**European Network of Councils for the Judiciary (ENCJ)**

# ENCJ Working Group on Quality Management
## Final Report
**Budapest, May 2008**

# Report ENCJ Working Group
# Quality Management

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# 1. Introduction

The working group on Quality Management was established by the European Network of Councils for the Judiciary (ENCJ) in June 2007, together with four other working groups. In total, 9 Councils/Court administrations participated in the working group: Austria, Belgium, Denmark, Finland, Hungary, Latvia, Lithuania, the Netherlands and Romania. The working group was chaired by the Netherlands Council for the Judiciary. Between October 2007 and May 2008 the working group met four times, resulting in this report. The objective of the working group is to:

> *'…share experiences on the subject of quality, where quality is broadly defined. Insight is provided into various quality activities in the participating countries and the role of the Councils of the Judiciary in these. Furthermore, a register is made of which quality activities are being pursued in which countries. This enables other countries to easily see where further information can be found, thus facilitating the learning from each other's quality activities.'*[1]

Quality of the judiciary can be broadly defined, including topics such as quality systems and judicial quality. Chapter 2 describes the working group's perspective on the definition of quality.

Besides giving an impression of the quality activities that take place in the various countries, the report also hopes to provide insight into the role that the various Councils/Court administrations play in the area of quality management. This is done in chapter 3. It hardly needs saying that there are large differences between the approaches and indeed tasks of the Councils as regards quality management.

Some quality activities are presented in more detail in chapter 4. We have tried to group the different quality activities into a number of categories, which was no easy task, considering the diverse nature of the quality activities encountered. The activities have been grouped into 12 categories that cover aspects of the quality of the judiciary. In the selection of these activities a choice has been made for those that could be of interest to others while at the same time providing a balanced impression of what is being undertaken in the respective countries.

In the concluding chapter, an overview is provided of what takes place in the various countries: what seem to be the unifying factors, and where do approaches to quality differ. At the end of the report, a list of participants with contact details has been added for further information.

An important result of the working group is an appendix containing a register of quality activities of the participating countries, each quality activity being accompanied by a small description. Contact details of experts on these activities have been added at the end of the register for further information. Rather than being an exhaustive list, it can be used as a guide, so that interested others know where to find further information about specific quality activities. At this stage, the register is limited to quality activities in the countries that participated in the working group. In the near future, however, the working group strives to also include contributions from other ENCJ members and observers. The members of the working group feel that the register should become a living document, which should be updated periodically. The working group hopes that this register will facilitate learning from each other within the ENCJ.

Those reading this report and the register are above all invited to learn from them for their own sake, finding out if the experiences of others may be helpful in developing their own quality activities.
This project is directed at all forms of quality management practiced in the countries participating in this working group, without meaning to be exhaustive in this.

[1] Mission statement of the working group Quality Management.

# 2. The Concept of Quality in the Judiciary

This chapter first defines the concept of quality in general, then shows how quality thinking evolved in justice and finally explains in a few words how quality can be managed.

## 2.1 What is quality?

Quality is the product or service satisfying the expectations of users and other stakeholders. When the organisation that delivers the product or service is a public service, the users and stakeholders are the citizens. A citizen can be the user of a particular service and each citizen is, for example as taxpayer, a stakeholder of the services provided.

Fundamentally important regarding quality is the perception the user has of the product or service. Expressed simply, it can be stated that quality is experienced when the perception of the delivered service equals or exceeds expectations. We must accept that subjectivity plays an important role in this perception. This can be influenced through communication.

This quality evaluation not only concerns the quality of the product delivered by the organisation, but also the totality of the user's expectations.

For these reasons, quality considerations must be extended to all activities that contribute to the best possible satisfaction of all the user's requirements and expectations, and not only to those that concern the basic product of the service provided.

In addition, the quality of the service delivered to the user is the result of the chain of successive internally produced quality by the personnel members of and suppliers to the organisation.

The approach whereby management tries to deliver a qualitative service and therefore tries to perform qualitatively in all parts and at all levels of the organisation is called total quality management.

Initially quality management was limited to the inspection of the product: problems with a product are detected after production or delivering of the service. Quality management switched from inspection to quality assurance, before evolving to total quality management.

Quality assurance intends to obtain a given level of quality, and to ensure that the production process to this end is continuously being managed so that this level can be maintained. The objective is to do the work properly the first time.

## 2.2 Judicial quality, quality of the judicial system and quality service for society: towards a global perspective on quality

The user/citizen’s point of view concerning the services delivered by the judicial system was neglected most of the time up until two decades ago. As judges are professionals, they considered the quality of the judicial decision as pivotal. This quality was monitored by means of appeal and cassation. In such a quality system the work is overdone or verified, and quality management takes the form of inspection of the product or service delivered.

In the last decade of the previous century, citizens and civil society formulated demands with regard to the services provided by the judicial system. This increased attention for quality has led to consider the

attitude and behaviour of judges and prosecutors as elements of professional quality. Topics such as impartiality and integrity, unity of law, expertise, timeliness and clarity of decisions as well as good communication with the justice user are of importance in this context. Assessment, training and peer review are initiatives with regard to quality assurance used to improve the performance of judges and prosecutors. In peer reviews for example, judges discuss their functioning at the hearing with fellow judges and an external expert. As well as increasing the professional quality, this contributes to an open atmosphere in the courts.

Nowadays the quality of the judiciary or prosecutor's office in its totality receives more and more attention. Besides the professional quality of judges and prosecutors, the quality of organisation objectives, strategy, processes, material aspects, staff other than magistrates, and cooperation with partners are of consequence. In all these different areas activities for quality improvement are being undertaken.

The organisation domains are often incorporated in a total quality system[2]. Complaint handling, self evaluation of the functioning of the organisation, as well as stakeholder evaluation are the feedback part of that system. The complaints procedure for example, should result in litigants being able to lodge their complaints and enable these complaints to really lead to improvements in the organisation.

The effects of the judicial system go beyond the service provided directly to its users. The judicial system contributes among others to social peace, economic development and security. As such it satisfies the citizen's societal needs. Even when he is not a direct user of the services provided, the citizen gets a return from the organisation's activity and its effects within society. To what extent these societal needs or expectations are met should also be studied.

A number of quality requirements have been laid down in laws and conventions, such as article 6 of the European Convention on Human Rights (ECHR). Article 6 ECHR sets the most important legal framework for the quality of the judiciary. Important quality indicators within this framework are among others the reasonable time, independence, accessibility and publicity.

## 2.3 Quality as a component of organisational strategy

To focus the organisation's attention on quality, quality goals must explicitly be included in its strategic development plan, i.e. management has to formulate long-term objectives in the area of quality. Quality policies, objectives and targets must be aligned with these organisation's goals.

Quality goals can be set for a number of well defined processes/activities, but when management considers quality as an essential aspect of every component of the organisation and its interfaces, it tries to integrate quality management in the overall organisational management.

The main principles of total quality management are:

1. Start from the requirements and expectations of users and/or interested parties.

The judicial system (both the prosecutor's office and the judiciary) is a process that transforms incoming data into output by means of human and material resources. This output is intended for the user external to the organisation.

The product or service depends on the demands and expectations of the end user (for example, the readable, understandable reasoning of a judgement) but also on all the related activities performed

[2] Quality systems are customized but models can help to set up such systems (e.g. EFQM, CAF, etc.).

during the entire process. A lack of quality in one link decreases the quality of the output (in all aspects).

Each internal personnel member must also be seen as a user of the products of the other personnel members within the organisation as well as supplier. Thus, each user in the quality chain must obtain satisfaction. Therefore, an organisation's effectiveness should be evaluated with respect to the level of each user's satisfaction.

2. Formulate quality objectives that are intended to allow the organisation to come closer to meeting the expectations of the user/interested parties and to guide the organisation in the direction of the vision decided upon by the management of that organisation.

3. Pursue a continuous improvement. If improvement is also intended organisation-wide then one is working towards total quality management.

Continuous improvement/change is also necessary due to changes in the requirements and expectations of the end user as well as of the internal consumer of the services provided.

Also review the management system to maintain progress.

4. Adopt a system approach to management, and manage activities and related resources as a process.

A quality system has several objectives:
- It intertwines the various quality activities.
- Planned and systematic quality improvement is enabled (feedback and learning process).
- It provides the possibility to render account about quality to the outside world.
- Comparison between the courts is made possible, which facilitates learning from one another.

To obtain results that are in line with quality objectives, all elements of the organisation must be incorporated and a total quality management system must be put in place.

In order to attain these objectives it is first and foremost important that there is a mutual vision on what quality of the judiciary/prosecutor's office entails.

5. Make effective decisions that are based on the analysis of data and information.

In order to provide insight into the status with regard to quality, the management of a court or prosecutor's office should periodically measure the quality situation. In doing this, quality can be approached from different angles. It may, for example, be assessed by clients such as litigants and lawyers, but also by staff or outsiders (e.g. a visitation commission). Quality can also been evaluated by means of an audit.

The results of the assessment may be publicised in order to render account to society, and must be incorporated into plans for improvement to enable learning from the assessment. In the end, the courts and public prosecutor's offices must go through the plan-do-check-act or Deming circle.

6. Management must show commitment to quality and work at the involvement of people. Their full involvement enables their abilities to be used for the organisation's benefit.

Risks for successful quality management are:

- The success of quality management stands or falls with the way in which the cultural factor is managed. Improvements and innovations are fed by a management culture suited to this end. Culture is defined as the beliefs which pervade the organisation about how its performance should be conducted, and how the personnel should behave and should be treated. They should know the quality

change project/goals, have insight into the effects of quality management, wish to learn and improve themselves and not fear to provoke discussion.

- Do not lose sight of the final goal due to the step-by-step approach (permanent improvement).

- There can be a tension between quality management and the independence of the judiciary. It is of course very important that a quality system respects that independence.

# 3. Roles and tasks of the Councils and Court administrations in Quality Management

Now that we have outlined the concept of quality in the Judiciary, we have a sufficient theoretical basis to examine in more detail the roles and tasks of the various Councils and Court administrations with regard to quality management.

The following chapter seeks to provide insight into the different roles and tasks with regard to quality management of the various Councils and Court administrations who participated to the Working Group Quality Management in the Judiciary.

## 3.1 Role and tasks of the Ministry of Justice in Austria

Austria does not have a "Council for the Judiciary". The administration of the courts is the duty of the presidents of the four "High Courts of Appeal" (HCA; "Oberlandesgericht") and of the Ministry of Justice (MJ).

**Education**
Graduates of the universities who have studied law and wish to become judges or public prosecutors have to undergo four years of training as "candidates" ("Richteramtsanwärter"). Their education is the duty of the presidents of the four HCA. The education consists mainly of working in all types of courts within the whole circuit of the HCA and partly in one-day seminars and 3-week courses. The principles of this training are postulated by the law which determines the topics of the written test and oral examination at the end of this period.

**Further training (advanced training, skill enhancement)**
As a basic principle further training is optional. The MJ changed the application form by adding space for past training activities; so every applicant is invited to give information about their training.

There is one unit in the MJ dealing with training matters. Every year the MJ edits a compendium of all training activities which are open to all judges. All expenses are paid. A "Training Board" was installed about 15 years ago, within which experiences are exchanged and requirements are discussed. In this board judges and prosecutors from all parts of the country, external members as well as the Judges' Association update the topics of further professional education.

As an aim for the further training, "soft skills" are increasingly accepted and are gaining importance.

**Internal Revision**
is described in Topic 4.8. of the report.

**Assistance of the courts by electronic data processing (EDP)**
Austria's judiciary system has built up a comprehensive IT-network. All courts, offices of public prosecution, prisons and the MJ cooperate via a shared interface, where all judicial applications are supported.

On account of its many additional functions, the system facilitates a fast and easy handling of all different types of processes at court. The filing system is fully digitalised.

Electronic legal correspondence is contributing largely towards increasing work efficiency; it facilitates the electronic communication of submissions to the courts and the electronic service of documents by the courts. A public database on decrees can be accessed free of charge.

All decisions of the Supreme Court and other cases which are chosen by the courts are available free of charge on the Internet.

The list of court experts and translators is open to the public via Internet. The land register and trade register are administered totally by using EDP.

## 3.2 Role and tasks of the Belgian High Council of Justice

The core task of the High Council of Justice is to contribute to the efficient functioning of the courts and public prosecutor's offices, and to stimulate these to provide high quality services to citizens and society as a whole.

It does this primarily by:
- selecting and proposing candidate magistrates for recruitment;
- selecting and proposing magistrates for promotion;
- appointing superintendents;
- handling complaints with respect to the judicial system;
- providing advice concerning legislative proposals by parliament and drafts of laws by government with respect to the functioning of the judicial system;
- officially providing advice concerning strategic and operational matters of the courts and public prosecutor's offices;
- organising working groups and workshops with the courts and public prosecutor's offices in order to facilitate insight and decision making in strategic and operational matters;
- auditing courts and public prosecutor's offices, among others assessing their internal control system, and formulating recommendations to help them improve on the findings made;
- auditing courts and public prosecutor's offices and formulating recommendations to external interested parties (for example parliament and government) with respect to their competence in the area of the functioning of the courts and public prosecutor's offices.

With a strategic management plan, and related to this, a pluri-annual plan consisting of a series of improvement projects per mandate, the High Council supports improvement in the functioning of the judicial system and it systematically optimises its own functioning.

## 3.3 Role and tasks of the Danish Court Administration

Most of the quality management work in Denmark is done in close cooperation between the Court Administration and the courts. Some quality activities are conducted by the Court Administration, for instance the setting of objectives for the case processing times, stakeholders' and clients' user survey and the work of the best practice teams. Other activities are conducted in cooperation between the courts and the Court Administration. There are also activities which are conducted by the local courts.

In most cases a quality initiative, which is going to be conducted by the Court Administration or in cooperation between the courts and the Court Administration, will only be launched after discussions in a working group with representatives from both the Court Administration and the courts. These working groups will discuss the need for a proposed initiative, how and when the project should be carried out, what kind of IT-support would be needed, the need for templates and education in regard to the project, the role of the Court Administration and the courts respectively, etc. The working group often follows the project and evaluates it regularly.

Major quality initiatives will also be approved by the joint consultative committee of the Danish Courts and/or the Board of the Court Administration.

The Court Administration will often be the instigator of an activity and will facilitate it by providing the necessary IT-tools, templates, education etc.

In addition to the quality initiatives instigated by the Court Administration many courts are involved in local or regional quality activities. Regarding these activities the Court Administration offers support and advice if the court asks for it. The Court Administration encourages such local activities and is currently considering how the Court Administration can support knowledge sharing about local activities in order to make sure that all courts can profit from such local initiatives.

## 3.4 Role and tasks of the Ministry of Justice in Finland

Unlike many other countries, Finland does not have a special state authority (a Judicial Council) for the administration of the judicial system. In Finland these duties belong primarily to the Department of Judicial Administration within the Ministry of Justice. One of the duties of the Ministry is to ensure that the courts have sufficient financial resources, sufficient staff and proper premises and telecommunications, and that sufficient further education is provided to maintain the professionalism of the staff at a high level. The Ministry is also in charge of the development of the judicial system.

The Ministry does not interfere in the way the law is applied by the courts. The Ministry is likewise not willing to set quality standards for the decision-making of the courts. Instead of creating quality standards itself, the Ministry has supported and encouraged the courts to begin to develop the quality of their work. The impetus for this work was given in the report of a 1998 working group chaired by the Permanent Secretary of the Ministry of Justice titled *Quality and Operational Performance in Courts of Law*. The working group proposed that the management by results system should be supplemented and developed by setting qualitative targets for the courts in addition to the quantitative targets that are used in the annual financial result negotiations.

The first quality project was launched in the jurisdiction of the Rovaniemi Court of Appeal in 1999. Quality targets regarding the administration of justice were set for all courts within the jurisdiction. The targets were drafted by four working groups which were set up in a conference with all District Courts in the jurisdiction participating. All judges in the jurisdiction have since been involved in one or the other of these working groups. The Quality Project of the Courts in the Jurisdiction of the Court of Appeal of Rovaniemi has thereafter published eight books containing working groups´ reports about different aspects of judicial quality (e.g. comparisons between sentences in different courts in different crimes, problems of case management, writing a judgement). In 2005, the Quality Project of the Courts in the Jurisdiction of the Court of Appeal of Rovaniemi won the European Commission´s and The Council of Europe´s The Crystal Scales of Justice Award -competition. In 2006 they published the Quality Principles and Benchmarks for the evaluation of the quality of adjudication in courts of law (Evaluation of the Quality of Adjudication in Courts of Law, March 2006, ISBN 951-53-2874-8).

The same method of setting quality targets for the working groups is used in the later quality project of the Courts in the Jurisdiction of the Court of Appeal of Helsinki. The special characteristic of this quality project is the active co-operation with the Faculty of Law of the Helsinki University. Judges participating in this quality project have received an opportunity and guidance for the legal research. They are allowed to take a higher degree in law. The completed essays and reports are published in a compilation as a result of the co-operation between the university and the quality project.

Now there are quality projects in all jurisdictions of Courts of Appeal in Finland. Most of them have used the same working group-method as explained above. In eastern Finland, they executed an empiric study about the expectations and experiences of litigants, witnesses and others participating to an oral hearing. The aim was to discover new information about the judges' behaviour and give feedback to

them. The research is published as a book.

## 3.5 Role and tasks of the Hungarian National Council of Justice

According to Article 34 of Act 66 of 1997, the "National Council of Justice shall fulfil the central duties of administration of courts with the observation of the constitutional principle of judicial independence and exercise supervision of the administrative activities of the presidents of the courts of appeal and the county courts."

The most important functions of the Council are:
- to appoint and relieve the presidents and vice-presidents of the regional courts of appeal; the county courts, as well as the heads of judicial colleges and the head and the deputy head of its own Office;
- to make recommendations to the President of the Republic on the nomination or relieve of judges;
- to prepare and submit to the Parliament its proposal for the next annual budget in respect of the Chapter on Justice;
- to be responsible for the implementation of the separate Chapter of the National Budget as adopted by the Parliament (includes salaries, costs of functioning and maintaining the courts and their administration, as well as investments in buildings and technology);
- to guide and oversee the administrative activities of the presidents of courts;
- to exercise the central duties of training of judges;
- to exercise its employer's and personal authority as stipulated in the law;
- to specify the basic principles underlying the organisational and operating rules and regulations of the courts;
- to perform and organise the central duties related to the collection and processing of judicial statistical data;
- to arrange the legal representation of the courts;
- to manage the activities of the Office of the National Council of Justice.

The National Council of Justice exercises its activities and adopts its resolutions in meetings, convened at least once a month. The meetings are convened and chaired by the President.

Within the National Council of Justice and under its administration an office has been established, whose task is basically to prepare the meetings of the Council, to implement its decisions, as well as to control the execution thereof. The office, which in practise is the executive organ of the Council, is an economically independent budgetary unit, falling under the scope of the Treasury. The Office of the National Council of Justice commenced its operation on the 1 February 1998. The Head of the Office is a professional judge, appointed for indefinite time.

## 3.6 Role and tasks of the Court Administration of Latvia

The Court Administration of the Republic of Latvia (CA) is a direct administrative institution subordinate to the Minister of Justice, which organises and performs the organisational management of district (city) courts, regional courts and Land Registry Offices. The CA is responsible for the following main areas: the courts' performance analysis and planning, selection of judges' candidates, providing statistical reports, preparing propositions on required financing from the national budget, keeping judges' and court personnel personal files and executing required documents, organising training for judges and court personnel, ensuring financially and materially-technically the operation of courts, providing for the consideration of applications, complaints and propositions and reception of persons.

During the last year, the CA has started to introduce important tools in the judiciary for quality management development. An audio recording system in the court proceedings has been introduced in

three Latvian courts. The aim is to modernise the judicial proceedings, to improve the quality of court proceedings, making the process more effective and promoting efficient use of court staff.

The CA pilot project on centralised distribution of court summons has been introduced from December 2007 in the Administrative district court. During 2008, it is planned to implement the project in all district courts and regional courts. The implementation of the new technology will reduce the expenses of office supplies, equipment and human resources.

Currently, to ensure qualitative judges' selection procedures, a new draft "Regulation on selection of judges' candidates, traineeship and taking a qualification examination" is being developed.

During 2008, the CA will develop a data warehouse information system. It will be used to gather data from the Court Information System and the financial information system to calculate the actual expenses of court proceedings and the expenses of every single court proceeding.

For enabling the collection of statistical data the Court Information System is in place since 1998, in which data of all proceedings are collected and analysed for all the courts of Latvia. Special software was developed to enable audit of data of court proceedings.

## 3.7 Role and tasks of the Judicial Council of Lithuania

The Judicial Council is an executive body of self-governance of courts, which ensures the independence of courts and judges. One of the most important functions of the Judicial Council is to advise the President of the Republic of Lithuania on the appointment of judges, their promotion, transfer and removal from office, also on the appointment and removal from office of Chairmen, Vice Chairmen and Chairmen of divisions of courts.

In order to solve different issues of the courts, the Judicial Council forms standing and *ad hoc* commissions and approves their regulations. Eleven working groups have been formed by the Judicial Council, for example:

1. the working group Commission for the coordination of judges' training under the Judicial Council;
2. the working group for the analysis of the budgetary matters;
3. the working group for the establishment of the number of judge assistants and the need of resources for the office of judge assistant in courts of the Republic;
4. the working group for the preparation of proposals concerning the number of judges at district courts according to the factual work load;
5. the working group for the unification of the official titles and for the establishment of the number of employees working under the employment agreement at regional, regional administrative courts and district courts of the Republic;
6. other working groups.

The Judicial Council has an important role in ensuring the quality of judges, namely in the selection of candidates to judicial office and their career: approves the procedure for entering persons in the list of candidates to judicial vacancies at a district court as well as the procedure for entering persons in the register of persons seeking judicial promotion. It also approves the Regulations for the Selection of Candidates to Judicial Office, the Criteria for the Evaluation of Candidates to Judicial Office, the Regulations for the Selection of Persons Seeking Judicial Promotion and the Criteria for the Evaluation of Persons Seeking Judicial Promotion, sets up the Examination Commission for candidates to judicial office and appoints its Chairman and considers and approves the regulations of this commission and the examination programme.

The selection of candidates for judicial vacancies has an important impact on the quality of the Judiciary. The Chairman of the Judicial Council appoints two members of the Selection Commission (the Selection Commission consists of 7 persons). The Chairman of the Judicial Council appoints the Chairman of the Selection Commission from among members of the Commission.

The Judicial Council also has powers in the process of ensuring the discipline among judges: it appoints members of the Judicial Ethics and Disciplinary Commission and approves its Chairman, appoints members of the Judicial Court of Honour, and approves the Regulations of the Judicial Court of Honour. It also has the right to propose to initiate a disciplinary action against a judge. A disciplinary action against a member of the Judicial Council and Judicial Court of Honour can be brought only if there is an approval of the Judicial Council.

The Judicial Council advises the President on determination or changing the number of judges in the courts (with exception of the Supreme Court of Lithuania and the Supreme Administrative Court).

The Ministry of Justice is responsible for the organisation of training of judges. It also develops programmes and methodological materials, but the programmes for training of judges, regulations on training tests, curricular and schedules, types of training, its scope and financing and other teaching-related documents are approved by the Judicial Council.

## 3.8 Role and tasks of the Netherlands Council for the Judiciary

One of the statutory duties of the Netherlands Council for the Judiciary is to promote the quality of justice and the uniform application of the law. The role of the Council in promoting quality has changed over the years. Initially, the Council's role was mainly to kindle the enthusiasm of the courts on the subject of quality and encourage them to take measures. In due course it took on a more coordinating role and, at present, has an increasingly managerial role. However, in view of the overlap with the content of judicial rulings, the Council has no powers of coercion in this area.

The Council's statutory duty in relation to quality has various aspects:

- the Council is responsible for developing the RechtspraaQ total quality system and ensuring it has a sound basis;
- the Council draws the attention of the courts and the Minister to the importance of quality;
- the courts are accountable for making quality improvements;
- the Council is accountable to the Minister for the quality of justice;
- the Council believes it is very important to communicate with society about quality, for example on parameters such as permanent education, client satisfaction figures and lead times.

The Council also has various duties in the field of recruitment, selection and training. It supports the measures to recruit, select and train judicial and court officials and carries out these tasks in close consultation with the court management boards. The Council has a significant say in appointing members to court management boards. Court management jobs are directed by the Council, which is responsible for pre-selection.

The Council, together with the Public Prosecution Service, operates a judicial training centre known as the SSR. The SSR organises the initial programmes leading to qualification as judge or prosecutor, and their ongoing education thereafter. The Council also organises a management development programme.

## 3.9 Role and tasks of the Superior Council of Magistracy of Romania

The tasks of the Superior Council of Magistracy (SCM) with regard to quality management are as follows:

Through the Judicial Inspection, the SCM regularly verifies aspects related to the management of the courts and prosecutors' offices. The Judicial Inspection signals the deficiencies and formulates proposals for eliminating them to the Plenum of the SCM, which may take binding decisions for courts and prosecutors' offices.

Through the Statistical Office, the SCM regularly collects data on various aspects related to the activity of the Judiciary, such as: the number of cases dealt with by the courts and prosecutors' offices, the personnel schemes and vacancies at courts and prosecutors' offices and the effective workload per judge/prosecutor compared to the average workload per judge/prosecutor.

The Council is actively involved in the evaluation procedure for judges and prosecutors, which takes place every 3 years. The Council adopted the Regulation on the evaluation of the professional activity of judges and prosecutors and the corresponding Guide, appoints the members of the evaluation commissions and may, also, revoke them. The complaints against the qualifications awarded by the evaluation commissions are solved by the judges or the prosecutors' section of the SCM, whose decisions can be disputed at the Plenum of the SCM, whose judgement is final.

The Council is deeply involved in the recruitment and career advancement (access to higher courts) of magistrates. The Plenum of the SCM approves the regulations for the exams of admission to magistracy, for the promotion of judges and prosecutors to executive functions and leading positions, the exam bibliography, the calendar of the exams and appoints the members of the examination commissions. Also, in 2005, the Council adopted the "Profile of Judges and Prosecutors", which is used for admission to magistracy and for the promotion of magistrates.

Upon the proposal of the National Institute of Magistracy (NIM), the SCM approves, annually, the programme for the initial training of the auditors of justice and the programme for the continuous professional training of magistrates.

Regarding external communication, the SCM adopted the guide of good practices for the cooperation between courts, prosecutors' offices and the media, while on the websites of the Council and of the courts, information guides for litigants are published, containing models of actions and complaints in 31 areas of law.

On a permanent basis, the Council elaborates procedures in various domains under its competency, through regulations and guides. So far, eight guides have been elaborated in the following areas:
- a guide on the evaluation of the professional activity of judges and prosecutors,
- a practical guide for clerks on the procedural acts used by the courts and prosecutors' offices,
- four guides on the activity of the Judicial Inspection,
- a guide of good practices for the cooperation between courts, prosecutors' offices and the media and Information Guides for litigants.

# 4. Quality Activities in the Participating Countries

Now that we have described the different roles and tasks with regard to quality of the different Councils and Court administrations who participated to the working group, we can examine a number of quality activities more closely.

In this chapter, a number of selected quality activities are presented in more detail. In the selection of these activities, a choice was made for activities that could be of interest to others while at the same time providing a balanced impression of what is being undertaken in the respective countries.

## 4.1 Mission, Vision and Strategy

### 4.1.1 Mission, Vision and Strategy in Denmark

Since 2001, the Courts of Denmark have had a vision and a set of values (see box). Additionally, a mission has been imposed and described on the basis of an intense process involving all courts in Denmark and a considerable number of their employees. First the courts were invited to send their ideas and thoughts about a vision and a set of values for the Courts of Denmark. The Court Administration then gathered and adapted the contributions of the courts in one document. This document was first approved by the board of the Court Administration, followed by a number of seminars where representatives from all courts were invited to discuss and confabulate on the subject. After the seminars the document was revised before final approval by the board.

**Objectives**
The Courts of Denmark are vested with judicial powers and administrative functions attached thereto, including probate matters, bankruptcy, bailiff's court, land registration and general administration.

**Vision**
- The organisation, Courts of Denmark, inspires confidence and executes its task with the highest level of quality, service and efficiency.
- The Courts of Denmark secure the Rule of Law and are the contemporary and primary venue for dispute resolution.

**Values**
- the right of the individual to a respectful treatment;
- independence in the judiciary;
- responsibility and reliability in all respects;
- openness, dialogue and cooperation.

Since the adoption of the vision and values of the Courts of Denmark, the organisation has worked on implementing these in the daily life of the courts. As part of this implementation the Court Administration together with the courts yearly establish a plan of action. All plans of action address the focus areas agreed upon each year by the board of the Court Administration.

For 2007 there was only one focus area: the implementation of the reform.[3] The agreed focus areas for 2008 are the implementation of the land registration reform (centralised and digitised land registration), improvement of case processing time in the courts, quality, best practice and competency development.

[3] From 1 January 2007, the number of district courts in Denmark was dramatically reduced from 82 to 24. At the same time the procedural rules were changed in order to ensure more strict and at the same time flexible rules of

It is the aim of the Courts of Denmark to be able to document that the Danish judicial system is among the best court performing systems in Europe within the next four years. To enable comparisons between different court systems and assess their performances properly, the Courts of Denmark has recently introduced the CAF-model. The model is initially implemented on a small scale, the main objective being to raise the level of knowledge about the model among court leaders and staff. To do this, the model has been described in the printed quarterly newsletter of the Courts of Denmark that every employee receives. In addition, the presidents of the courts together with the management group of the Court Administration have carried out a self-assessment.

This makes it possible to measure and document all the different activities that are part of quality management in the Courts of Denmark more systematically. It is also a necessary tool to choose the right strategies to realise the vision for the organisation.

### 4.1.2 Mission, vision and strategy in the Netherlands

**Background**
Three three-year Strategic Agendas have been published since the Council for the Judiciary (*Raad voor de Rechtspraak)* was founded:
- the Agenda for the Judiciary for 2002-2005 - continuity and renewal
- the Agenda for the Judiciary for 2005-2008
- the Agenda for the Judiciary for 2008-2011 - independent and involved

All three of these Strategic Agendas were drafted in a relatively brief period (a few months) and are based on meetings with court boards, external stakeholders and the results of investigation, for example by the commission for the evaluation and modernization of the judicial organisation (the Deetman commission) and the court visitation committee.

The 2008-2011 Agenda is the Council's formal response to the Deetman report and is therefore based largely on the results of the evaluation surveys. In the period leading up to the publication of that Agenda, the Council expressed the explicit wish to look forward more and to involve more people. In 2008, a report forecasting the future of the judiciary system will be conducted to explore the question what society has in store for the judiciary in the coming years and how the organisation can best tackle this challenge. A vision based on the role of the judiciary system in Dutch society needs to be developed for the organisation.

**Mission, vision and targets**
Every Strategic Agenda comprises a mission, a vision and a number of targets. Although the Judiciary's mission is the same for every Agenda, details of the vision can vary, and the targets can differ for each Agenda. When the Council starts formulating a new Agenda, it evaluates to which extent the targets from the previous Agenda have been achieved and those that have not, will find their way into the new Agenda.

The mission is:
The judiciary system is responsible for ensuring that disputes are settled and criminal offenders are sentenced promptly and with integrity by independent courts. The judiciary system is part of the fabric of a state under rule of law and should instil citizens with confidence in the legal system.

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procedure in the preparatory phase of the court proceedings. The changes to the procedural rules also mean that all cases - with only a few exemptions - in the future must be tried in the first instance by the district courts. For more information please visit the homepage of the Courts of Denmark, www.domstol.dk.

The vision is an elaboration of the mission and devotes attention to both the way specific tasks are fulfilled and to the organisation that has been created for this. The vision formulates medium-term goals and consists of five principal elements:

1. the position within the state system;
2. the domain;
3. the values;
4. the interpretation of the tasks;
5. the organisation.

The targets for 2008-2011 are:

1. the administration of expert justice;
2. the reliable administration of justice;
3. the effective administration of justice;
4. the administration of justice and society.

**The implementation of the Agenda**

In order to flesh out the targets, each target has been converted into a number of specific results which must be achieved. The results also state who has primary responsibility for realising them: the Council itself, the national meetings of sector heads or the court boards. This makes it possible to give direction to the implementation of the Agenda. In their annual plans, both the Council and the courts indicate what they intend to do to achieve the targets, and their achievements are recorded in the annual reports.

## 4.2 Total Quality System

**The Quality Project of the Courts in the Jurisdiction of the Court of Appeal of Rovaniemi, Finland**

The Quality Project was launched in 1999. All courts within the appellate jurisdiction of the Court of Appeal of Rovaniemi participate – at present, this means nine District Courts and the Court of Appeal itself – as do many stakeholders, such as private attorneys, public legal aid attorneys and prosecutors, and lately also police officers serving as heads of the pre-trial investigation of criminal offences. The Quality Project itself covers both civil cases and criminal cases.

The objective of the Quality Project is to develop the functioning of the courts further and further, so that the proceedings meet the criteria of a fair trial, that the decisions are well reasoned and justified, and that the services of the courts are affordable to the individual customers. The main working method consists of systematic discussions among the judges and also between the judges and the stakeholders, for the purpose of improving the quality of adjudication.

The development work is steered by the Development Committee of the Quality Project; the term of the members of the Committee is three years. At present, the Development Committee is chaired by the Chief Judge of the largest District Court in the appellate jurisdiction; the membership consists of the President of the Court of Appeal, three District Judges, two attorneys, one prosecutor and one head of the pre-trial investigation of criminal offences. A Coordinator for Quality, selected from among the District Judges for one year at a time, is tasked to support the Working Groups for Quality, to implement the training, to maintain contacts with the various stakeholders, and to edit the Report on Quality, as described below.

Normally, four Working Groups for Quality are set up for each year; the membership consists of judges from each of the District Courts in the appellate jurisdiction, members of the Court of Appeal, and referendaries of the Court of Appeal. Also prosecutors, private attorneys, public legal aid attorneys, and heads of pre-trial investigation may serve as members in the Working Groups for Quality. The leading principle is that every judge participates in the work of the Working Groups.

The selection of the development themes is based on the magnitude of the problem of adjudication that is being addressed, its topicality, and its tangibility. The selection of the themes is finalised during the Quality Conference, which takes place every autumn, attended by the judges in the appellate jurisdiction, referendaries, trainee judges and stakeholder representatives. When the themes are being selected and the objectives set, due care is taken not to compromise the independence of the courts or the judiciary.

Normally, each Working Group for Quality is tasked to deal with one of the themes. The Working Groups map out the problems relevant to the theme, look into the practices adopted in the different District Courts, define a procedure that can be mutually accepted, and make a proposal for the harmonisation of the court practices. Follow-up measures are designed already when the objectives are being set. The reports of the Working Groups are presented at the Quality Conference, they are discussed, and quality objectives, based on the reports, are set for the following year. The Report on Quality, containing the final reports, is distributed every year, free of charge, to the participants of the Quality Project, to all of the courts in Finland, and to the various stakeholders. It is also published on the judicial intranet and on the Internet (www.oikeus.fi / 27723.htm).

The Quality Project is supplemented by training, offered for 6–8 days per year. In addition to the quality themes of the year, the training has covered a selected field of substantive law, e.g. the general principles of criminal law, contract or tort every year. The Quality Project has been recognised both by the Finnish and the international legal community. In 2005, the Finnish Bar Association awarded the

Quality Project its prize for Legal Deed of the Year, in the form of Defensor Legis, a bronze by sculptor Veikko Myller, and an award certificate. Also in 2005, the Quality Project won the Council of Europe and the European Commission's competition The Crystal Scales of Justice. A total of 22 projects from 15 countries participated in this contest. The Quality Project was awarded the eponymous crystal sculpture and a diploma.

The Quality Project will continue with new themes and elements. One new element, published in 2006, is the set of Quality Benchmarks of adjudication. The Benchmarks form a basis for the quality work of future years, as well as for the monitoring of developments in quality. In 2008 The Quality Project began to prepare an Internet portal to provide all judges an opportunity to find legal databases and all relevant information for the administration and delivery of justice through one portal.

### 4.2.2 Total Quality System in the Netherlands

**Background**
The Council for the Judiciary took the initiative in 2002 of developing a total quality system known as RechtspraaQ. One of the factors behind this initiative was the need of the courts to adopt a more coherent approach to the various quality activities. Before the Council was set up, various national projects were carried out by and for the courts in order to improve the organisation of the judiciary. These were grouped together in a programme known as PVRO - Programme to Strengthen the Judicial Organisation. The projects tackled in this connection included improvement of the working processes, staff policy and the quality of judicial performance. After PVRO the courts felt a need for an 'umbrella' that would combine these activities in a single system. There was also a need for a more systematic approach to quality improvement. This resulted, as it were, in a transition from a topic-oriented approach to an approach based on total quality management. What also played a role in this transition was the fact that it was the statutory duty of the Council to promote quality and that a quality system was a precondition for the funding system. The introduction of the funding system for the judiciary was made conditional on the systematic implementation of an integral quality system, as this would offset the largely quantitative nature of the funding system.

**Basic principles of total quality management**
Various basic principles have been formulated for the development of the quality system. The quality system is built on existing foundations. The emphasis is on internal improvement within the courts, rather than rendering account to the outside world. Improving the primary process has the highest priority. It is important to ensure that the system imposes no more than light control and that the courts see it as an aid and an incentive and not as a bureaucratic straitjacket. The system is based on the INK model, which is comparable to the EFQM model. The model distinguishes between different interrelated areas requiring the attention of management: leadership, strategy and policy, management of staff, management of resources, management of processes, clients and suppliers, staff, society, management and funding bodies, and improvement and innovation.

Various aims were formulated when RechtspraaQ was developed:
- the system must contribute to the cohesion of quality activities in the courts;
- the system must produce a planned improvement in quality;
- the system should provide a means by which the courts can account for quality both to the Council and to the clients and society at large;
- the system should make it possible to show the Council that the judiciary are systematically working to improve quality;
- the system should facilitate the exchange and comparison of knowledge and experience between the courts;
- the system should provide a counterweight to funding system based on effectiveness and speed.

In summary, the quality system has the following aims: improve, direct, account, compare and fund.

**Normative framework**
The basis of the quality system should be the statute of the court and the statute of the sector. These statutes (or regulations) describe what subjects are of importance to the proper administration of justice. These subjects relate to both the organisation and judicial performance. The statute of the court sets out the duties of the court management board, whereas that of the sector describes the duties of the sector management. The statutes list the aspects that are considered by the courts and the Council to be of importance and the additional justified requirements of direct stakeholders. In this way the statutes provide an overall picture of what quality should be taken to mean.

The subjects are classified by reference to areas of attention in the EFQM model. The statutes describe what a court should do and not how it should do it. Examples of subjects in the statute are the formulation of improvement plans based on the results of client appreciation surveys and the formulation of policy on treatment of litigants and others by all staff. Part of the statute is the system for measuring judicial performance. This system consists of measurable and standardised quality indicators concerning integrity and impartiality, expertise, treatment, legal unity and speed.

The statutes are not static, but are instead subject to change. For example, the courts are increasingly inclined to agree joint standards. Changed legislation or the wishes of stakeholders can also result in review.

**Measuring instruments**
The courts use various instruments to measure whether the quality is actually improved.
1. Every two years, the court management board analyses the progress of the improvement activities in respect of the various parts of the statutes.
2. Once every four years, the courts conduct a client evaluation survey (for a description, see 4.10). Many courts make use of a client panel to clarify the results of the evaluation survey.
3. Once every four years, the courts carry out a staff evaluation survey. The panel participants are asked to evaluate various matters such as training opportunities and pressure of work.
4. Once every four years, a committee visits the courts. This visitation committee consists of a number of court management board members, but the majority are outsiders such as a professors and a lawyer. The visitation enables the judiciary to account to society for the quality of its performance. In addition, the visitation committee's external perspective promotes quality improvement in the courts.
5. Audits are an important instrument in the measuring system. Audit questions have also been formulated for each part of the statutes, which the courts can apply if they wish to assess the position.

**The plan-do-check-act cycle**
The results of the measurements serve as the basis for new improvements in the courts. The measurements are analysed, after which plans for improvements are drawn up that must lead to actual improvements in the practice of the judicial organisation and judicial performance. Ideally, the process of improving quality in the courts should be continuous.

## 4.3 Leadership and Management

Unfortunately, there does not seem to be much focus on leadership and management within the context of the judiciary. The members of the Working Group are of the opinion that more focus on this important subject would be beneficial to the overall quality of the judiciary.

### 4.3.1 Courses of Court Management in Austria

Austria does not have a "Council of the Judiciary". The administration of the courts is the duty of the presidents of the four "High Courts of Appeal" (HCA; "Oberlandesgericht") and of the Ministry of Justice (MJ). The presidents of the four HCA are the bearers of the decentralised court administration.

Starting in 2006 they are organising Courses for Court Management for judges and prosecutors who are willing to obtain administrative duties besides their judicial duties. Except for the civil servants in the MJ all administrative posts (presidents of the courts, principals of the district courts) are carried out by judges, and in the MJ it is a practice for decades, that only former judges or former public prosecutors are appointed as heads of units.

In the mentioned courses senior judges and external trainers are teaching in an interdisciplinary way. The courses last for approximately 18 months with up to 8 parts of two to three days. The "trainees' class" consists of about 20 persons from all parts of Austria. Not only judicial matters are taught, also personal development, communication, all kind of "soft skills".

For the time being, these courses stand at the end of a long development which started years ago with the insight that good judges and good jurists *can* but *need not necessarily* be good managers. In order to keep the important principle that only judges maintain the administration of the courts this kind of teaching in management matters was started.

### 4.3.2 Leadership and management in Denmark

A leadership and management module is part of the mandatory training programme for young deputy judges. Later in their career deputy judges are in addition offered an extensive training programme focused on leadership and personal development.

Members of the clerical staff showing an interest in leadership and management are also offered an extensive training programme focused on leadership and management. Participation in this programme is a requirement for appointment in certain positions.

Regarding the appointment of presidents in the district courts, a test assessing the leadership and management skills of a candidate has been part of the basis for decision of the Judicial Appointments Council since 2006.

The presidents of the district courts, the two high courts, The Supreme Court and the director general of the Court Administration meet for seminars on leadership and management four times a year. Self assessment, case processing time, the use of management information, personnel management and the organisation of the courts are among the issues discussed on these seminars.

Leadership training for top managers is offered on a more individual basis.

The Danish Court Administration offers various seminars on leadership and management for junior managers and facilitates a number of networks for junior managers.

The Danish Court Administration also offers informal counselling regarding leadership and management to courts and individuals.

Many courts organise project days on a regular basis. Leadership issues are often discussed on such days.

### 4.3.3 Management Development for (future) court managers in the Netherlands

**General information**
Since 1 January 2002, the collegial council carries full and complete responsibility for the quality of the judiciary system and the operation of the court. The introduction of integral management has given an impulse to management development within the courts.
The Council for the Judiciary carries the statutory responsibility for assuring the quality of incumbent managers as well as the recruitment of good-quality managers in the future. In addition, the Council wants to support and stimulate good management development within the courts. For this reason, the Council is introducing a Management Development (MD) policy aimed at (future) managers.

**Target group**
The MD programme of the Council is aimed at the court managers, i.e. presidents, sector chairmen and operational directors. In addition, a team leader programme is aimed at this same target group. This is also offered on the initiative of the Council.
The training programmes for all other managers are provided by the national training agency.

**Selection, appointment and appraisal**
The Council takes care of the selection and appointment of managers. First, a central selection is made in order to introduce potentially suitable candidates to the local court managers. The Council holds appraisal interviews with the chairmen of the collegial councils focusing on, among other things, the development of these managers.

**MD programme for incumbent managers**
The training programmes offered by the Council are tailored to support the manager's personal and professional development and consist of intervision, knowledge and skills modules and coaching. The content of these programmes is regularly adjusted and fine-tuned to the desired development of the Judiciary organisation.

**MD programme for future sector chairmen**
The Council is responsible for ensuring adequate staffing of the management positions within the courts. The Council has a Management Development (MD) programme for future sector chairmen. The MD programme is aimed at members of the Judiciary with management experience and the ambition to become a sector chairman.

Admission to the MD programme is possible after selection by the MD admission committee. The admission committee consists of nine experienced managers. Drawing on information from various sources (including an assessment), they evaluate whether admission to the programme and the pool in preparation for a position as sector chairman is the right career step for the candidate at the present moment. The committee issues recommendations on all candidates to the Council, after which the Council decides who will take part in the MD programme.

Candidates who complete the MD programme are admitted to the MD pool for future sector chairmen.

The first group of 20 future sector chairmen started the programme in January 2003 and completed it in March 2004.

The MD training programme is continuously adjusted to the changing needs of the times.

## 4.4 Complaints Procedure

**Improving the handling of complaints about the judicial system in Belgium**

The High Council of Justice has been handling complaints regarding the judicial system since 2000. The High Council reviews its complaint handling systematically and reports on it annually (it is a key section of the Council's annual report), but the number of complaints for which the Council is competent is rather low. For example, in 2007, the Council was competent for only 240 of the 539 complaints received.

Besides, the Council is not the only instance that deals with such complaints. Most of the time complainants send their complaints directly to the courts and prosecutors offices or to the Minister of Justice who dispatches the majority of them to the judicial system. Aggregated data about these complaints are not available, nor is information on the handling of complaints by the judicial system and the ministry publicly available.

The High Council believes that it is extremely important to learn from all the concrete complaints in order to improve the functioning of the judicial system in the future. Therefore, in 2004, the High Council commissioned a team of researchers from two universities to examine the complaint procedures, complaint registration systems and complaint reporting models for the judicial system and the High Council. Based on this information the High Council arrived at the following conclusions:

1. A complaint with respect to the functioning of the judicial system is defined as any criticism about the discrepancy between the service delivered to those seeking justice and what can be legitimately expected from a properly functioning judicial system.

2. The citizen clearly not only desires a listening ear, but also to see a targeted intervention so that his dissatisfaction is actually remedied.

3. The fact that the High Council often must declare itself incompetent with respect to handling some complaints is also a major source of dissatisfaction among citizens, who all too often interpret this as an unwillingness to deal with their complaints. The High Council wants to ensure that, to the extent possible, a solution is actually offered for the complaint formulated by the citizen.

4. Therefore, the complaint must be handled in a first phase at the place where the problem occurs. This is also the occasion for stimulating responsibility on the part of the involved members of the judicial system. Furthermore, the citizen will receive the guarantee that his complaint and its handling by the first line will be followed up by the High Council.

The two-phased complaints procedure is as follows:
- each complaint received by whatever public authority must be communicated to the High Council. This gives the High Council a total view of the complaints concerning the judicial system;
- the High Council receives the complaint, registers it, codes it, sends it to the competent authorities and notifies the citizen of this;
- within a period of three months the court president or chief prosecutor will inform the citizen and the High Council of what was done about the complaint;
- if the citizen believes he has not received a satisfactory solution to his complaint in the first line, the High Council - in a second line - will be able to perform a new reading of the complaint.

5. Using the complaints as starting point, recommendations to improve the functioning of the judicial system are formulated by the High Council. The citizen profits in the longer term from these recommendations.

To switch over to this new complaint handling system, a law proposal has been introduced in parliament. In expectation of its approval the High Council developed a new complaint database. The courts and prosecutor's offices will be able to access the database using a web-based application.

### 4.4.2 Complaints Procedure in Lithuania

The Judicial Council and the Chairman of the court where a judge is employed or the Chairman of any court of a higher level shall have the right to consider complaints concerning the judges' activities/conduct in the Republic of Lithuania. After the consideration of the complaint, the party may propose the institution of a disciplinary action by submitting a reasoned motion for instituting a disciplinary action to the Judicial Ethics and Discipline Commission. In case the Judicial Ethics and Discipline Commission accept to institute a disciplinary action against the judge, the instituted disciplinary action shall be transferred to the Judicial Court of Honour which makes the final decision.

The Judicial Ethics and Discipline Commission as well as the Judicial Court of Honour in their activities face complaints related to the judges' activities/conduct, these institutions are also subjects dealing with these complaints and judges may have particular outcomes after their consideration. For example, it may be decided to impose the censure or advise the President of the Republic to dismiss the judge.

## 4.5 Peer Review

### 4.5.1 Peer review within the courts in Netherlands

In 2002, at the request of the Council for the Judiciary, Prisma launched a project to "promote peer review in the courts by offering support in implementing and overseeing the execution and evaluation of the methods used." The term "peer review" in the courts is deemed to be "a form of consultation between colleagues in the same job. Peer review focuses on the organisation and on the functioning of a judge during a hearing, and contributes to a more open culture in the courts." It offers individual judges better insight into their own functioning. This type of peer review focuses on the behavioural aspects and not on the legal content of the job.

The following two types of peer review are the most common in the courts:

1. The Camera Method
A hearing is recorded on camera and "observed" by a fellow-judge. The hearing judge then receives feedback on his behaviour using the recording and his colleague's observations backed up by a behavioural expert who can offer his own observations. The hearing judge will have indicated in advance the aspects of his behaviour on which he wishes feedback.

2. The Incident Method
A group of on average seven judges regularly discusses a practical situation (once every two months for two hours) from one of the participants' experience, under the guidance of an external leader and according to a fixed procedure. This could focus on behaviour during the hearing, questions concerning the collaboration within the organisation or hearings *in camera*.

The project phase has been completed and the back-up for peer review has become a permanent Prisma 'product'. Peer review is now a familiar phenomenon in every court, although the frequency with which such consultations are conducted and the methods used still vary widely. Not only judges can benefit from peer review, but also team leaders and other employees. Not only the behaviour of a judge in a single-judge court, but also on a three-judge bench and hearings *in camera* are becoming increasingly subject to peer review.

### 4.5.2 The Quality Projects of the Courts in the Jurisdictions of the Court of Appeal of Rovaniemi and the Court of Appeal of Helsinki and the Quality Project of the District Courts of Central Finland (Finland)

The first quality project was launched in the jurisdiction of the Rovaniemi Court of Appeal in 1999. Quality targets regarding the administration of justice were set for all courts within the jurisdiction. The targets were drafted by four working groups which were set up in a conference with all District Courts in the jurisdiction participating. All judges in the jurisdiction have since been involved in one or the other of these working groups. The Quality Project of the Courts in the Jurisdiction of the Court of Appeal of Rovaniemi has thereafter published eight books containing working groups´ reports about different aspects of the Judicial Quality (e.g. comparisons between sentences in different courts in different crimes, problems of case management, writing a judgement). In 2005 The Quality Project of the Courts in the Jurisdiction of the Court of Appeal of Rovaniemi won the European Commission´s and The Council of Europe´s The Crystal Scales of Justice Award -competition. In 2006 they published the Quality Principles and Benchmarks for the evaluation of the quality of adjudication in courts of law (Evaluation of the Quality of Adjudication in Courts of Law, March 2006, ISBN 951-53-2874-8)

The same method of setting quality targets for the working groups is used in the later quality project of the Courts in the Jurisdiction of the Court of Appeal of Helsinki. The special characteristic of this quality project is the active cooperation with the Faculty of Law of the Helsinki University. Judges participating this quality project have received an opportunity and guidance for the legal research. They are allowed to take a higher degree in law. The completed essays and reports are published in a compilation as a result of the cooperation between the university and the quality project.

The objective of these quality projects is to develop the functioning of the courts so that the proceedings meet the strictest criteria of fairness, the decisions are well reasoned and justified, and the services provided by the court are affordable to the individual customers. The main working method consists of systematic discussion among the judges and between the judges and the stakeholders. Working Groups for Quality are set up for each year; the membership consists of judges from each of the District Courts, members of the Court of Appeal, and referendaries of the Court of Appeal. Also prosecutors, advocates and public legal aid attorneys may participate in the Working Groups for Quality. The selection of the annual development themes is finalised during the annual Quality Conference, attended by the judges in the jurisdiction. Each Working Group for Quality map out the problems relevant to the theme, look into practices adopted in the different District Courts, define a procedure that can be mutually accepted, and make a proposal for the harmonisation of the court practices. The reports of the Working Groups for Quality are presented at the Quality Conference.

Now there are quality projects in all jurisdictions of Courts of Appeal in Finland. Most of them have used the same working group -method as explained above. In eastern Finland they executed an empiric study about the expectations and experiences of litigants, witnesses and others participating an oral hearing. The aim was to discover new information about the judges' behaviour and give feedback to them. The research is published as a book.

## 4.6 Processing Times and Working Procedures

### 4.6.1 Processing Times and Working Procedures in Denmark

1. An important step in relation to make the vision of Danish Courts a reality is to provide reasonable case processing times compared to achievable expectations.

In consequence, the Danish Court Administration together with the presidents of all courts provided a number of objectives for case processing times in criminal cases, civil cases and enforcement cases. Whether the objective is accomplished depends on the percentage, eg. 80%, of cases decided within a stated period of time. Before composing the objectives a number of analysis was initiated to ensure realistic and ambitious objectives.

A number of objectives have been set for a three-yearly basis for the years 2008, 2009 and 2010. The objectives of 2008 and 2009 are subsidiary objectives, while the ones for 2010 are the long-range objectives.

Moreover, a few of the objectives are "mandatory" in the sense that there is a government or parliamentary decision determining the objectives of case processing times in the *severe violence cases* and *rape cases.*

2. The Danish Court Administration has developed a management information system, the so-called *Startpakke*, which enables the individual courts – and the departments within – to follow the achievement of objectives on a running basis. At the same time the *case-flow* can be followed as there by nature is a close connection between case processing times and case-flow. The management information system is built up so that the individual court can order predefined statistical reports and type some of the data from these reports in the management information system. In the medium run the Danish Court Administration will consider whether this typing can be automated. At present a number of courts are pleased about to typing the data as this is a chance to quality check the recording of data in the cases.

Besides, the Startpakke, the Danish Court Administration, composes a so-called *Embedsregnskab* (annual report for each court) in cooperation with the individual courts each year. In this annual account, which does not include budgetary and economic figures, the number of decided cases (the activities of the year), the case processing times of the year and the number of finalised, weighted cases per staff (productivity) can be seen.

Furthermore it is possible to see the proportion of the resources of the court used for management and administration – and this way indirectly contributes to the production. It should be noticed that it is not the idea to have as little management as possible but rather to have the optimal proportion of management and administration to support the best possible quality and case-flow.

In the preface of the annual report the individual management of the court may describe the development over the last year and the reasons for it in 3 to 4 pages. Thereafter the annual accounts are published on the intranet site of Danish Court Administration so that the individual courts have the possibility to benchmark. From 2008, the annual report will be published on the websites of the individual courts so that the public has the possibility to follow the development of the individual court.

Benchmarking is an important objective for the system of annual reports. It is the intention to enable the courts to identify best practice in relation to the treatment of the individual kind of cases and thereby learn from each other with the consequence that the attainment of the objectives for the individual courts – and for Danish Courts overall – will be better.

In this way, the Danish Court Administration indirectly contributes to communicate good practice among the courts. In addition to this, a best practice team consisting of employees working both as process consultants and as ordinary court employees has been created. The task of the best practice team is to observe working procedures, propose new ways to work, gather information, and secure knowledge sharing.

The use of internal best practice consultants has had significant impact on not only work processes but also on the willingness to discuss questions concerning the quality of the work of the courts. We believe this is because internal consultants have a deeper knowledge of the organisation and work processes than external consultants. The questions and recommendations of internal consultants are therefore more likely to be easily accepted.

3. All working procedures at Danish Courts are backed up electronically. A system to deal with the cases exists for all areas (civil cases, criminal cases, enforcement cases and probate cases).

This system contributes to have an efficient treatment of the cases as the system automatically generates standardised texts and letters to the individual type of cases. This happens by choosing a number of case codes depending on what standard text is needed in the individual case. Editing can be done in the proposed standard text in the individual case but this is usually not necessary because the names of the parties are typed in the system when the case is received. Therefore there is no need to type the same information again later.

### 4.6.2 Processing time and working procedures in Hungary

Hungary's international obligations and the enforcement of constitutional principles require that the courts finish the cases in a reasonably short time.

The National Council of Justice (NCJ) exercises a continuous supervision of the processing time in the courts. From 2005 the Integrated Court Information System (BIIR) and the Management Information System (VIR) helps the NCJ, its Office and the court leaders in performing this task. These systems provide up-to-date data concerning the processing deadlines, the actions implemented by the judges, and whether the decisions have been delivered to the parties in due time (30 days after the judgement).

In 2000, the NCJ ordered to examine thoroughly the cases with a processing time of over two years. The presidents of the county courts examined these cases in the beginning every four months, then each year, and they informed the NCJ about the findings.

As a result of this, the proportion of these cases at local courts decreased until 2006, at the county courts until 2007 in civil and until 2006 in criminal matters. The rate of these cases was under 5 % of all ongoing cases. This favourable tendency stopped and in criminal cases the rate of 'old cases' exceeded the highest figure (in 2002) since the survey in 2000.

There is an unfavourable – maybe critical – situation in cases started at county courts. It is a result of the judicial reform, which gave first instance competence to county courts in two times more cases than before. However, the processing time in these cases decreased as a result of the setting up of five regional courts of appeal (three in 2003, two in 2005) compared to the previous situation when the Supreme Court adjudged the lodgings on second instance in these cases. The courts of appeal finish the cases – with some exceptions – in six months. There are only some courts (the Metropolitan Court and 4-5 of 19 county courts) which have to deal with the most of the 'old cases'. At other courts the rate of these cases is infinitesimal.

The NCJ helped the courts in the worst situation by creating new judge posts. If at another court a post becomes free, the NCJ strives to allocate these to courts in critical situations. Furthermore, it is

allowed to hire judges for those posts, which are temporarily unoccupied (e.g. due to maternity). In some cases the NCJ increases the number of judges' assistants at certain courts.

The NCJ brought a resolution this year in which it obliges the presidents of the county courts to work out an effective administrative strategy in order to finish the long-lasting cases and to create a system of viewpoints concerning the continuous supervision over these cases and the assistance to the judges without hurting judicial independence.

## 4.7 Training

### 4.7.1 Training in Hungary

High quality administration of justice assumes that the actors of the judiciary – in particular the judges – should be capable to fulfil the requirements of the position of their profession.

The first and probably most important level of the selection is the recruitment of new judges, which in practice means the selection of the best and most suitable candidates from among a great number of applicants. These persons work as trainee judge for at least three years. Meanwhile they prepare themselves for their future profession in the framework of a centrally organised training.

The requirements, criteria and methods of selecting future judges determine the quality of the corps of judges' professional level. In addition to high-level professional knowledge, judges should possess adequate communicational and empathic skills, openness, sound judgement and the ability to exclude prejudices during their everyday work. These objectives can only be fully reached when future judges are selected on the basis of objective criteria in a single and transparent process. The centralised entry exam for trainee judges (competitive exam) serves the purpose while it respects the demand of the future employer: he/she should play a role in the selection process.

The successful competitive exam, the obligatory traineeship and training and the successful legal qualification exam do not result in being automatically appointed as a judge. It must be admitted that the routine gained in other fields of legal work and the high level of theoretical knowledge could compensate the time of the traineeship at a court and be equally acceptable. In case of the former group a shorter – in Hungary a one year long – training period should be a must, while in the case of the latter group (for other legal professionals), such training should be desirable, which prepares them for a judge's work.

The appointment of a judge should be a result of a selection procedure, not only a formal appointment. In this process, the independent professional opinion of the judiciary should play a role.

The professional career of judges should be based on objective criteria such as the professional level, professional knowledge based on a continuous training, efficient work, postgraduate qualifications, integrity and impartiality.

### 4.7.2 Training in Latvia

The Court Administration of the Republic of Latvia is responsible for planning and providing initial and continuous training for judges, court personnel and lay judges. As with initial training, continuous training is implemented by the Latvian Judicial Training Centre (LJTC), which was founded in 1995 as a non-profit organisation with the aim of providing continuous legal education to reinforce the court system and to contribute to the development of a common judicial area in the European Union. Since 2005, the Council of the LJTC has been established, which is a higher consultative body with the following functions:

1. to approve annual strategies, work plans and annual reports;
2. to monitor financial expenditure;
3. to appoint and dismiss the Board;
4. to approve the composition of the Curricula Development Working Group and other institutions involved in the work of the foundation.

The Curricula Development Working Group (CDWG) is responsible for developing and improving training programmes for judges and court staff on the basis of information received from the evaluation of training programmes. The Court Administration makes the final decision on the approval of the programme established by the CDWG. The LJTC does not have full-time or part-time in-house trainers and courses are given by judges, lawyers, experts and specialists with recognised expertise in their field.

Throughout their careers, judges may participate in general in-service training activities throughout the year. Although it is not compulsory by law, it is strongly encouraged. It should be mentioned that there are some general seminars that judges are obliged to attend (such as legislative reform, questions of interpretation, application of international law, legal drafting and communication skills). In-service training is also compulsory for specific administrative posts (e.g. chief judges).

Judges have the right to attend the minimum number of training days at the LJTC, as well as other training courses offered by the Ministry of Justice, the Court Administration or other organisations. Support is also given for the participation of judges in international training programmes, conferences and seminars.

## 4.8 Quality Assessment and Judicial Quality

As regards Judicial Quality, mention should be made of the existence of Codes of Conduct regulating the conduct of magistrates in various ENCJ countries. These Codes of Conduct will however not be elaborated on any further in this report, as this subject is already currently being dealt with by the Working Group on Liability of Judges chaired by France. For any further information on this topic, we would therefore like to refer to the future report of aforementioned Working Group, which will be published on the website of the ENCJ (www.encj.eu) after its finalisation.

### 4.8.1 Assuring quality by "monitoring" or "auditing": the 'Internal Revision' in Austria

One of the main tasks of assuring quality is the "Innere Revision (IR)", i.e. "Internal Revision". This IR is not to be confused with "investigation" or "surveillance" or "examination"; you could possibly use the words "monitoring" or "audit" to give a picture of IR. For the purpose of this report the term "revision" is used.

It is an *internal* revision – done by judges (and not by external experts); it is always a court as a whole entity that undergoes the IR – not the individual judge or the individual employee.

Each High Court of Appeal (HCA) has one "Chief Visitator (Leitender Visitator)" who is an independent judge of the HCA. All Vice Presidents of the 20 Regional Courts (Landesgericht) are *ex officio* members of the Visitation team.

According to the size of the courts there is a team of judges and clerks that does the Visitation of each court. The idea is that every court is audited every five to seven years.

The members of a Visitation team generally come from neighbouring circuits.

The *modus operandi* of the IR is written down in a "handbook of the IR" in order to gain comparable results.

The IR has to respect the independence of the Judiciary, must not interfere with the courts' decisions and does not disturb the courts' processes. The IR is supported by electronic data processing (EDP) containing all figures of the quantity of the courts' workload and of the cases' duration.

The distinction between IR and the superiors' duties is important. The IR has no right to give orders (which is clear in the field of the judiciary – but which also applies to the courts' administration). The IR's task is a final report of every visitation – containing recommendations to the responsible positions – according to the topic that can be the MJ, the president of the HCA or the president/principal of the single court.

The "handbook of the IR" contains detailed checklists as a guidance for the visitation. Examples:

- personnel;
- workload;
- relation workload/manpower (concerning judges, clerks, typists etc.);
- relation input/output;
- internal communication;
- communication with the 'stakeholders' (applicants, lawyers, police etc.);
- duration of the proceedings;
- building;
- technical standard;

- furniture;
- etc.

Approximately two years after every visitation there is a follow-up in order to check the advised measures.

### 4.8.2 The Quality principles and Benchmarks proposed by the Quality Project of the Courts in the Jurisdiction of the Court of Appeal of Rovaniemi in Finland

In 2006 the Quality Project of the Courts in the Jurisdiction of the Court of Appeal of Rovaniemi introduced the set of Quality Benchmarks of Adjudication. The Quality Benchmarks form a basis for the quality work of future years, as well as for the monitoring of developments in quality.

**The Quality Benchmarks for Adjudication**
The preparation of the Quality Benchmarks began in 2003, as a part of the Quality Project. From the beginning, the main point of the Quality Project has been that the judiciary agrees among itself on the development objectives relating to the quality of adjudication. It was therefore only natural that the measurement of eventual quality improvements became a relevant issue soon after the launch of the Quality Project.

The Report on the Quality Benchmarks for Adjudication was published in 2006. It consists of an explanatory memorandum and a set of benchmarks for the measurement of quality in adjudication, presented in table form. The Quality Benchmarks are an unprecedented event in the history of judicial development in Finland.

The primary purpose of the Benchmarks, and of the evaluation carried out with them, is to serve as a tool for the continuous improvement of the activities of the courts. Another important use for the Benchmarks is as a tool for judicial training. In addition, they provide a common framework for discussions about the quality of adjudication, both among the judges themselves and with the broader constituency in the administration of justice. An additional use for the Benchmarks is for opening the concept of adjudication and the debate relating to adjudication also to the greater public. The benchmarking results may in some cases serve also as an “alarm” if there is something clearly amiss in the workings of a particular court. And finally, the benchmarking results provide the management of the court with data for use in support of resource requirements in the annual performance negotiations with the Ministry of Justice. The Benchmarks have not been designed for use as a means of supervision or control of the judges.

The Benchmarks have been designed with the premise that the quality of adjudication is measured primarily from the point of view of the parties and the other participants in judicial proceedings. This external viewpoint of the Quality Benchmarks is supplemented by a number of quality criteria relating to the workings of the court from the point of view of its own staff and of practical arrangements (internal viewpoint). By conscious choice, the Quality Benchmarks look at adjudication at micro level - at the “customer interface” - where the interaction of the customer and the judge takes place.

The preparation of the Quality Benchmarks began with the identification of those aspects of adjudication - fields of assessment - whose quality was to be measured. Next, a number of quality criteria was established for each field of assessment. And finally, the quality criteria were clarified by way of examples.

The proposed Quality Benchmarks consist of six fields of assessment, which comprise a total of 40 quality criteria, as follows:
1. procedure (9 criteria);
2. judgement (7 criteria);
3. treatment of the parties and the other participants in the proceedings (6 criteria);
4. promptness of the proceedings (4 criteria);

5. professional skill and competence of the judge (6 criteria); and
6. organisation and management of adjudication (8 criteria).

Besides the quality criteria - that what is measured - the Quality Benchmarks contain another essential element, that is, the points to be awarded in the assessment. In addition, there are five categories of assessment methods to be used in the context of the Quality Benchmarks:
1. self-assessment;
2. surveys;
3. expert assessment;
4. statistical analysis; and
5. statement by the court itself.

The Report on the Quality Benchmarks for Adjudication has been published in Finnish, Swedish, English, French and Russian, also on the Internet (www.oikeus.fi/27670.htm).

### 4.8.3 Judicial quality in Hungary

A characteristic of judicial reform is the struggle for total autonomy. Hungary chose this way in 1997, when a central, independent organ was set up which provides the inner and outer administration of the courts. To reach this goal, the creation of institutional guarantees of judicial and judicial administrative independence is a requirement based on high-quality legislation. According to this, tasks and competence of courts and judicial administrative bodies are ruled by the Constitution and acts which require a qualified majority in the Parliament to be passed.

Besides the current regulation, the provision of material and infrastructural framework of the judicial work is of great importance. It includes the requirements concerning court buildings – which serve as contact points between the judiciary and the society –, their operation and the infrastructure. The well-organised, secure, respectful, modern and effective buildings – which symbolise the judiciary as an independent power – not only serve the appreciation of the employees but also that of the public accessing justice.

To choose suitable persons as judges is the responsibility of the judicial administration. They should adjudge the cases – based on their legal training, personal abilities – well-justified, independently and impartially. The selection and career process should be based on objective criteria with regard to the visibility and restraint of discretional rights of the court leaders.

The importance of the initial and further training systems is increasing. The training takes place in independent training centres such as the Hungarian Judicial Academy. The physical and functional separation of these institutions will require the independent operation of them in the future.

A tendency of the modern administration is the installation and operation of new information and registration technologies. This is in close connection with the links between the courts and the public, information of the society and the accessibility of judgements for the whole public.

The high-quality administration of the courts presumes that the central administrative body – the Council for the judiciary – has an extensive overview of the functioning of the judiciary, the tasks and competences, the expectations of the society towards the courts and its opinion about the judicial work.

The setting up and organisation of the social linkage of judicial functioning is of great importance. In this aspect, the contacts with the media, the communication underlying the appreciation and evaluation of the judicial power and administration play an important role.

Nowadays, it is an important requirement to take note and to apply up-to-date management methods in judicial administration. The preparation of decisions, the proposals and opinion-shaping is transferred to committees. This can only be made in the framework of competence transfer under regulatory rules.

This method can relieve the sessions of the Council as an administrative body. The danger of this method is the possibility of parallel decision-making.

These methods serve together the realisation of effective, successful, cost- and time-efficient judicial functioning.

### 4.8.4 PROMIS, the project for improving the substantiation of criminal judgements in The Netherlands

The criminal courts set up the PROMIS project (project for improving the substantiation of criminal judgements) in 2004 with the objective of improving the quality of the way in which evidence and sentences in criminal judgements were substantiated. The reason for the project was the feeling amongst the criminal courts that there was room for improvement in the substantiation of the judgements rendered by the District Courts and the Courts of Appeal, despite the fact that they were adequate from a legal perspective. It was felt that these judgements were being written more with an eye to the appeal courts rather than to the suspect, the victim and the other parties involved.

The project generated a model with which to arrive at a better substantiation of evidence and sentencing, and five District Courts and one Court of Appeal tested it in practice for a number of months to see how it worked. The evaluation of that pilot led to the conclusion that the use of the model considerably improved the quality of the substantiation of evidence, but that the substantiation of the sentencing in criminal judgements needed further refinement and that the new method could not be implemented without extra manpower and resources.

A follow-up (PROMIS II) was started up in 2006 whereby the number of courts was expanded to seven District Courts and two Courts of Appeal and the substantiation model was brought into line with amendments in legislation (section 359:2 of the Netherlands Code of Criminal Procedure, the act on confessions from suspects) and a further investigation was launched into the extra work load which a 'PROMIS' substantiation would entail.

**The statutory framework**
The legislation on the substantiation of the judgements rendered by District Courts and Courts of Appeal has also been amended in a parallel development to the Promis project. In 2006, Dutch courts became required to substantiate the proof of guilt and sentencing and any acquittal, and specifically if it derogated from the "explicitly substantiated position" submitted by the defence or the Public Prosecutor.
Once this legislation took effect, courts needed to do no more than give a summary of the evidence if the suspect had confessed to committing the crime, unless he subsequently retracted that confession or unless the suspect or his counsel had asked for acquittal. Although the law now required the courts to provide substantiation in more cases, the PROMIS substantiation usually went even further, because it was not merely restricted to a response to arguments which derogated from the "explicitly substantiated positions".

**The changes that PROMIS entails**
In essence, the court wishes its PROMIS judgement to give immediate insight into the underlying reasoning and into the way in which it reached its decision. This means that the judgement focuses especially on the issues that were the subject of debate during the hearing. The court therefore substantiates a decision which derogates from the position adopted by the Public Prosecutor and/or the defence.
In brief, PROMIS provides more tailor-made judgements. The substantiation is more extensive where this is necessary, while a restricted substantiation can suffice if the judgement speaks for itself.

But there is a second reason why PROMIS also leads to a clearer judgement than an old-style judgement. In an old-style judgement, the evidence was provided later in an annex or supplement to the judgement, while that evidence is now incorporated directly into the narrative of a PROMIS

judgement. This is an improvement, because this new method makes a judgement much more logical and readable. A legal reference to the evidence (the official record and the page number) is also included for the higher courts. The advantage is that the judgement clearly indicates on the basis of which evidence the court reached its conclusion and this is not added to the judgement - often many months - later.

PROMIS also attempts to provide a comprehensible substantiation of the type of sentence (work in the community, fine, prison sentence or a psychiatric hospital order) and the length of the sentence. This also confirms whether it is in line with the sentences handed out by other courts in similar cases.
A Court of Appeal must not only state how it arrived at its sentence, but must also indicate whether it derogates from the sentence ordered by the District Court and why it believes that a different sentence is more appropriate.

**The Netherlands Supreme Court**
To round off this follow-up project, two judgements were submitted to the Netherlands Supreme Court to verify whether the PROMIS method complied with the pre-requisites laid down in law. On 15 May 2007, the Supreme Court subsequently ruled that the elaboration of judgements according to the PROMIS model was permissible, provided that the evidence only referred to those facts and circumstances which provided the grounds for the proof of guilt and sentencing. A judgement may also give only a résumé of the contents or a summary of the evidence, giving sources in footnotes or end notes.

**The national implementation of PROMIS**
Even before this follow-up project had been rounded off and evaluated, the national meetings of heads of the criminal courts had decided that all the courts would be required to work according to the PROMIS method by mid-2008. The judgements that have been substantiated in this improved manner can be found on **www.rechtspraak.nl** by entering the search term PROMIS.

### 4.8.5 Quality of judicial decisions in Romania

The quality of judicial decisions is among the indicators for measuring the criterion on quality of activity of judges, within the professional evaluation procedure of magistrates. In Romania, the content of judicial decisions is established by law, in the criminal and civil codes of procedure, both for criminal and civil matters.

The judicial decision is the final product of the justice system, which is why it is essential to measure its quality. Given its importance for the evaluation procedure, the Guide on the professional evaluation of judges and prosecutors contains a whole chapter on this subject. Most important, within the programme for elaborating the plan for the evaluation of judicial decisions, the limits within which the independence of judges may be manifested in elaborating the judicial decision were established, in order to prevent hindering the independence of the judges in the evaluation process. The evaluation procedure does not refer to aspects that can be verified through jurisdictional control (appeal, second appeal, etc.).

The following aspects are to be analysed by the evaluators in assessing the quality of judicial decisions:
- proof of independent and critical reasoning, meaning that relevant information needs to be separated from the irrelevant one, information that can sustain a conclusion needs to be identified, etc.;
- impartiality in analysing the evidentiary materials (according to art. 6 of the Convention for the protection of human rights and fundamental freedoms, meaning that the decision needs to identify all the evidentiary materials administered, evidence must be analysed equitably, the judge must answer to all the arguments and defences of the parties;
- the decision must have a clear and simple content (according to the Opinion no. 7/2005 of the Consultative Council of European Judges);
- the decision must be convincing and credible.

Other legislative instruments prove to be useful in establishing criteria for the evaluation of judicial decisions (more precisely these are limits to the manifestations of the judges' independence in judicial decisions), like the Deontological Code for Magistrates, the Profile of Magistrates and the Romanian Constitution:

- a judicial decision cannot state political opinions;
- a judicial decision cannot state on the moral and professional conduct of fellow magistrates;
- a judicial decision cannot reprimand the parties for their conduct during the courtroom sessions;
- a judicial decision cannot contain discriminatory opinions.

With regard to the structure of judicial decisions, the Guide on the professional evaluation of judges and prosecutors refers to the crucial elements that must be found in a decision for the purpose of evaluation, a classification being done taking into consideration whether there are first instance decisions or decisions in appeal and second appeal, criminal or civil decisions. Furthermore, the Guide offers examples of what not to mention in a judicial decision, like: contradictory statement of the facts, grammatically incorrect phrases, Latin expressions that are not translated into Romanian and their significance is not understandable, unclear presentation of the parties' requests and raised issues.

Also, there is a series of aspects that will undoubtedly reduce the scores awarded in the evaluation procedure, such as: lack of essential identification data concerning the defendants/litigants; lack of mentions regarding the name of the crime committed, together with the corresponding articles of law incriminating it; lack of response to the arguments of the defendants/litigants (all these aspects are exemplified with judicial practice of the courts).

There are also issues pertaining to the judicial decision that cannot be the object of evaluation, such as: subject matter of adjudication, relevant applicable law, the solution rendered in the case, convincing character of the reasons of the judgement that affect the substance thereof.

As far as the evaluation procedure for the judicial decisions is concerned, the evaluators will select a number of ten decisions per year for every judge on the basis of the judge's activity in every month of the year.

## 4.9 Staff Evaluation

### 4.9.1 Evaluation of the court employees at the courts in Hungary

Assistants to the judges' work are:
a) employees with a legal degree: trainee judges and court secretaries, and
b) employees without a legal degree: court clerks, other court employees.

The employer – from the president of the county court to the president of the Supreme Court – is obliged to continuously evaluate the work of the court employees, to cease the deficiencies in their work, and to acknowledge the high-quality work.

The court employee must be evaluated in written form after three years from his/her appointment and after this first evaluation every six years. Besides that an extraordinary evaluation takes place:
a) before the appointment of a trainee judge to a court secretary;
b) at the application for a judge position of a court secretary;
c) before the appointment of a court leader for indefinite time.

The aim of the evaluation is to impartially adjudge the work of a court employee, to reveal his/her knowledge, abilities and personality in relation to work, hereby to help professional development. Only well-justified statements can be included in the evaluation report.

The representative of the interest representation organisation at the court must be involved in the evaluation procedure if the court employee requests it. This representative is entitled to make remarks on the content of the report.

The court employee must be informed about the written evaluation report. The direct leader of the court employee is present at the presentation of the evaluation report. The court employee is entitled to make written remarks on the content of the report. Against the unreal statements or those which hurt his/her personal rights – if the evaluator does not correct the report in 15 days – he/she is entitled to initiate a judicial procedure.

If the employer notices a condition which could indicate that the court employee is inept for his/her tasks, the evaluation must be made without delay.

The written report contains the evaluation of the court employee's professional knowledge, punctuality, and diligence, written and oral expressiveness. In case of a court leader the quality of the work of the department under his/her management is also evaluated.

### 4.9.2 Staff evaluation surveys in the judiciary in the Netherlands

An employee evaluation survey is a measuring instrument which is part of the RechtspraaQ total quality system. The courts themselves decide when they wish to conduct such a survey, although the guideline stipulates that this should be done once every four years. Unlike customer satisfaction surveys, the courts do not need to account publicly for the results, but use them for making internal course corrections.

Subjects on which these surveys have often focussed in past years are leadership style, developing skills, pressure of work, developing expertise and the quality of the output. The courts use this survey to obtain systematic feedback from employees on the most important subjects affecting their organisation.

Most of the courts arrange for this survey to be conducted by Prisma, a consultancy set up by the Council for the Judiciary and the Public Prosecutor's office to assist the courts and the Public Prosecutor's office to improve quality. Prisma has developed a list of basic questions to enable comparisons between the courts themselves. In addition to these basic questions, the courts also include questions relevant to their own specific organisation. Prisma oversees the execution of the survey, analyses the results and presents these to the court board. Prisma also assists the court boards to use the results to produce plans for improvement.

A report with the aggregated results and an analysis thereof is drafted once every two years and for example discusses the trend in the figures, i.e. indicates the development in the employee evaluations. The Council then uses these aggregated results to formulate the Strategic Agenda.

At present, a project group is updating the employee evaluation survey. Most of the courts have now conducted a number of surveys, but they wish to improve comparability and to better identify the trends in the evaluations over time. At the same time, the courts need an instrument which not only measures, but offers clearer markers where the organisation needs to be changed or its course needs to be corrected. New studies will provide for both these needs.

## 4.10 Client Evaluation

### 4.10.1 The justice barometer: evaluation public opinion towards the justice system in Belgium

The "justice barometer" is a large-scale survey of public opinion towards the justice system in Belgium. The choice has been made for a computer-aided telephone survey because the aim is to repeat it at regular intervals.

To develop the barometer a theoretical model was used in which several aspects of attitudes were defined and differentiated, the justice system was broken down into its constituent parts and the determining influence of the respondent's characteristics on their attitude was incorporated. The survey developed will primarily sound out opinions, i.e. verbal expressions of the attitude. The notion of justice system can be summarised by the following four aspects: institutions, practitioners, procedures and policy. In the conceptual model opinions regarding these different aspects of the justice system were linked to a series of potentially influential factors: personality factors, socio-demographic background characteristics (e.g. education, occupation); knowledge of the justice system; experience of the civil or criminal justice system; the role of the media (e.g. type of newspapers a person reads) and political preference (e.g. which party a person votes for).

The theoretical model was used as a starting point for the construction of the questionnaire. After 18 months of preparatory research work, the questionnaire was ready to be administered. Its definite version was composed of four categories of questions: a general section (that contained questions that explored people's confidence in the justice system and in other institutions, their satisfaction with the justice system in general, etc.), a civil law section, a criminal law section and a section concerning background characteristics (variables that previous research seemed to suggest were exerting an influence on public opinion; personality factors were excluded, since these must be examined by means of scales, and the inclusion of scales would have made the instrument more cumbersome).

The first survey took place in 2002, the second in 2007. For each survey:
- 97% of the questions were the same;
- the population consisted of citizens over the age of 15 living in Belgium;
- after 'cleaning', a sample of the Belgian population of +/- 3.200 respondents was kept (it is a representative one for the factors age, sex and geographical location).

A few interesting results are:

1. Concerning general confidence in the justice system:
Respondents were asked the following question "Broadly speaking, can you tell me whether you have confidence in the justice system?" Responses show that 42.6% (in 2002) and 66% (in 2007) of citizens in Belgium expressed a complete or a reasonable confidence in their justice system. Compared with other institutions in Belgium, the justice system – in terms of public confidence – comes behind the educational system (86% in 2002 and 93% in 2007), the police (66% in 2002 and 83% in 2007) and parliament (55% in 2002 and 70% in 2007). The justice system leaves two other institutions behind it, namely the Church (41% in 2002 and 47% in 2007) and the press (40% in 2002 and 44% in 2007).

2. Concerning the functioning of the justice system:
This aspect was surveyed by means of six themes: (a) information about the justice system, (b) the functioning of the justice system itself, (c) changes in the functioning of the justice system, (d) the expectation of a fair trial, and (e) the clarity of the legal language used. Concerning the third theme 47% (2002) – 46% (2007) of the respondents thought that there have been no changes in the functioning of the justice system, while 19%(2002) – 18% (2007) considered that the functioning had deteriorated, and 28% (2002) – 30%(2007) that it had improved.

3. Most responses to the second barometer show a significant difference with those to the first one, but the public opinion towards changes in the functioning of the justice system remained the same. So, the significant differences are probably the result of the overall good societal climate in 2007. Indeed, the confidence in the different institutions increased in the same manner.

4. The recommendation that can be made is that all actors in the justice system should continue to improve its functioning and that it is absolutely necessary to increase and optimize the communication about that action and its performance.

### 4.10.2 Client evaluation in the Netherlands

The client evaluation survey is an important measuring instrument of the RechtspraaQ total quality system. The survey shows how a court 'scores' in relation to various aspects of quality as laid down in the statute (regulations) of the court and the statute of the sector. The client evaluation survey is important in measuring the various indicators from the judicial performance measurement system. Such a survey enables the courts to find out how their clients rate their service. The Dutch courts carry out such a survey about once every four years. The survey covers both litigants and those who have dealings with the courts in a professional capacity (referred to as 'professional partners'). Examples of the latter group are lawyers, public prosecutors, social security administration agencies, Child Protection Board, etc. Generally speaking, the courts carry out the same surveys. Among the subjects about which the respondents are questioned are the extent to which they are satisfied with the administrative disposal of the case (e.g. reachability by phone), the length of the proceedings and their visit to the court (e.g. privacy in the waiting room). The emphasis of the survey is on the judge's actions, as regards both perceived expertise and treatment of the respondents. Lay people are asked about their experience in their particular case, whereas professionals are asked about their overall experience.

**Conduct of survey**
The courts themselves decide when to carry out a client evaluation survey. The guideline is that they do this about once every four years. Courts are increasingly arranging for the surveys to be carried out in clusters, for example medium-sized courts, large courts and the courts of appeal. Carrying out the survey jointly makes it both possible to compare the results and easier to learn from one another.

The professional partners are sent questionnaires. Litigants are interviewed after the court hearing. In some courts this is done by professional interviewers. Other courts arrange to have the interviews conducted by their own staff. The direct contact between court staff and litigants is perceived as positive, but studies conducted by professional interviewers appear to yield more reliable information.

Many courts have the survey conducted by Prisma. This is a consultancy founded by the Council for the Judiciary and the Public Prosecution Service to assist the courts and public prosecutor's offices in promoting quality. Prisma has prepared a standard questionnaire. Courts can add questions to it if they wish. Prisma assists with the implementation of the survey and arranges for analysis of the results and their presentation to the court management board. It also assists the court management boards in translating the results into plans for improvement.

**The results**
The survey results are broken down into two categories, namely litigants and professional partners, and are shown by sector. They are used in the court to improve the organisation and service. Some courts organise a client panel as a follow-up to the client evaluation survey. This involves inviting a number of professional partners to discuss the evaluation of the court's service in greater depth.

The data are used externally in accounting to society for the court's performance. Some parts of the client evaluation survey are presented by court as a key indicator. This is the percentage of satisfied respondents in respect of the following subjects:

- expertise of the judge;

- legal unity of the decisions (this question is put only to the professional partners);
- comprehensibility of what is discussed;
- explanation of/grounds for the decision;
- impartiality of the judge;
- scope allowed by the judge for parties to present their case;
- extent to which the judge listens to the positions of the parties;
- judge's ability to empathise with the situation;
- duration of the proceedings.

The key indicator report is published with the Annual Report of the Judiciary. The aggregated results are included in the annual report itself.

Once every two years, Prisma publishes a report containing the aggregated data and an analysis of them. One of the matters dealt with is any differences between a first and second measurement in the courts. This shows whether clients notice any quality improvement. The aggregated reports are also used by the Council, for example in price negotiations with the Minister and in formulating the Strategic Agenda.

**New developments**

At present a project group is examining how the client evaluation survey can be updated. Most courts have now conducted two such studies. Doing so is very labour intensive. Another consideration is that some of the collected data are of only limited relevance to the courts, which diminishes the attractiveness of the surveys to the courts. At the same time, it is clear that quality must be demonstrated to the outside world. Data that are of limited relevance to the courts may still be important to the Council for the Judiciary and in relation to external accountability. The aim of the study is to produce an updated survey that is better appreciated and more used by the courts while at the same time discharging the duty of accountability.

## 4.11 Management Information, Auditing and Reporting

### 4.11.1 Management information in Belgium

Yearly the courts and prosecutor's offices (= the judicial system) and the High Council have to draw up a number of reports:

1. Courts and public prosecutor's offices have to report on their annual activity since 2000. In 2006, this obligation was replaced by a performance report, for which several items were legally prescribed: state of affairs with respect to personnel, organisation, information technology, policy and planning, collaboration with other instances, input, throughput and output of cases and backlog of court cases. Each entity within the judicial system must annually submit such a report to the parliament and government, as well as to the High Council. The High Council expected that such a more performance oriented report should also be used by the courts and prosecutor's offices as a management instrument in their annual policy cycle.

2. In addition, the courts and public prosecutor's offices are required to complete a questionnaire concerning the use of means of internal control. It concerns a limited number of internal control measures that are summarised in the Judicial Code, e.g. inspection of court's offices by the prosecutor's offices.

3. The High Council for its part is legally required to report on the general functioning of the courts and public prosecutor's offices based on all the information it has at its disposal, as well as concerning their use of the means of internal control that the Judicial Code makes available to them. It was basically intended to exchange good practices.

It appeared that the reports did not meet a number of expectations on the part of those who were required to prepare them as well as on the part of those who use them.

With the inclusion of a project "Internal and external reporting by the judicial system" in its 2005 – 2008 pluri-annual plan, the High Council decided to evaluate (and will likely reorient) these forms of reporting based on the following logic:

- The courts and public prosecutor's offices have an internal need for objective information in order to operate optimally. It concerns information that must be provided by each person to others in order to allow the processes to proceed optimally and by supervisors to management in order to monitor the courts and prosecutor's offices, to achieve the stated goals.

- Stakeholders such as the citizen (the taxpayer) and parliament need information in order to be able to evaluate the functioning of the judicial system and its legitimacy. The courts and public prosecutor's offices should make it clear to society that they have appropriately and efficiently used the resources that were made available.

- Information must be stocked in a management information system that can generate within a very short time information needed by internal (e.g. management) as well as external (e.g. the High Council) stakeholders.

### 4.11.2 Improving the auditing of the judicial system by the Belgian High Council of Justice to stimulate the judicial system to improve its internal control process

**Objective**
To develop a professional auditing department within the High Council of Justice:

1. that is able to deliver to the courts and the public prosecutor's offices reliable and valid findings, and stimulating recommendations that will motivate all magistrates and support personnel to take action and to actually manage their entities;
2. that will recommend initiatives to make this management possible to each external organisation that is competent with respect to the judiciary: this includes the removal of (legal) obstacles to this end and providing for suitable support services;
3. that will use the recommendations by the Joint Advice and Investigative Commission of the High Council mentioned in (1) and (2), together with other sources of information, to officially formulate recommendations to improve the functioning of the judicial system.

**Initiatives taken since September 2004**
With a view toward allowing the High Council to support the judicial system as strongly as possible in achieving its objectives without, however, jeopardising its independence, in its 2005- 2008 pluri-annual plan, the High Council has listed various projects to improve the policy and management of the courts and the public prosecutor's offices:

- stimulating the internal management of the court and public prosecutor's office by the superintendent and all supervisory magistrates and personnel;
- stimulating internal reporting to those links in the production chain that are responsible for the execution of the processes within reasonable time limits;
- stimulating external reporting to justify the resources used to citizens and decision makers (parliament, government, Minister of Justice);
- performing operational audits of the judicial system in order to encourage the courts and public prosecutor's offices to install a management framework, plan improvement actions, and actually implement these action plans as an answer to the findings and recommendations made.

In 2006, a cell of four auditors was established within the High Council in order to develop, by means of fieldwork, a professional audit approach suitable to the judicial system.

By means of operational audits implemented from an internal audit perspective (recommendations intended for the management of the court or public prosecutor's office), a court of appeals as well as a police court and police-public prosecutor's office were fully investigated with respect to risks in the production flow of judgements and public prosecutor's dossiers, and the monitoring thereof.

**Current situation and vision of the future for auditing the judicial system**
The evaluation of these audits clearly indicates that this approach, which mainly targets the aforementioned objectives, has made an impact on the managers of the audited courts and public prosecutor's offices. Correct findings and recommendations cannot be brushed aside without sound arguments. Devising and undertaking action with respect to these findings and recommendations is then also the best option for the audited party. After all, the mechanism built into the audit process of systematic follow-up of the actions that the audited party has taken with respect to the formulated recommendations, encourages systematic improvement of the internal management process.

In a judicial system that is built up of a large number of small to medium-sized entities, a result-oriented approach at the level of auditing cannot remain limited to the audit of a few (problem) courts and/or public prosecutor's offices per year. An audit can be an important motor for the modernisation of the judicial system, if the totality of the entities is examined based on an audit strategy.

One of the strategic objectives is auditing the monitoring system that was set up within the courts and public prosecutor's offices that (should) be respected by the management team (superintendent and department managers). In order to involve everyone in this monitoring and to encourage mutual consultations to this end, it is necessary to audit all entities transversely per level in a very short period.

With the investigation of the monitoring process at the top level, a limited aspect (sub-process) is broached that to be sure will have an inversely proportional impact on the development of a management attitude among the corps leaders and the putting in place of the management structures

and actions that are needed to genuinely meet the local and wider objectives in the area of quantity and quality, and to reduce the backlog of court cases to a justifiable level.

The realisation of an audit strategy is only possible by developing the embryonal audit cell into a truly professional audit department within the High Council of Justice.

### 4.11.3 Internal audit of courts in the Republic of Lithuania

It should be noted that the principle of courts' independence in the administration of justice has to be obeyed carrying audits (during the audit of economic and financial activities of courts and also during the internal audit).

According to Article 2 of the Law on National Courts Administration, the National Courts Administration is responsible for the internal audit in the district, regional, regional administrative courts, and in the National Courts Administration. Therefore the Internal audit division (hereafter referred to as division) is established within the structure of the National Courts Administration (hereafter referred to as Administration). The division is an independent subdivision of the Administration, which is directly subordinate and accountable to the director of the Administration.
The activities of the division are organised and fulfilled according to the law and other legal acts which regulate functions of centralised internal audit service. The basis for the activities of the division is the annual action plan, which is coordinated with the director of the Administration.

The purpose of the division is to carry out an independent, objective investigation and to provide consultations in order to secure the improvement of activities of district, regional and regional administrative courts and of Administration. 65 subjects fall within the frame of audit by the division.

The division is independent from the activities of the institutions it audits, from their procedures of internal control and is not responsible for them.

The aims of the division are to systemically and comprehensively evaluate the internal control and administration of risks to help to improve the effectiveness of activities and to help them to implement the strategic and other plans, programmes and procedures of the institutions that are audited.

The tasks of the division:

- to audit and evaluate whether the internal control system of the audited institutions is sufficient and effective, whether their activities (except the administration of justice) are in accordance with the law and the requirements of other legal acts, their local legal acts, whether the information on financial and economic activities is comprehensive and reliable, whether the defined aims and tasks are achieved;
- to produce the objective information, recommendations and findings on activities of the audited institution, the state of internal control, the implementation of the strategic and other plans, programmes of activities, on identified risks of activities to the heads of audited institutions.

Performing its tasks the division fulfils these most important functions:

- Audits and evaluates:
  - functioning of the internal control system (defined internal rules, the efficiency, sufficiency and observance of the internal control procedures, the optimum of organisational structure, the allocation of functions, the rationality of use of intellectual resources and others), the effectiveness of the administration of risk factors;
  - correspondence of the activities with the requirements of law of the Republic of Lithuania, regulations of the Government of the Republic of Lithuania, other legal acts;
  - implementation of decisions of the Judicial Council and regulations of the director of the Administration, which concern the field of audit;

- implementation of strategic and other plans, correspondence of activities to its aims and purposes, implementation of programmes of administrators of State budget assignations, the effectiveness, cost-effectiveness and outcome of use of financial resources, State and self-government property;
- correctness of data of the financial and activity reports, suitability, objectiveness, the presentation in time of account information;
- administration and use of resources from the EU, foreign institutions or funds;
- administration of property, its records and protection;
- security, effectiveness of information systems and projects of information systems;

- According to the requirements of the European Commission fulfils obligatory inspections of the use of support resources;
- Prepares internal audit reports with conclusions and recommendations, how to correct the inadequacies found during the internal audit and how to improve the activities and internal control of audited institutions;
- Provides the internal audit reports to the heads of audited institutions, who adopt decisions on the implementation of the internal audit recommendations;
- Upon written request of the Judicial Council provides final internal audit reports or their summary to the Judicial Council; the request is rendered to the director of the Administration, who takes the decision regarding the submission of the internal audit report or its summary;
- Fulfils observation of progress (activities after internal audit);
- Prepares the annual activity report of the division.

The division is headed by the head of the division who is dependent and accountable to the director of the Administration. There are 10 approved establishments in the division, however 4 establishments are filled in (head and 3 senior internal auditors). All employees of the division are public servants employed by the director of the Administration in accordance with the Law on Public service.

### 4.11.4 Internal audit in the Romanian Judicial Inspection of the Superior Council of Magistracy

**Mission**

The Judicial Inspection of the Council is attributed a key role in modernising and increasing the efficiency of justice in Romania, by fulfilling the following tasks:

- investigates and informs with regard to the activity of the courts and prosecutors' offices;
- controls the activity of the courts and prosecutors' offices;
- offers assistance in managing the resources for improving the quality of the act of justice (according to the Guide of criteria for carrying out the inspections at courts and prosecutors' offices).

**Activities**

- The Judicial Inspection regularly verifies the activity of the courts and prosecutor's offices and the activity of individual judges on the following aspects: compliance with procedural norms on registering the requests; the random distribution of cases system; system of planning the court sessions; pronouncement of judicial decisions; elaboration of judicial decisions; communication of decisions; execution of court decisions; managerial efficiency and the accomplishment of the obligations deriving from law and regulations in order to ensure the running order of the court and an adequate quality of the judicial service (according to the Regulation on the organisation and functioning of the Superior Council of Magistracy);
- at the courts, the Judicial Inspection will identify files older than 1 year in first instance and files older than 6 months in appeal and second appeal and the reasons for delays, will analyse the functioning of the system for the random distribution of cases and whether the principle on the continuity of the judging panel has been respected and, at the prosecutor's offices, the status of the files older than 1 year from the registration date and files older than 6 months from the starting point of the criminal investigations (according to the Action Plan);
- the Judicial Inspection carries out verifications ordered by the Plenum of the Council on the complaints submitted by various plaintiffs and by judges and prosecutors with regard to their

career, independence and professional reputation. The results of these verifications form the fundament of the decisions of the Plenum and of the two sections of the Council with regard to the measures imposed for the organisation and functioning of the courts/prosecutors' offices, for disciplinary sanctions against the judges/prosecutors, etc.

**Structure**
The Judicial Inspection is organised in 2 services: the inspection service for judges and the inspection service for prosecutors.

**Development of the verifications**
- Approval of the inspection - the Plenum/sections will adopt a decision approving the inspection and establishing the courts/prosecutors' office where the verifications will be carried out and the object of the verifications;
- constituting the inspection teams - the inspectors are nominated by the head of the corresponding inspection service;
- announcement of the inspection - the inspection is announced to the court/ prosecutors' office where it will take place prior to the date of the control;
- preparation of the inspection - if necessary, prior to the inspection, information may be requested from the inspected court/prosecutors' office;
- presentation of the inspection team - this will take place in the presence of the head of the court/prosecutor's office and the objectives, the duration and the planning of the inspection activities will be pointed out;
- implementation of the inspection - the inspection must not hinder the normal activities of the court/prosecutor' office. Among the methods for collecting information may be mentioned: consulting all relevant records and documents and interviews with the judges, prosecutors and auxiliary personnel that activate at the respective court/prosecutors' office and with other persons related to the activity of the respective institution, like the president of the higher court/ higher prosecutors' office;
- closure of the inspection - after all the verifications have been carried out, the inspectors will interview all the judges/prosecutors of the verified institution and will present the conclusions of the control so that the judges/prosecutors will have the possibility to formulate observations and to inform about all relevant aspects in the activity of the courts/prosecutors' office. Finally, the inspection team will hold a meeting with the head of the court/prosecutors' office to present the conclusions of the inspections.
- elaboration of the report - the Judicial Inspection signals the deficiencies and formulates concrete proposals for eliminating them;
- communication of the report - the report will be presented to the Plenum of the SCM/sections Council. When the Plenum has agreed to the proposals, the report will be communicated to the inspected court/prosecutors' office to inform and to take measures to eliminate the deficiencies, at the most in 30 days from the works of inspection. If the report signals disciplinary matters, it will also be communicated to the corresponding discipline commission.

**Publicity**
The activity of the Judicial Inspection is publicised to a general audience through the four guides on the activity of the Judicial Inspection (namely: Guide establishing the criteria for carrying on inspections at the courts and prosecutors' offices, Guide establishing the criteria for the preliminary investigations on judges and prosecutors, Information Guide for the persons interested to notify the Judicial Inspection, Information Guide for the persons interested to notify the disciplinary commissions) which are posted on the website of the Superior Council of Magistracy.

The last report on the status of files older than one year from the registration date and files older than six months from the starting point of the criminal investigations, currently at the prosecutors' offices or at the criminal investigation units has been published on the webpage of the Council. The report includes proposals to reform the criminal pursuit activities and to enhance the management of

prosecutors' courts, proposing such measures as: supplementation of the prosecutors' schemes and auxiliary personnel schemes at prosecutor's offices, subject related verifications to be carried out by the leadership of the prosecutors' offices, equal distribution of cases, improvements in the activity of the clerks and registration bureaus at the prosecutors' offices, registration of all complaints in the criminal cases registry, etc.

## 4.12 External Communication

### 4.12.1 External communication in Denmark

The Danish Court Administration has a communications department. This department is responsible for both internal and external communication. External communication activities include:

- The homepage of The Courts of Denmark, www.domstol.dk;
- a quarterly magazine, "Danmarks Domstole";
- an annual report on the activities of The Courts of Denmark;
- press releases;
- annual meetings with representatives from the press.

In addition, each court has its own homepage. The same design and a uniform set of templates are used on both www.domstol.dk and the individual homepages of the courts.

The courts have no appointed special press spokesmen. In some cases the presiding judge will answer questions from the press. On verdicts of common interest the court often issues a press release on the courts website.

The Danish Court Administration facilitates the work of a communications network. An employee from every court is included in this network. The purpose of the network is to improve internal and external communication in The Courts of Denmark and to ensure coordination between the courts. Especially regarding external communication the member of the network coordinates enquiries from the press.

### 4.12.2 External Communication in the Netherlands

**Press judges**

Every court in the Netherlands has one or more so-called "press judges", who are appointed as spokespersons to the press. Their role is principally to communicate with the media about individual cases being handled by the court. Twice a year, all press judges meet to discuss their experiences with the media during the previous six months. Typical topics include incidents with the press, where for example the privacy of a defendant or witness was violated. The Council for the Judiciary coordinates special training courses for these judges, including on-camera training.

The press judges drew up a set of guidelines for the press in 2003, which were recently renewed. The new Press Guideline explains the interests involved in matters relating to the public nature of the administration of justice and how and by whom these interests are weighed. The Guideline also clarifies what the press may expect of the staff of the courts and how the courts should brief the press before, during and after court proceedings. It also regulates a number of practical matters.

Besides the guidelines, the Council has published a manual for press judges. This manual contains best practices in press relations and has the purpose to help press judges in answering daily questions, such as what can be filmed or not, tips for interviews, etc.

**Public information to students**

Every year around 30.000 students from secondary school visit a court hearing. To prepare students for their visit, the Netherlands Judiciary developed a campaign to interest young people in the judiciary and the administration of justice. This campaign contains de following elements:

- a special website for students (aged 12-16 years) www.rechtspraakvoorjou.nl;
- a comic book about the judiciary in the Netherlands;

- a manual for school teachers;
- a visit to a court hearing;
- a film in which a judge handles a divorce.

**Open days**
Every three or four years, the Dutch judiciary organises an Open Day of the courts. That day, all courts in the Netherlands organise various activities for the general public. For example, visitors can attend re-enacted court hearings, or ask questions to the court president and visit the cells of suspects in the court buildings. The last Open Day, the judiciary received approximately 33.000 visitors.

**Website**
One of the most important instruments in the public information programme so far has been the website 'Rechtspraak.nl'. The main body of the Dutch judiciary's official website consists of a database of judgements, which has proven to be very popular among legal professionals. In less than six years, since it was first launched in 1999, the number of visitors has increased exponentially. Judgements in high publicity cases are published in anonymous as form soon as possible after the pronouncement of the verdict. Sometimes, especially in complicated or controversial cases, the courts release press bulletins with a summary and explanation of the judgement. These press releases are written by the communication advisor or the press judge, who works in consultation with the case judge.

**Information for participants in court hearings**
The last months, the Netherlands' Judiciary focused on improving the information for the participants in court hearings. It has been proven that the experiences of participants in court hearings can differ greatly from their expectations. Often this results in disappointment in the court system. The Netherlands Judiciary is developing a special Internet site to prepare citizens for the proceedings. Citizens who have their cases heard in the sub-district sector have the right to argue their own case and do not need a lawyer.

### 4.12.3 External Communication policies in Romania

The Council takes measures regarding external communication, as a means to improve the image of the Council and of the courts towards the public, the litigants and the media. Thus, the SCM adopted the *Guide of good practices for the cooperation between courts, prosecutors' offices and the media,* that contains information regarding the activity of the spokesperson of the SCM as coordinator of the spokespersons of the courts and prosecutors' offices, as well as norms that allow for an efficient and quick communication with mass media representatives, as their requests are to be treated in emergency regime.

In order to improve external communication, *information guides for litigants* are published on the websites of the Council and of the courts (mainly the courts of appeal). These contain models of actions and complaints in 31 areas of law, which are of real help to those who need to introduce actions at courts or to submit complaints. The purpose of these guides is to help the citizens understand the legal terminology.

Also, in order to disseminate information on the activity of the Judicial Inspection, the SCM webpage displays *four guides containing relevant data on the activity and competencies of the Judicial Inspection and on the procedure for notifying the Judicial Inspection and the discipline commissions* by interested persons (Guide establishing the criteria for carrying on inspections at the courts and prosecutors' offices, Guide establishing the criteria for the preliminary investigations on judges and prosecutors, Information Guide for the persons interested to notify the Judicial Inspection, Information Guide for the persons interested to notify the disciplinary commissions).

Furthermore, within a project on the communication strategy of the SCM financed by the World Bank and ended in 2007, important steps were achieved in raising the awareness of public communication

for the justice system. So, after several consultations with the spokespersons from the courts and prosecutors' offices, media and civil society representatives, the main deficiencies of the current communication strategy have been identified and a series of concrete proposals have been made by the project team to reform the institution of the spokesperson, by introducing communication officers to assist the magistrate-spokespersons from the SCM, courts and prosecutor's offices, by introducing continuous training programmes for spokespersons and traineeships for those recruited as a spokesperson for the first time, by creating press centres at all courts of appeal, the prosecutors' offices attached to the courts of appeal and the Council. Also, a plan of action has been proposed for 2008-2013, in order to implement these proposals. Meanwhile, the main tasks for implementing them will be given to a working group constituted for this purpose within the SCM. In the next period of time, the working group will submit to the Plenum of the Council for approval a series of measures to implement the communication strategy.

# 5 Conclusion

In all studied countries, a great variety of quality activities are being deployed within the judiciary. In countries with a Council for the Judiciary, these quality activities are usually the result of close co-operation between the Council and the courts.

The stage of implementation of the various quality activities differs per country: in some countries, quality activities are foreseen, but are not yet being implemented; in others, the activities are in full swing (and already subject of evaluation).

Two groups of countries can be identified as concerns quality management: 1) countries in which different quality activities are deployed within the framework of a quality system; and 2) countries in which there are various quality activities, but no umbrella quality system.

The Working Group is of the opinion that it is not necessary to have a total quality system, although some countries do indeed strive to ultimately develop such a system. The main aim where quality management is concerned should be to develop quality activities with a view to ensure structured and continuous quality improvement.

The Working Group considers the growing focus on quality activities as an important development for the judiciary, as it shows that the judiciary is a dynamic organisation open to change and willing to deploy new activities.

Although the increased focus on quality within the judiciary can be considered as a positive development, other aspects such as quantity must not be forgotten. The focus should never solely come to lie on either quality or quantity: European judiciaries should strive to strike a balance between both quality and quantity. A very big challenge indeed…

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