

**Minutes 7 February 2005**  
**ENCJ Steering Committee, Dublin**

A list of participants is attached [nog toevoegen].

**1. Opening**

Prof. Berlinguer welcomed the participants and opened the meeting.

**2. New national developments**

Representatives of the countries present informed their colleagues on important national developments in their respective judiciary systems.

Topics that were touched upon:

- Lay/honorary magistrates / juges de proximité (in the questionnaire used by the Working Group *Mission and vision*, a question on this subject was included. However, the definition was not clear. See below under point 3).
- Salaries, related to the output of a judge's or court's work.
- Politics and its effect on the judiciary organization and magistrates' work – and the role of a Council for the judiciary in this frame.

The information provided by the Steering Committee members proved to be of interest to all and would also be interesting for the other ENCJ members.

All members of the ENCJ will be invited to report on current developments in their respective countries, once the website is operational. The information will be placed on the internal part of the website, through discussion lists.

**3. Reports from the working groups**

**Mission and vision**

See also the report handed in by the working group, which was attached to the agenda of the Steering Committee. Additional remarks:

- Ireland joined the working group and will receive all documents and will be invited to the next meeting.
- A glossary related to the questionnaire will be produced, in order to clarify specific terms and expressions (such as honorary/lay magistrate).
- The remark in the report on Eurojust, has to do with the question of 'who is the appointing authority' for participation in international fora such as Eurojust (so this concerns not exclusively Eurojust, but also fora such as CEPEJ). In several countries the Council is the appointing or nominating authority. Next time reference will be made to judiciary organizations.
- An additional questionnaire will be prepared by Belgium and Italy.

**Evaluation of judges**

See also the report handed in by the working group, which was attached to the agenda of the Steering Committee. Additional remarks:

- The (34) members of the working group mostly work through the internet. The ENCJ Secretariat is provided with all the reports.
- In the first phase 13 out of 15 countries have sent in the questionnaire and additional documents. These are being translated at the moment. A synthesis of the different reports (divided into different topics) will be worked on.
- The important question on the efficiency and satisfaction of the systems in use will be a complex one to answer. An evaluation of the evaluation systems in practice will be discussed in the next phase of the working group.

**Case management**

No particular work has been done since the conference in Rome. It is decided that the working group will prepare a reaction to the papers of the CEPEJ (the Framework Programme on processing times). The deadline for this is 15 March 2005.

England/Wales will prepare a 'question and answer format' and send this to all ENCJ members. The answers for England/Wales will be included to serve as an example.

The information might not be complete by mid-March, but at least ENCJ will indicate to the CEPEJ that ENCJ is interested and wants to be involved in this issue.

## **Website**

See also the report handed in by the working group, which was attached to the agenda of the Steering Committee. Additional remarks:

-Spain has made available 200.000 EUR for the development of the website. A company has been selected to develop the technical features. The working group will comment on the developed structure.

-In Feb/March a meeting of the working group will be organized to discuss the contents of the website. A document on the contents should be ready by April (with input from the whole network). The website will be presented during the General Assembly in Barcelona. Discussion lists will in any case be included in the contents.

-Concerning the restricted/internal part of the website: a limited number of ENCJ members will be designated to have access to this part of the site.

-Languages of the website: English and French will be the official languages. Spanish translations will be provided by Spain, considering the interest that the South-American network will have in ENCJ.

## **General remarks on the working groups**

At this moment, there are no specific rules/proceedings for the functioning of the working groups. Small procedures regarding responsibilities regarding the functioning of the working groups (support for translations, etc.) will be developed – this will be discussed through e-mail.

## **4. External relations**

See the document that was attached to the agenda of the Steering Committee.

## **EU**

A discussion took place on the level of involvement and the ambitions of the network. Should the network first be built up further or should ENCJ, parallel to this build-up phase, become involved in European fora (with the risk of getting submerged in all kinds of activities that might not all be too relevant for the work of the network)? Careful consideration is needed of the relevance of participation for the members of the network. The Steering Committee should give guidance in this.

One of the objectives of ENCJ is to be active on a European scale and now that the network has become active in initiating relations with a number of European institutions, the moment should be caught (doors have been opened) – ENCJ cannot wait until it has fully been ‘constructed’. In addition, it is important to involve judges at this particular phase in the EU in which recognition of decisions is debated; an issue that directly touches upon the work of the judge.

The question to be answered is HOW to be involved.

It is clear that the ENCJ cannot represent the judiciaries as one body (the systems are too different) – this should be made clear to the European institutions demanding involvement of ENCJ. So a first step is to provide the institutions with a clear picture of what tasks and functions the different councils for the judiciary in the different countries have (See also the document on p. 2).

Overlap with work of other European networks should be avoided.

### *Communication of the EC on mutual recognition*

The EC has asked a contribution of the ENCJ, an opinion on this communication.

The secretariat will request comments from all the Steering Committee members to a proposed reaction from the ENCJ - to find common ground before answering the EC. The creation of the ENCJ is a contribution and already an answer to the EC; to this a few suggestions will be added (including the working group activities). The proposal will be circulated by e-mail..

## **Council of Europe**

### *CEPEJ*

CEPEJ has requested a reaction from ENCJ to the Pilot-scheme for evaluating judicial systems. It is important to react on this, since the CoE and EU will cooperate more intensively, also on this issue.

Proposal: each ENCJ member will check the figures and facts and look at how these are represented for their respective country. Moreover, they can present a comment on the instrument in general. A reaction should be sent to the ENCJ Secretariat by the end of February, since the deadline of CEPEJ is 15 March. The Secretariat will send in the reaction from the members (not as a reaction of ENCJ as such).

### *Consultative Council of European Judges*

See also the report that was attached to the Agenda.

ENCJ wants to receive the relevant documents from this Committee. ENCJ has been invited for the conference in Krakow (25, 26 April) – it has to be clarified how many people (from ENCJ) are invited.

The CCEJ has requested information on several points (see documents). ENCJ Secretariat will formulate an answer.

#### *South American Network*

See also the document that was attached to the Agenda.

An exchange of information on an informal basis seems the most apt way of cooperation with this network.

ENCJ can participate in meetings of the South American network in an informal way (not as a representative of the network).

### **5. Program Barcelona conference (2-3 June 2005)**

See the proposal that was attached to the Agenda.

*Proposed location:* Judiciary School in Barcelona. Space for 120-130 persons; the number of participants per country needs to be determined by mid-April. Invitations will be sent in May (incl. An invitation to Mr. Frattini).

*Agenda:* to be decided upon by Steering Committee. Final agreement on the agenda at the start of the General Assembly.

Suggestion for an additional topic: the developing responsibility and liability of judges in European-linked cases.

The idea is to present a paper during the conference and receive reactions from the participants (1,5 hrs for example). All steering committee members agree on adding this topic.

Working groups - focus on those that have concrete results by that time. Evaluation of judges for example: a presentation on headlines by the chair of the working group and thereafter two other speakers about specific systems. There should also be time for discussion (total 1,5-2 hrs). A document with all the national presentations should be provided beforehand to the participants of the conference.

During the conference it also has to be decided if and how the working groups will continue working on the same basis and topics. The Steering Committee will have to prepare this discussion.

The website will be presented during the conference.

The agenda for the conference must cover the interests of all ENCJ members and participants, also of those who have not been involved in the working groups. There must be ample time for discussion included.

An adjusted draft agenda will be drawn up by the ENCJ Secretariat and will be sent to the members of the Steering Committee.

Conference in 2006: this will be discussed during the next meeting of the Steering Committee (on 1 June 2005).

### **6. New members and observers**

#### **Albania**

According to the ENCJ Charter, Albania cannot (yet) be allowed as a member to the network. However, Albanian representatives can be invited to the General Assembly in Barcelona. Besides, relevant material can be made available to them. The Secretariat will inform Albania.

#### **Scotland**

According to the charter it is possible for Scotland to become a member of the ENCJ. A formal letter will be sent to Scotland (cc to Igor Judge) by the Secretariat.

#### **Northern Ireland**

A formal letter will be sent to NI (cc to Susan Denham) by the Secretariat.

#### **Croatia**

Croatia has acquired the candidate status for the EU and could become a member of ENCJ. There have been no contacts so far with a Council there. Poland has several contacts with Croatia and will check whether there is a Council. If so, Croatia will be invited to attend the General Assembly in June.

#### **Turkey**

Turkey is a candidate for EU-membership. There is a High Council for judges and prosecutors. In order to assess the possibilities for acquiring the observer status at ENCJ, the High Council will be invited to the General Assembly and will be requested to fill out the questionnaire regarding its status and mandate.

#### **Slovakia**

Last week a request for information on membership was received from their Council. Slovakia has filled out the questionnaire already but could not be present during the last GA. Slovakia qualifies for full membership. The ENCJ Secretariat will send a letter to invite Slovakia to become a member.

#### **Germany**

The ENCJ President suggested to get in touch with the presidents of the five central Supreme Courts in order to see if they can constitute some kind of representation. It is important that Germany stays involved in the network. The Secretariat will take the necessary steps.

#### **7. Rules, regulations and bye laws**

See also the draft that was attached to the Agenda.

Article 2.2: Agenda for the General Assembly should be fixed by the Steering Committee (3 months in advance). New events/issues coming up can be included. The Secretary General will propose these changes, which will have to be approved by the Steering Committee the day before the General Assembly.

#### **8. Legal status ENCJ**

It seems a bit premature to discuss any type of legal personality. Legal entity was discussed in Strasbourg and Brussels. For ENCJ to participate in activities, having a legal personality is not imperative. It could however be important to qualify for funding from for example the EU.

#### **9. Other matters arising**

-Spain: invitation to visit website where the ENCJ is mentioned ([www.poderjudicial.es](http://www.poderjudicial.es)).

A proposal is made that all ENCJ members provide information on ENCJ on their national websites – a letter will be sent by the Secretariat to all members to ask to provide information on ENCJ on their websites.

-France: in 2006 there will be a change of members of the Conseil Supérieur de la Magistrature. This will also be the case in Italy and Spain. Involvement in ENCJ by their successors must be guaranteed. The Steering Committee has to reflect on how to proceed with this.

#### **10. Minutes 11 October**

No comments.

*The next meeting of the Steering Committee will be held on 1 June 2005 in Barcelona.*

## Action list

**All members** of the ENCJ will be requested to report on the situation in their respective countries, in writing and to provide this information for the conference.

**ENCJ Secretariat** will invite members to do so.

**Working group on case management** prepares answer to request of CEPEJ to comment on the Framework programme on processing times. Deadline is 15 March 2005.

**ENCJ Secretariat** will prepare a proposal for procedures for functioning of the working groups.

**ENCJ Secretariat** will prepare a reaction to the Communication of the EC on mutual recognition.

**All members:** reaction to CEPEJ pilot scheme on evaluation of judicial systems – by the end of February.

**ENCJ Secretariat** will prepare a reaction by 15 March.

**ENCJ Secretariat** will prepare an answer to the questions of the Consultative Council of European Judges.

Number of participants for conference in Barcelona (April) to be determined by.... { nog aanvullen}

**ENCJ Secretariat** will draw up an adjusted draft agenda for the General Assembly in Barcelona. Then new draft will be sent to the members of the Steering Committee.

**ENCJ Secretariat** will send letters for membership to: Scotland, Northern Ireland and Slovakia.

**ENCJ Secretariat** will send a letter to Albania.

**Poland** will check the contacts with Croatia to find out whether there is a Council. Poland will inform the ENCJ Secretariat.

**ENCJ Secretariat** will ascertain that Turkey is invited to the General Assembly and request information from the Turkish High Council on its status and mandate (through the questionnaire).

ENCJ Secretariat will take steps in its contacts with Germany.

ENCJ Secretariat will adjust the Rules of Procedures of ENCJ.

**All:** provide information on ENCJ on the national websites.

**ENCJ Secretariat** will send all members a letter to do so.

**Steering Committee ENCJ  
Dublin February 7th**

**List of participants**

**Belgium**

Marc Bertrand  
Edith Van den Broeck

**England & Wales**

Barbara Fontaine

**France**

Valéry Turcey  
Jean-Paul Sudre

**Ireland**

Susan Denham  
Brendan Ryan  
William Hamill  
Ms. D'Ancý

**Italy**

Luigi Berlinguer  
Wladimiro De Nunzio  
Giuseppe Salmé  
Giovanni Mammone  
Carmelo Celentano

**Netherlands**

Marlies Bouman  
Marieke Breimer  
Bert van Delden

**Poland**

Teresa Flemming - Kulesza

**Spain**

Javier Laorden Ferrero  
Javier Martinez Lázaro  
Francisco Puig Blanes  
Pilar Ruiz Carnicero