
- e) the outlining of conclusions by the trainer.

Thanks to this method, it is possible to perform an analysis not only of the decision or decisions taken after having carefully considered the interests at stake in a conflict, but also of the procedural context which serves as the framework within which a court secretary operates.

"Comparing opinions" among all those taking part is another benefit of the Case Study Method. This "comparison of opinions" requires a real "examination of reasoning" in order to back up the

opinions in question.

The important thing here is not the decision in itself but the process, the chain of thinking that led to it being made, in other words, providing a justification for making the final decision.

The success of this method depends on the level of involvement and participation of the trainee in the group debates, as the method requires trainees to adopt a pro-active position which is far removed from the passivity which traditionally characterises university education.

The role of the trainer is not one of simply being a purveyor of knowledge, but rather someone who is actively involved in stimulating debate among participants, assuming the role of guide and facilitator of the discussion.

2. Other methodologies used

As well as the Case Study Method, other training activities employ other teaching formats and approaches:

2.1. Role Plays

Becoming aware of the various dimensions of the concept of the fairest or most correct process which may go further than a classic procedural approach also involves the use of suitable training methods which transcend the simple presentation of a series of facts within a given time frame. The role playing of judicial hearings that take place as part of the overall legal process in which the court secretary is obliged to take an active part is the perfect training method in order to achieve this objective.

The so-called role play method allows trainees to discover a communicative dimension to the process, helping them to see it as a space in which all those taking part are able to fully communicate.

It also allows the future court secretary to acquire the communicative skills that will be essential in allowing them to develop their professional skills within a procedural context which is dominated by the spoken word (holding the stage, linguistic skills, non-verbal communication, etc.)

The role play method is therefore the perfect instrument through which future court secretaries can acquire the technical knowledge they need in terms of the spoken word, allowing them to better carry out the roles required of them.

In terms of its execution, it should be pointed out that this method does not begin and end with the role play itself but actually requires a careful selection and preparation of the material to be covered. Selection is the responsibility of the trainer, who must carefully identify the problem areas that the role play will focus on. The preparation stage requires the participation of the trainees, either individually or as a group, in order to highlight these problem areas and come up with a response which they can then represent through the role play. The representation is then followed by a debate (the feedback stage), led by the trainer responsible for the activity, which is open to all those who have taken part.

2.2. Communications workshops

Communication workshops are held with very small groups to raise trainee awareness of the importance of communication. Trainees are provided with a basis in rhetoric and oratory skills, techniques which allow them to speak in public effectively and confidently, as well as recommendations to help them control their message in difficult or stressful situations. They are also given the chance to rehearse before a camera in order to learn how best to handle the media and put into practice the techniques they have learnt.

2.3. Round tables and conferences

These methods allow new subjects and matters of current interest to be tackled from a variety of different and even contrasting positions based on the contribution of a number of experts, allowing the participants to see different points of view and approaches, enriching their knowledge of the subject matters in question.

2.4. Visits to the New Office of Justice

The main aim of these visits is to complement the future court secretary's process of learning within an institutional context or those which are especially problematic due to their human and social implications and which are directly related to the roles they fulfil. The visits allow trainees to better understand the institution and its problem areas and the work of other legal professionals with whom court secretaries must work. The externalisation of certain training activities, which puts future court secretaries in direct contact with real-life situations, allowing them greater first-hand knowledge, without the need for intermediaries, allows them to achieve the objective of social awareness-raising which overarches all their initial training.

Another of the key aims of training activities such as these is that of encouraging a communicative dialogue between the various legal professionals with whom court secretaries need to cooperate.

3. Complementary training activities

Two important complementary activities are offered within this course.

The aim of both is to offer tools which allow future court secretaries to better carry out their duties and extend their linguistic and computer skills within the framework of a globalised world:

- Languages: the course includes lessons in legal English, French and/or German, based on a distance learning system. In order to take part in these lessons, trainees will first have to pass a level test that confirms their command of the language in question.
- Explanations of the Centre's website: handling the database, document searches, request for courses, monitoring online courses, forums for court secretaries, EPICO, etc.

B. MODULE STRUCTURE

CONTENT AND DEVELOPMENT OF STRATEGIC MODULES

Face-to-face training – a key pedagogical resource according to which this Initial Training Plan was designed – is based on four strategic modules, some of which are divided into parts due to the nature of the material covered. They are structured as follows:

Module I. ORGANIC SUBJECTS

Single section: Organic aspects relating to court secretaries.

Module II. ORDINARY SUBJECTS

Part 1. The role of a court secretary in procedural law excluding civil and criminal law.

Part 2. The role of a court secretary in civil procedures.

Part 3. The role of a court secretary in civil enforcement and collection procedures.

Part 4. The role of a court secretary in criminal procedures.

Module III. INTERDISCIPLINARY SUBJECTS

Part 1. IT management in judicial procedures. ICTs

Part 2. Court secretaries as managerial staff.

Part 3. The General Council of the Judiciary and the Justice Administration.

Module IV. OTHER QUESTIONS CONCERNING THE ROLE OF COURT SECRETARIES

Single section: Practical aspects regarding the role of court secretaries.

C. COURSE CALENDAR

The course will last six months, divided into two phases:

- Theoretical-practical phase which begins on Monday 6 May 2013 and concludes on Friday 5 July 2013.

- Tutored practice phase which begins when the above phase ends and concludes on 7 November 2013.

Module I	ORGANIC SUBJECTS	Date
Single section	Organic aspects relating to court secretaries	7-10 May

- **The personal status of court secretaries:** Categories: incompetency, incompatibility, prohibitions; abstention and recusal, system of remuneration, recruitment and substitutions
- **Hierarchical order:** The Secretary General for the Justice Administration, higher body Government Secretaries and Provincial Coordinating Secretaries, circulars and instructions, consultations, disciplinary regime.
- **Relationships with the Ministry of Justice, the General Council of the Judiciary** (hereinafter, CGPJ for its Spanish initials) **and regional Autonomous Communities with responsibility for matters of justice.** Determination of the natural and functional position occupied by a court secretary as well as how best to establish their collaborative duties with the various administrative bodies.
- **Action Plan 2012-2014:** Strategic lines for the General Secretary of the Justice Administration, action programmes, mechanisms for the coordination, monitoring and evolution of the execution of justice.
- **Implementation of the New Office of Justice (NOJ):** General ideas concerning the NOJ, with special reference to common procedural services and the role of court secretaries as managers of these services.

Module II	ORDINARY SUBJECTS	Date
Module II. Part 1	The role of a court secretary in procedural law excluding civil and criminal law	13 to 17 May

- The role and responsibilities of a court secretary in contentious administrative matters. The electoral process.
- The role and responsibilities of a court secretary in matters of social order with special reference to intra-procedural conciliation.
- Bankruptcy proceedings. Their influence on other jurisdictional divisions.
- Legal aid: court challenges. Interest settlement. Legal fees.

Module II. Part 2	The role of a court secretary in civil procedure	20 to 24 May
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- Admission of the claim. The handling of remediable and irremediable defects.
- Questions concerning legal costs and the settlement of interest. Account auditing.
- Alternative forms of conflict resolution.
- Voluntary jurisdiction.
- Special processes.

Module II	ORDINARY SUBJECTS	Date
Module II. Part 3	The role of a court secretary in civil enforcement and collection procedures.	27 to 31 May

- General regulations on execution.
- Monetary execution. Collection procedures.
- Mortgage foreclosure.
- Practical problems with registry entries.
- Execution of foreign resolutions.

Module II. Part 4	The role of a court secretary in criminal procedures	3 to 7 June
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- The role of the court secretary in Courts of Instruction. Technical management and procedures to be instigated. Access to information and data protection.
- Infringement of fundamental rights: observation of and intervention in communications. Habeas Corpus.
- The participation of the court secretary in duty courts (fast-track trials and defendants' rights). Residential search and seizure.
- The role of a court secretary in criminal courts. Sentence enforcement and compliance. Prescription. Civil Liability. Legal costs.
- Domestic and gender violence.

Module III	INTERDISCIPLINARY SUBJECTS	Date
Module III Part 1	IT management in judicial procedures ICTs	10 to 14 June

- Visits (NOJ, police forensic departments, prisons, the Congress of Deputies, etc.)
- Reference to the regulatory framework regarding ICTs. General Secretariat Action Plan 2012-2014.
- ICT data protection.
- Procedural management systems and the move towards the electronic judicial file.
- Peripheral modules. Functions: auctions, systems used in the recording of hearings and documentation, filing and digital signatures. Control systems. IT communication systems. Lexnet. The Justice Administration's website.
- Application to manage the Appropriation Account and legal deposits.
- Administrative records and their role in the administration of justice: SIRAJ.

Module III	INTERDISCIPLINARY SUBJECTS	Date
Module III	Part 2. Court secretaries as managerial staff.	17 to 21 June

- Visits (NOJ, police forensic departments, prisons, the Congress of Deputies, etc.)
- Court secretaries as managerial staff. Leadership. Assessment of performance.
- Office management from a teamwork perspective
- Management skills. Management of change. Time Management. Responsibilities and motivation
- Management skills. Management of conflictive situations. Negotiating techniques.

Module III Part 3	The CGPJ and the Justice Administration	24 to 28 June
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- Visits (NOJ, police forensic departments, prisons, the Congress of Deputies etc.)
- Charter of citizens' rights and transparency plan I
- Charter of citizens' rights and transparency plan II
- *Punto Neutro Judicial* inter-agency communication network
- Legal statistics

- Provisions set out by the CGPJ regarding the role of court secretaries.

Module IV	OTHER QUESTIONS CONCERNING THE ROLE OF COURT SECRETARIES	Date
Single section	Practical aspects regarding the role of court secretaries	1 to 4 July

- The drawing up of rulings, court records and procedural steps for both criminal proceedings (search and seizures, release of a body, identification parades, visual inspection, etc.) and civil proceedings (measures of organisation, decrees, eviction and embargo proceedings, etc.)
- The court secretary's role in hearings at which he/she is present
- Correspondence between parties, legal professionals, other judicial bodies and non-legal organisations and authorities
- International civil and criminal cooperation
- The setting of legal costs and the settlement of interest
- European monitoring from a practical point of view

III. TUTORED PRACTICE

The tutored practice phase of the initial training of future Court Secretaries is designed to complete the training received until this stage through the practical application of the knowledge and skill acquired during the first phase of training at the Centre for Legal Studies. This second phase will take place in courts and judicial offices, based on the number of places announced by the Centre for Legal Studies at the start of the theoretical-practical course.

Specific training objectives

The role of a court secretary as a person offering a public service, working on behalf of society as a whole and in defence of the public interest, with increasing implications for aspects which are not strictly judicial in nature, requires that during the practice phase, the future secretary be supported by a tutor with all his or her professional experience. This will ensure truly integrated training, with a focus from the outset on the importance of the role attributed to court secretaries in Volume V of the Organic Law of the Judiciary (hereinafter, LOPJ for its Spanish initials), a key element in the organisation of the administration of justice and the defence of the fundamental rights and civil liberties enjoyed by Spain's citizens.

The aim of this training process and specifically the tutored practice period is to ensure the best possible training of competent judicial professionals from both a technical and human perspective, fully capable of undertaking the roles assigned to them (see Article 452 of the LOPJ) regarding the principles set out in the Charter of Citizens' Rights in the Justice System.

Within this constitutional framework, the specific aims to be achieved in this second tutored practice phase are as follows:

- To gain a more comprehensive knowledge of the key legal institutions as far as undertaking the duties expected of a court secretary is concerned, complementing this knowledge from an eminently practical and applicative perspective.
- To acquire the skills and abilities required in order to undertake the multiple functions assigned to court secretaries with regard to the legal framework established in Article 4 of the Organic Regulations Applicable to Court Secretaries.
- To fully understand the organisation and operation of Spain's various courts, tribunals and judicial offices, in all their aspects, taking advantage of all the personal and material resources available to them.
- To fully understand the social context in which the future court secretary will be undertaking his or her role, as well as learning the standards of conduct expected in their professional relations with others involved in the legal process (judges, court staff, lawyers, public prosecutors, police and citizens).

It is worth pointing out that in order to achieve these objectives it is essential to ensure the Centre for Legal Studies' collaboration and communication with all those organisations and individuals who might offer a contribution, such as the Ministry of Justice's Sub-Directorate General for the Programming of Modernisation, the Regional High Court Secretaries, the Provincial Coordinating Secretaries and the appointed tutors for the court secretaries.

In order to achieve these objectives a working group was set up which was given responsibility for reviewing the programme and organisational structure of the tutored practice period, the definition of its content and its duration, establishing the number and profile of the tutors and the monitoring of the practice work through to its conclusion.

The tutor to future court secretaries should work to guarantee that all training objectives are met, ensuring that they acquire the necessary knowledge and skills required in their chosen career.

Tutors must also play an active part in the training process, as a guide and mentor, encouraging the free development of the skills required of a court secretary, within a climate of trust, confidence and constructive criticism that allows for their evolution toward achievement of the established goals, helping them to overcome their weaknesses and providing them with the tools they require in order to continue their progress and consolidate their strengths.

Regulation of the role of tutors to court secretaries is also set out in the **“General Practical Training Plan for Court Secretaries: Content, methodology and evaluation - The tutor's new role”**, available on the online Virtual Community.

Content of the tutored practice phase

The tutored practice period will last for a total of four months, with training content divided between compulsory activities which focus on specific areas and complementary activities. The latter will be decided upon by the tutor to the court secretaries or, in some cases, by the trainees themselves.

COMPULSORY ACTIVITIES

1. CIVIL LAW

1.1. General Part

- Courses of action prior to admission of the lawsuit
- Courses of action during the judicial process - I (abstention, recusal and bailment)
- Courses of action during the judicial process - II (presentation of briefs, pleadings and other documents, notification of proceedings, court records and binding rulings)
- Courses of action during the judicial process - III (announcements and notifications)
- Hearings
- The role of a court secretary in certain means of evidence
- Setting of court costs
- Auctions
- Preliminary proceedings
- Judicial division of assets
- Voluntary jurisdiction
- Civil Registry and/or execution
- Bail and Bond account

1.2. Special Part and Family Law

- Special processes regarding legal capacity, filial relations and minors
- Special processes regarding annulment, separation and divorce

2. CRIMINAL LAW

2.1. General Part

- Procedural management
- Courses of action during the judicial process - I (procedural responsibilities within the investigation process)
- Courses of action during the judicial process - II (specific procedural duties of a court secretary)

- Actions and duties of a court secretary working on duty
- Public attestation and documentation

2.2. Special Part - Violence against women

- Central Register of Domestic Violence
- Procedural roles within the context of gender violence
- Duties and responsibilities in a Duty Court

3. GENERAL AREA

- Statutory, organic and supervisory aspects
- Concurrent spheres of action. Interpersonal relationships.
- Judicial transparency

III. TUTORED PRACTICE PHASE

During the tutored practice period, future court secretaries are placed in courts and judicial offices under the supervision of a tutor, in other words, outside the Centre for Legal Studies. In order to monitor the effectiveness of this key phase of the training period, trainees should send the following documentation to the Centre for Legal Studies on the indicated dates:

1: Initial presentation document. This must be provided during the week that the tutored practice commences.

2: A set of legal documents. The date for presentation will be midway through the practice period and just before its conclusion.

3: A final report on the experience, which should be provided once the practice period has finished.

In order to guarantee that trainees take full advantage of the tutored practice period, trainees should provide documentation comprising draft rulings, procedural steps, setting of court costs, etc. that they have prepared with regard to real judicial proceedings in order that the Centre for Legal Studies and the working group can analyse, evaluate and control the experience of each court secretary during their practice period. Trainees should also provide an explanatory report on their tutored practice.

The various documents which trainees must provide are those indicated once the theory phase at the Centre for Legal Studies finishes and before the tutored practice begins.

Through these documents the trainees' work at the court or offices in question is reviewed and evaluated, making the recommendations deemed appropriate and which can serve as a point of reference once the future court secretaries are finally placed.

IV. ASSESSMENT

The theoretical-practical part of the course held at the Centre for Legal Studies will be assessed as follows:

Class attendance is obligatory.

Each trainee will have a personal and non-transferable ID card which he or she should use to sign in and out of the centre and in the classroom time clocks, notwithstanding any sporadic attendance checks which may be made.

The theoretical-practical part of the course will be assessed by the Centre for Legal Studies' course directors at its conclusion.

At the end of each module or part of a module, the coordinator will set practical cases or assignments on the subject that the trainee must complete in the time period decided by the coordinator.

The method of presentation will be via the Virtual Community of the Court Secretary's Course which can be found on the Centre for Legal Studies website.

The coordinator and his or her training team will be responsible for correcting and assessing each of the trainees, sending the results to the Centre for Legal Studies, without the need to be physically present.

The course will be assessed in accordance with that set out in the regulations for the selection process and in the Statute of the Centre for Legal Studies, with a mark of between 0 and 10 to be given for the theoretical-practical part of the course. A minimum score of 5 will be required in order to pass this part of the course.

The tutored practice phase will be assessed as follows:

Tutors will provide the Centre for Legal Studies with their assessment of the court secretaries they have mentored during the practice phase. These assessments will be made in accordance with that set out in the regulations for the selection process and in the Statute of the Centre for Legal Studies, with a mark of between 0 and 10 to be given for the practical part of the course. A minimum score of 5 will be required in order to pass this part of the course. Finally, the documentation and work provided by the trainee during this phase will be classified as Pass or Fail.

V. ORGANISATION AND ADDITIONAL INFORMATION

A. Organisation:

Contacts at the Centre for Legal Studies:

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Ministry of Justice

Secretary General of Modernisation and Relations with the Justice Administration:

Joaquín Silguero Estagnan

Deputy General Director of the Modernisation Programme:

Alfonso Lozano de Benito

B. Additional information

Delegates

In order to facilitate communication, trainees must choose a delegate for each group, who will be responsible for acting as an intermediary with course coordinators and the Centre for Legal Studies.

Library

The library will be open to students from 9:30 am to 2:30 pm, Monday to Friday, offering services such as:

- Reading room and study area.
- Reader assistance (advice, catalogue searches, support documents, etc.).
- Lending services - three books may be borrowed for a total period of 15 days.

Website

Administrative and payment information can be found at the Virtual Community which may be accessed from the Centre for Legal Studies website.

<http://www.cej-mjusticia.es>

