

SETTORE INTERNAZIONALE

4) - Rete Europea dei Consigli di Giustizia: Attività del Gruppo di lavoro Public Confidence per il biennio 2009-2010.

(Fasc. 75/EJ/2009 Relatore Avv. SINISCALCHI)

La Commissione propone al Plenum di approvare la seguente delibera:

«Il Consiglio Superiore della Magistratura,

- premesso che in esito alla riunione dell'Assemblea Generale della Rete Europea dei Consigli di Giustizia (ENCJ) tenutasi nei giorni 28 e 29 maggio 2009 in Bucarest sono stati costituiti i nuovi gruppi di lavoro per l'anno 2009-2010 tra i quali “Public Confidence”, coordinato dalla Polonia, all'interno del quale il C.S.M. italiano è rappresentato dal Consigliere Avv. Vincenzo SINISCALCHI;

- viste le delibere del 17 settembre 2009, 20 gennaio 2010 con le quali il Consiglio autorizzava la partecipazione del rappresentante italiano, presso la sede del CSM polacco in Varsavia - alla 1° riunione del WG “Public Confidence” svoltasi il 30 novembre 2009; alla seconda riunione svoltasi il 15 febbraio 2010;

- considerato che a seguito delle attività svolte nelle predette riunioni i membri del gruppo di lavoro “Public Confidence”, nel corso delle riunioni svoltesi a Varsavia, sono giunti alle seguenti conclusioni, rassegnate all'Assemblea Generale tenutasi a Londra il 3 e 4 giugno 2010:

A. Report from the activities of the ENCJ Working Group Public Confidence

Description of the research methodology

The survey research for the National Council of the Judiciary was conducted by CBM Indicator between 25 April – 7 May 2009 with the use of individual interview questionnaire method (PAPI). This method is a direct (face to face) conversation with the respondent carried out by the surveyor on the basis of a standardised interview questionnaire. The questionnaire comprises a set of questions prepared and organised purposefully. The standardised interview is carried out according to the set plan of questions, namely the questionnaire, ensuring repetitiveness of results. The value of the questionnaire as a measurement tool is usually expressed as validity and reliability of individual questions and sets of questions. Validity indicates the ability to measure a given feature in a manner ensuring the compliance of the value obtained by means of the measurement with the real value. The validity is contingent on sensitivity and specificity. Reliability of the measurement means accuracy and stability (repetitiveness). The interview questionnaire “public trust”

consisted of 71 questions grouped in topical blocks and organised in appropriate order and 35 demographics questions.

Sampling

The survey was carried out on a random, nationwide, representative sample of 1500 adult Poles aged 18-75. The sample was representative with regard to sex, age, education, size of the city and region (voivodship). The respondents were selected for the research in accordance with a two-stage sampling on the basis of the random route procedure.

Trust in judges, courts and justice in the light of the latest empirical research

Summary of the research findings

In light of the first finding, the trust in courts in Poland grows. This is an important proof of overcoming of “transformation trauma” and approaching of the normalcy by the Polish society”

- *In social perception courts are independent from the political system , yet they are not impartial as they are influenced by the media (so are the judges) and public opinion.*
- *The declared contact with courts is of lower significance with regard to the course and culture of the court proceedings.*
- *Judges occupy privileged positions in the social consciousness due to their professionalism and culture of presiding over court proceedings.*
- *The following factors affect the trust in courts and the justice:*
 - o awareness of the rights in courts and the knowledge of the functioning of courts*

(the higher the knowledge and awareness of rights, the lower the trust)

o court proceedings are evaluated in regard to three dimensions: administrative (service of applicants at the court secretariats, length of the court proceedings), proceedings (manner of conducting the trial, personal conduct of the judge) and objective (final result and satisfaction with the result of the trial)

- o observance of the procedures and the rule of law principle*
- o effectiveness in the enforcement of judicial decisions*
- o organisational efficiency of courts*
- *The assessment of the types of courts from the point of view of trust, reliability and efficiency of actions leads to hierarchisation of the courts: the lowest position with regard to trust and effectiveness is occupied by criminal and civil courts, whereas the highest position is attributed to the courts safeguarding human rights this perception scale does not include very highly assessed military courts.*
- *Experience of participation in the court proceedings is conducive to more diversity in the perception of courts in the dimension of trust and effectiveness.*
- *As in the case of courts, the assessment of judges and other representatives of the justice according to the trust-effectiveness dimension, leads to their hierarchisation; such hierarchy ranges from “enforcers of the provisions of law” (judges) to “advocates of legal interests” (notaries, legal counsels).*
- *The knowledge of the judicial system and the work of judges is derived mainly from four types of media (TV, the press, the radio and the Internet) and conversations with friends.*
- *The public opinion about the courts is shaped mainly as a result of attention drawn to the criminal, commercial and social cases publicised in the media: the impact of personal experiences with the justice is considerably lower.*
- *The basis for consolidating trust in courts and justice is credibility and possibility of confirming the news in various types of media (TV, the press, the radio and the Internet).*
- *The decisive factors in building trust in courts and the judiciary are sex, age, education, participation in religious practices and the scope of interest in politics.*

- *The analysis of the survey data makes it possible to distinguish three qualitatively different categories of trust:*
 - o personal (trust in judges and other representatives of the judiciary)*
 - o procedural (trust in court procedures and applicable law)*
 - o instance (trust in European and international courts)*
- *Respect for legal and social norms is strongly linked with religiousness (the higher the level of religiousness, the higher the level of respect for norms and trust in courts).*

Three types of trust in courts and the judiciary

Based on the analysis of survey data three different quality types of trust may be distinguished: personal trust, procedural trust and trust in the court instance. Personal trust is

trust in judges and other representatives of the judiciary. It appears to be based on what Piotr Sztompka specifies as inherent credibility i.e. personal features (Sztompka 2007; 166-167). These are features available to the respondents cognitively “as if from the outside” – directly (own experience) or indirectly (experience of others). These features refer to the person’s appearance, activity, conduct, whether the person commands respect, how the person behaved towards others in given circumstances. In other words, it may be stated that these are experiences related to the main actors representing justice and to the culture of the court trial itself. The basis for the development of social awareness of inherent credibility is: reputation, image and visible effects of current actions. Personal trust deep-rooted in reputation requires constant confirmation. It accumulates as capital that enlarges the field of possible actions of individuals. Whereas reputation creates the social image of a person/persons. The third factor of personal trust refers to current actions and conduct of the persons and the consequences thereof. This factor remains in close relation with reputation and it has an effect on the future perception of personal trust. Personal trust may also be considered as trust in social positions and roles (of judges and other representatives of justice).

Procedural trust is trust in legal norms (court procedures and applicable provisions of law) regulating proceedings before the authorities of justice and public administration and the manner of their enforcement in everyday life. Procedural trust means expectation by individuals that application or compliance with institutionalised practices, procedures or “rituals” will result in the best (advantageous) effects. Procedural trust may also be treated as the feature of purpose-rational actions (rational means, manner of conduct lead to specific purposes) and traditional actions (tested actions and rooted in tradition bring notable benefits). Procedural trust with respect to courts is nothing else but the belief that application of relevant legal procedures is the best way to reach fair and objective judgments.

Trust in court instance is trust in various types of courts. It is an example of generalised institutional trust and trust in a symbolic sense of a given institution. Instance trust is a positive attitude towards particular European and international court institutions that, due to their experience and traditions, are considered to be friendly to a citizen. On the other hand, trust in European and international courts can be considered as the indication of abstract vision of law and feeling of justice symbolically established in social consciousness. It appears that it is the kind of trust Poles have in mind while talking about the rule of law and principles of justice.

The analysis of correlation between these types of trust indicates a strong and statistically significant relation between personal and procedural trust (0.72 – Pearson’s R). However, it is difficult to state whether personal trust establishes procedural trust, or whether it is the other way round. On the basis of the data analysis it may be assumed that between these two types of trust there is translatability of the relations person – procedure / procedure – person.

The relation between personal and procedural trust versus trust in the court instance is clearly weaker (0.58 and 0.56 respectively). Trust in the court definitely belongs to a different dimension of social perception.

These three types of trust compose a generalised level of trust in courts and the judiciary.

However, it should be indicated that their mutual correlation is diversified. Trust in courts and the judiciary, in the order of the strength of effect, is influenced by procedural trust (0.84 – Pearson's R), personal trust (0.71) and trust in the court instance (0.55).

As follows from the results of the analysis of survey data, knowledge about the functioning of courts and justice affects the level of personal trust, procedural trust and trust in the court instance. The broader the knowledge about the functioning of courts is declared by the respondent, the lower the level of his/her trust is. This relation is much more significant in the case of personal and procedural trust than in the case of trust in the court instance. However, the knowledge about the rights available in a court and rights in the public prosecutor's office does not diversify personal, procedural or instance trust. These conclusions should be treated carefully due to the fact that as many as 3 out of 5 respondents declare low level of knowledge about the functioning of courts, and 2 out of 3 state that they are not familiar with the rights they have in a court and in a public prosecutor's office.

What is interesting, there is also no statistically significant relation between the analytically distinguished types of trust and personal experience of the respondents with justice. According to the analysis – as regards persons who have had personal contact with courts - it may be stated that not the fact of participation in a trial itself but the course of court trial appears to have a significant impact on the establishment of the level of each of the three distinguished types of trust. The level of personal trust, procedural trust and trust in the court instance is definitely higher when the respondent declares that the judge had control over the course of the trial, was polite and professional, and in effect the respondent won the case in the court. It may be concluded, therefore, that the high level of these three types of trust is related to the good assessment of proceedings and administrative service of court secretariats and the satisfaction with a positive result of a court trial. These relations are visible most of all in the case of personal and procedural trust rather than trust in the court instance.

According to the results of survey research for the National Council of the Judiciary, the basis for the establishment of the opinion on courts and judges is the media: television, radio, the Internet and the press. Therefore, personal trust, procedural trust and trust in the court instance are also related to current media events reported in the press and TV which concern justice. However these relations are not very strong, it is not possible to distinguish typical media groups that would be responsible for the level of trust. It is rather the sources of knowledge/media that are diversified depending on the type of trust. The level of personal and procedural trust decreases with the number of media, i.e. four main sources of information (TV, radio, the press, the Internet) the respondents have contact with. Trust in the court instance remains on a similar level irrespective of the number of sources of information. At the same time, the higher the number of the specified information sources the respondents consider to be reliable, the higher the level of each of the three categories of trust.

Personal trust

Personal trust, i.e. trust in judges and other representatives of the judiciary indicates statically a significant relation between the respondent's sex, age, place of residence and frequency or religious practices. In the case of women it is clearly much higher than in the

case of men. The level of trust in judges and other representatives of the judiciary is the highest among young people (up to 24 years of age) and older people (over 65 years). However, as the chart below shows, in the 24 – 64 years category trust becomes lower with the age of the respondents.

In the case of place of residence there is no clear interpretation of the relation of this factor with trust in judges and other representatives of the judiciary. It is possible, however, except for two extreme categories of villages and big metropolises (over 500 thousand residents), to indicate the tendency in accordance with which personal trust becomes lower, the larger, as regards the number of residents, the place of permanent residence is. On the basis of the analysis of survey data, it is possible to state that personal trust is established mainly by the image of justice presented in feature films, watched on TV, at the cinema or on CD/DVD.

Procedural trust

Procedural trust similarly to personal trust is related to sex, place of residence and participation in religious practices. It is much higher in the case of women than in the case of men. It becomes lower the bigger the place of permanent residence is, except for two extreme categories of villages and big metropolises. In the case of information sources, procedural trust is established on the basis of publications in popular weekly or monthly magazines, articles in the specialist press, radio programmes and TV information services.

Interesting in sociological terms is the relation between personal and procedural trust and the level of religiousness of the respondents. The empirical indexes of the level of religiousness in the survey were the questions concerning declaration of will (non-believer – strong believer scale) and the frequency of participation in religious practices (several times a week – I do not participate in religious practices at all). Trust in judges and other representatives of the judiciary definitely increases with the frequency of religious practices and the level of religiousness. However, it should be indicated that the level of religiousness depends on the frequency of other religious practices (Pearson's chi-squared test: 1129.94; Pearson's measure: 0.66). Therefore, this relation is stronger as regards participation in religious practices than declaration of religiousness. The level of personal and procedural trust increases with the frequency of participation in religious practices.

Trust in the court instance

Trust in the court instance, similarly to the two categories of trust characterised above, demonstrates relation with sex and the place of residence. It is slightly higher in the case of women than in the case of men. Similarly to personal and procedural trust, it becomes lower the bigger the place of permanent residence is (except for villages and big metropolises). Instance trust indicates relation with television programmes presenting the activity of justice. Attention should be drawn to the relation of instance trust with the assessment of material situation of the respondents. The higher the self-assessment of the present/future material condition of a household, the higher the level of this type of trust. It appears that, according to the respondents, possession of economic capital increases their own capabilities, faith in success in European courts and thus generates higher trust in the court instance.

The above relations between socio-demographic features of the respondents and the three analytically distinguished types of trust are not very strong. Therefore, they should be treated as hypotheses rather than taken for granted. In order to confirm these relations a full, cyclic and more advanced survey research should be carried out.

Summary and recommendations

The findings of the public trust survey research indicate a significant increase in the number of contacts of Polish society with judicial justice, which is, in our opinion, closely related to consolidation of the market economy as well as transformations of legal consciousness and culture. They also clearly indicate the strengthening of the trend, observed within the very last years, consisting in the improvement of the opinion concerning judicial justice and judges in the consciousness of Polish society. It thus appears that we witness the reversal of trends and the overcoming of the “transformation trauma”.

In the light of survey data, trust in courts is diversified and arranged in a hierarchy in social consciousness. The most trusted courts by the Polish people are transnational courts, including European courts, as well as the supreme national courts (the Supreme Court and Constitutional Tribunal). The very fact of contact with a court has no meaning from the perspective of trust in judicial justice. However, what is important is the respondents' experience connected with courts. Also, the final effect and satisfaction with the verdict are significant. The obtained results enable formulation of further conclusions in that respect.

Compliance with the principles of procedural justice, i.e. application of procedures by courts and fulfilment of procedural guarantees, are important for the level of trust. Trust, defined by us as procedural trust turned out to be the strongest and the most common type of trust. It overlaps with the type of trust that we specify as personal trust consisting in trust in Judges as the main actors of court application of law. This close relation between procedures and persons following the procedures appears to characterise the type of trust in courts specific for Polish society.

“Soft” components of principles of procedural justice appear significant for the shaping of trust in courts and judges, such as appearance/architecture of court buildings, courtrooms arrangement, judges behaviour in the courtroom, mutual respect shown by participants before a court, and not only formal and legal components. We believe that the influence of the said “soft factors” related to the application of fair trial could become the subject of further sociological research. It is worth indicating here other interesting relations, revealed by the analysis of survey data. Particularly interesting appears to be the positive relation between religiousness of the respondents and the level of trust in law and justice. As we believe, religiousness is connected with higher respect for norms and the trust placed therein.

These conclusions give grounds for the formulation of research recommendations and recommendations concerning judicial justice and judges as its main actors. First of all, it would be good if the research on trust in judicial justice was of cyclic nature. In our opinion it would be a valuable tool for the National Council of the Judiciary for monitoring social consciousness. The results of this type of research would present characteristic “critical mirror” for constant and reliable verification of the image and assessment of judicial justice. In sociology this type of research is specified as “action research”, which means that the results of such research are put

into practice. The subject of this type of research should also be the attitudes towards justice, and not only opinions concerning it. Cyclic research would also enable the analysis of the dynamics of the transformation of opinions and attitudes, which would, in turn, give grounds for the formulation of relevant strategies, mainly, within the scope of policy towards the media, as well as availability of courts. In further survey research one should concentrate on the three types of trust we distinguish: procedural, instance and personal – in connection with the understanding of procedural justice.

We may also reflect that this type of research could be carried out in the countries of the European Union and cover the issues of mutual trust in judgments, decisions and procedures

before courts in different countries of the European Union. Such research would enable verification of conclusions concerning trust of Poles in the European Union and in the European courts, which is clearly indicated by our research. The research of the kind suggested above would also give the possibility of cyclic research and comparative analyses concerning mutual recognition of decisions and judgments in the consciousness of EU citizens.

We also believe that results of the research presented in this report may become the basis for the National Council of the Judiciary within the scope of informative politics and improvement of the image of judicial justice and courts in the social consciousness. As we have already emphasised, the conducted research documents the occurring trends consisting in improvement of the image of the judiciary. It is important, therefore, that the results of this type of research are made public. Making such research findings public would have not only an informative but also educational effect, as they would constitute for society a source of knowledge about the functioning of justice and its institutions.

II. MONITORING PUBLIC AND MUTUAL CONFIDENCE IN THE JUSTICE SYSTEM IN THE EU. TOWARDS A MASTER PLAN OF ENCJ AND THE EUROPEAN COMMISSION

1. Opinion research as a tool for monitoring the client's perspective on public services

For many years, opinion research has been used as a tool for monitoring the quality of public services (Flanagan, 2004). Besides other tools to measure process, output and outcome and particularly in fields where the public service needs the legitimacy of the (citizen-) clients, their opinion is being considered as a valuable indicator for the need to undertake service improvement actions.

That is why in many countries during the second half of the past century programmes have been developed to assess and monitor confidence and trust of citizens in the justice system. Among others we can refer to Canada (Roberts, 2004) and to several states of the USA (Flanagan, 2004). In Europe, similar research has been carried out in Spain (Toharia, 2004), Belgium (Cloet, Biren, Vanderhallen et al., 2004; High Council of Justice Belgium, 2007), France (Robert, 2004), The Netherlands (Kommer, 2004; Dekker e.a., 2006; Dekker & Van der Meer, 2007), Sweden (Swedish National Council of Crime Prevention, 2005), Switzerland (Languin, Widmer, Kellerhals et al., 2004), Poland (High Council of Justice Poland), England and Wales (Hough, Yordanova, Markov et al., 2009) and perhaps in other countries of whom we are not aware of up until now.

2. Changing context, changing needs

Although these different initiatives to assess the (evolution of) confidence in the justice system have been of major importance for the increasing awareness of the people's impression of their own justice system and for the development of improvement actions in each country, new challenges – related to a changing society – are still ahead.

In the light of the efforts to move to a strong Europe (cf. Lisbon Treaty) and hence the increasing mobility of citizens and economic activity, the development of an efficient, effective and trustworthy justice system in each EU member state becomes more and more important. Due to the above-mentioned mobility there is not only the need to be able to trust the own national justice system. Also the perception of the quality of the justice system in other member states becomes growingly significant, since this – among other criteria – could

determine decisions of citizens' enterprises and even magistrates to start and/or continue relationships (private, business,...) with other member states. Furthermore European law is developing, which urges for more collaboration of the justice systems all across Europe.

3. The need for valid comparisons in monitoring public confidence

A first consequence of the changing context is the need to standardise the assessment and monitoring of public confidence in the justice system. Standardized assessment of public confidence will reveal similarities and differences in the perception of the European courts, as well as in the justice system of each country. The current situation, in which different tools are used in various countries to measure confidence in the justice system, does not allow valid comparisons, due to the diversity of content and applied methodology.

In any case, once a standardized assessment has been created, further discussion will be needed among the ENCJ members as well in the context of the EU, on the ways in which the results will be monitored and on the actors who will be involved in the following up.

4. The need for the development of measures of mutual confidence for different stakeholders

A second need is the development of tools for the measurement of mutual confidence among different stakeholders. The first group of stakeholders that can be identified are the prosecutors and judges themselves. Since the development of European law and regulations (e.g. European arrest warrant), there is an increasing need to collaborate and simultaneously, also a demand is rising to ensure this collaboration takes place within an environment of trustworthy partners and institutions. The application of EU measures is sometimes hampered by a lack of information and/or trust in the system of each partner's country. Among others, ENCJ is contributing to increase mutual confidence in the justice systems and among magistrates and prosecutors in Europe. An important effort to reach this goal has been announced in the Stockholm Program, namely the proposal of stimulating the exchange of prosecutors and judges in the EU. In addition to the initiatives that are presented here, ENCJ wants to stress the need for a reliable and valid monitoring of judges' and prosecutors' mutual confidence. This monitoring will not only contribute to a greater awareness among judges and prosecutors, but will also be a tool to evaluate the efforts to enhance mutual confidence and – if needed – supplement or redirect the efforts to reach this goal.

The second group of stakeholders are the private enterprises. One major criterion for enterprises to determine the level of their investment is the perceived trustworthiness of the justice system and the effectiveness and efficiency of the administration of justice in a particular country. Therefore their opinion on the actual functioning of the justice system and its evolution may be used as an additional source of information to develop improvement actions.

The third group of stakeholders are the European citizens. Since 1973, efforts have been made to collect EU citizens' views on their preferred EU policy in different policy domains (such as combating organised crime, climate change, poverty and social exclusion etc.). Furthermore, EU citizens' perspectives on sensitive issues have been asked for (e.g. discrimination or corruption). In the context of the increasing mobility on the one hand and the creation and enhancement of an EU area of trust and security on the other, knowledge about the EU citizens' confidence in the justice systems of other member states (apart from their own) becomes increasingly necessary. Hence the development of a reliable and valid

assessment and monitoring instrument for mutual confidence of the EU citizens in the justice system of different countries becomes an urgent matter.

II. A MASTER PLAN FOR THE DEVELOPMENT OF THE ASSESSMENT AND MONITORING OF PUBLIC AND MUTUAL CONFIDENCE IN THE JUSTICE SYSTEM IN THE EU.

A COLLABORATION BETWEEN ENCJ AND THE EU COMMISSION

1. Purpose/aim/goal

The aim of this plan is to enlarge our knowledge on the level of public and mutual confidence in the justice system of the EU member states (or member states of ENCJ) and in the EU courts. Although knowledge as such is valuable, the final aim is to create tools in order to preserve and improve the functioning of the justice system. This plan is not theoretically but rather practically driven, as it aims at creating a tool for evaluating/monitoring interventions that can serve as a support for policy makers.

In this plan, the justice system is conceived in its four different aspects:

- 1. The institution: basic values – justice system*
- 2. The organizational structure: courts*
- 3. The behavioural aspects: judges & court officials*
- 4. The instrumental aspect: judgement (rulings/procedures)*

Particularly the following assessment instruments have to be developed:

- 1. A standardized assessment (content and methodology) for the in-country public confidence in the justice system;*
- 2. A standardized assessment (content and methodology) for the mutual confidence of citizens (that is, their confidence in the justice system of other countries besides their own);*
- 3. A standardized assessment (content and methodology) of mutual confidence of judges and prosecutors;*
- 4. A standardized assessment (content and methodology) of mutual confidence of private enterprises (e.g. top 100 in each country)*

These assessment instruments will be developed as monitoring instruments, allowing the following up of evolutions. Therefore, they have to be repeated on a recurrent basis (e.g. once per three years).

2. Means

The master plan could fit into the framework of the strategic plan – that will be submitted for approval by the GA soon – namely as a part of the operational objectives.

After the approval of the master plan, a project team „assessment and monitoring public and mutual confidence in the justice system’ will be created. This project team will support the development and report suggestions to the steering committee, the board and the GA.

The board will be responsible for the contacts with EU representatives and the EU Commission.

Dependent on the reaction and support of the EU, the project team will create a platform of EU university opinion researchers/experts for the development of the four abovementioned assessment instruments. A first task will be the creation of an item/questionnaire database of

questions used in previous research and the establishment of an overview of possible designs/methodology in relation to feasibility.

3. Timing

1. Discussion and approval of Master Plan GA London
2. Board contacts EU to discuss master plan (june – sept.)
3. Feedback and description of concrete projects of working group
4. Start activities of working group (okt. 2010)

4. Minimum goals by may 2011

1. Identify and recommend 5 questions concerning the measurement of public confidence of citizens to be included in national surveys
2. Identify and recommend 3 questions of mutual confidence of citizens to be included in national surveys
3. Present the results of a feasibility study to organize on recurrent basis an assessment via web application concerning mutual confidence of judges and prosecutors
4. Present the results of a feasibility study to organize on recurrent basis an assessment via web application concerning mutual confidence of the top 100 private enterprises in each country.

The present master plan is a result of the activities of the working group PC of the ENCJ. With a view to this master plan, further reference must also be made to the Polish questionnaire that has already been established inside the working group. This questionnaire, which is added as an attachment to this plan, can serve as an example of an initiative to develop a common assessment instrument, and it can be used fruitfully as a starting point for further discussion in this matter.

References

- Cloet, B., Biren, P. Vanderhallen, M. et al. (2004). *Justice in the spotlight. The results of the First Belgian “Justice Barometer”*. In S. Parmentier, G. Vervaeke, R. Doutrelepon and G. Kellens, *Public Opinion and the Administration of Justice. Popular perceptions and their implications for policy-making in Western countries* (pp.53-76). Brussel: Politeia.
- Dekker, P., C. Maas-de Waal & T. van der Meer (2006). *Confidence in the Judiciary. Theoretical and empirical explorations into a monitor*. The Hague, Social & Cultural Planning Office.
- Dekker, P & T. van der Meer, *Confidence in the Judiciary fot the second time*, The Hague, Social & Cultural Planning Office.
- Flanagan, T. (2004). *Public Opinion, Crime and Justice*. In S. Parmentier, G. Vervaeke, R. Doutrelepon and G. Kellens, *Public Opinion and the Administration of Justice. Popular perceptions and their implications for policy-making in Western countries* (pp. 15-32). Brussel: Politeia.
- High Council of Justice Belgium (2007). *“De Belgen en Justitie in 2007”*. Resultaten van de tweede Justitiebarometer. Brussel: Bruylant.
- Hough, M., Yordanova, M., Markov, D. et al. (2009). *Scientific Indicators of Confidence in Justice: Tools for Policy Assessment*. <http://www.eurojustis.eu/fotoweb/22.pdf>

Kommer, M. (2004). *The Use of Public Opinion Research in Policy-Making. The Dutch experience.* In S. Parmentier, G. Vervaeke, R. Doutrélepon and G. Kellens, *Public Opinion and the Administration of Justice. Popular perceptions and their implications for policy-making in Western countries* (pp 15-32). Brussel: Politeia.

Languin, N., Widmer, E., Kellerhals, J. et al. (2004). *Des représentations sociales de la peine favorables à un nouvel art de sanctionner. Quelques résultats d'une recherche menée en Suisse romande francophone.* In S. Parmentier, G. Vervaeke, R. Doutrélepon and G. Kellens, *Public Opinion and the Administration of Justice. Popular perceptions and their implications for policy-making in Western countries* (pp 15-32). Brussel: Politeia.

Roberts, J. (2004). *Public opinion and the Administration of Justice in Canada. Research Findings from Two Decades.* In S. Parmentier, G. Vervaeke, R. Doutrélepon and G. Kellens, *Public Opinion and the Administration of Justice. Popular perceptions and their implications for policy-making in Western countries* (pp 15-32). Brussel: Politeia.

Swedish National Council of Crime Prevention (2005). *The Swedish Crime Survey 2008. Victimization, fear of crime and public confidence in the criminal justice system. English summary of Brå report No 2009:2.* www.bra.se

Toharia, J. (2004). *The evaluation of a System of Justice Through Public Opinion. Spain as a case-study.* In S. Parmentier, G. Vervaeke, R. Doutrélepon and G. Kellens, *Public Opinion and the Administration of Justice. Popular perceptions and their implications for policy-making in Western countries* (pp 15-32). Brussel: Politeia.

III. ADDITIONAL SUGGESTIONS

1) The suggestions concerning the research method, telling what kind of method was successful in particular countries

AUSTRIA:

In Austria our experience has shown that telephone-surveys are a successful method. We did several surveys based upon this method.

ITALY:

1. The method of research used by the Working Group and consequent formulation of the questionnaire as elaborated by Poland, proves to be complete and functional for the purposes of research under the demoscopic profile with specific reference to statistical analyses and the procedure for "question samples".

Consequently I have decided to propose this type of questionnaire during the realisation of similar initiatives which the Italian CSM may adopt.

Currently there are no systems for general monitoring in Italy on the part of institutional organisations (Ministry of Justice, CSM etc)

In fact surveys on opinion about justice in Italy are performed on commission by private bodies (industrial, commercial and economic associations, etc) and they confirm levels of credibility in justice and the judges.

2) The proposals of basic issues that should be the object of the future questionnaire

AUSTRIA:

I think that the basic issues of the future questionnaire are well comprised by the current draft questionnaire.

Merely the questions concerning mutual confidence could be omitted, because the field of experience of European citizens with courts of other member states might be too small till now.

ITALY:

2. We agree on the basic topics and conclusions reached by the WG and we think the next questionnaire should be better focussed on the consideration of the judge's activities not only concerning ethics, but also relating to the "service" to be rendered to citizens and the results obtained. We have decided to add a set of questions on the utility of "mediations" and "arbitral justice".

3) Remarks to the existing questionnaire of the working group:

AUSTRIA:

Survey Module: Public Confidence

At the beginning I would like to stress that I understand the questionnaire of the working group as an elaborated instrument for gathering information and that in my opinion it is suitable for conducting the (originally) planned investigation. If „public confidence“ is to be investigated in a reliable way, in my opinion a rigorous reduction of the questionnaire would be counterproductive.

For a quantity-based investigation of the questionnaires in my opinion the following four points that should be covered by such an investigation are essential:

1. Measuring a person's general confidence in the system: General satisfaction/confidence in life/society/the political system seems to have an important influence on selective confidence in the system with regard to the judicial system. In the moment this is also being investigated (partly) in question Q48 of the „Confidence in Public Institutions – Ranking“. Regarding a reduction of the questionnaire I would suggest not to abandon questions like this but on the opposite to extend the possible answers to it.

2. Access to the judicial system: The aim is to investigate how the persons interviewed experience access to the judicial system due to their position in society (keyword: persons with migration background, minorities ect.).

3. Service aspect: If the persons had contact with the judicial system, how did they experience the assistance, the services rendered for them? How did the persons feel about the „staff of the system“ they had contact with?

4. Satisfaction with decisions: How are the decisions in those proceedings that affected the persons evaluated? But also general opinions on the decisions taken in the judicial system without direct involvement of the persons questioned.

I think that these four points are to be considered in any case (also when reducing the questionnaire).

The current questionnaire in my opinion covers these aspects well. Of course there is still room for adaptation, e.g. extending/changing the possible answers to a question as described in item 1.

ITALY:

We think that it is necessary to make a distinction in questionnaires concerning the matter of “Public Confidence” – as I have said on occasion – between “Confidence” in an individual judge and “Confidence” in the type of law. Judges are far too often loaded (as is the case in Italy) with responsibilities of executive power and legislative power also caused by confusion created by politics and the media.

LITHUANIA:

We would like to propose once again that first of all there should be few simple questions in top of the questionnaire:

- 1) Have you ever participated in the court?*
- 2) Have your family members ever participated in the court?*
- 3) Have your friends (or acquaintance) ever participated in the court?*

We also think that the future questionnaire should be based on the questionnaire we have today. We just need to add some practice of other countries to it.

Tanto premesso il Consiglio,

delibera

- di prendere atto del suesposto documento finale

- di archiviare allo stato la pratica.».