

Minutes

ENCJ Project Team on Timeliness

3rd Meeting in Rome on 29th and 30th November 2010

Present: Niels Grubbe (Coordinator), Kira Kolby Christensen (Secretary); Axel Kittel (Belgium); Jean Luc Cottyn (Belgium); Keith Cutler (England and Wales); Árpád Orosz (Hungary); Riccardo Fuzio (Italy); David Simone (Italy); Alessandro D'Andrea (Italy); Zita Smirnoviene (Lithuania); Vigintas Visinskis (Lithuania); Frits Bakker (Netherlands); Patrícia Helena Costa (Portugal); Matej Čujovič (Slovenia); Thomas Gottwald (Austria); Sakari Laukkanen (Finland); Maren Reuß (Germany); Iarfhlaith O'Neill (Ireland); Patrick Hodge (Scotland); Ann Ganelind (Sweden).

1. Opening

The Project Team was warmly welcomed by Mr. Riccardo Fuzio, Mr. Vittorio Borraccetti (President of the Sixth Committee of the Italian CSM) and Mr. Mariano Sciacca (Member of the Italian CSM) who gave a short insight on initiatives taken within the Italian CSM to meet long processing times. The Project Team were also honoured with the presence of members of the Italian CSM.

Mr. Niels Grubbe then opened the meeting as he also bid everyone welcome. Unfortunately Mr. Jean Marie Siscot (Belgium), Mr. Jean Pierre Dreno (France), Mr. Christian Deliorga (Romania), Ms. Diana Minca (Romania), Mr. Joaquín Delgado Martín (Spain) and Ms. Malgorzata Niezgodka-Medek (Poland) had not been able to attend.

The purpose of this meeting is to decide what to do next. It is important to draft the outline of the report and to decide how to establish Best Practices and give possible Recommendations. Mr. Niels Grubbe asked all the members to keep in mind what the Team wants with the report, when the members discuss how to take the next step and what should be the contents of the report

2. Minutes of the 2nd meeting (Kick Off Meeting – subgroup sessions)

The Minutes of the last meeting were finally adopted.

3. The answers received to the Questionnaire

All Project Team Members were amazed of the quality and the quantity of the answers received. The Project Team has received answers from 23 countries. 17 of these are members of the Project Team and 6 answers had come from outside the Project Team. Mr. Niels Grubbe thanked the Team Members who had assisted in contacting Members and Observers who do not participate in this Project Team. Their assistance had proven efficient.

The Team Members agreed that the answers constituted an enormous amount of information that should not just be collated. The answers were mainly collected as source of inspiration for the Team's work ahead. The answers do however also constitute an important source of information and should therefore be made accessible as they are on the ENCJ website.

The quantity of the answers are very varied but it has also been left open as to how much each Member and Observer wished to go into detail. It was agreed that the members who might have a system similar to another country but who did not put this in its own answer should not supplement the answer and include said system. For use of inspiration it is enough that the idea has been presented.

4. Drafting the outline of the Report

The Team Members discussed the contents of the Report and what they want to do with it.

First of all the Report should be kept short. The Team Members also found it important that the Report contains a complete and self sufficient analysis without separate papers elaborating further on certain topics. The Team Members decided that approximately 20 pages all together would be optimum. If the reader wants to know more, the Report can in an Appendix refer to other material on Timeliness done by other networks.

The Team Members further decided that it is not the idea of the Report that it should contain detailed information on the situation in each Member and Observer State or contain a detailed comparative analysis on the simple facts collected with the Questionnaire on Timeliness. The Report should rather focus on specified topics (defined as either problems or solutions) and what we can learn from each other. One might identify 1-3 pings that cause delays across all systems and from these define the problems and solutions. One should only discuss the most interesting ideas and solutions found in the answers to the Questionnaire. Keeping the number of ideas or examples to a minimum will leave more room for detailed discussions of those singled out.

If focus is made on solutions it will be easier to move from the report to Best Practises and any possible Recommendations. When discussing a solution – f.i. “Case Management Conferences” – the writer should give a short description of the basic idea followed by a discussion of the advantages and disadvantages of said system. Case Management Conferences might be good for timeliness. On the other hand they imply that the court takes over which could come across the fundamental principle of letting the parties decide on how to negotiate their conflict. Further such systems may not be relevant to use in all types of cases but only in complicated cases that the court foresees will take longer time. If the conclusion of the writer is that the system should be kept and also brought into use by others, the system may constitute a “Best Practice”.

The Team Members decided hereinafter to begin the report with a brief analysis listing the common major reasons for delays. It will serve as a very useful entrance to the report.

The Team Members also decided to have a discussion in the report on competence and initiative. In many countries the administration lies within the Ministry of Justice and the competence to take initiative may lie with others but the Administrations. The Questionnaire on Timeliness was only sent out to the Administrations/Councils. The report should however expand the focus as the initiative may still be taken by the Administrations regardless of within whom the competence may lay.

As regards statistics the Team Members decided that they should not as such be a part of the report. They are however interesting as background information and as well needed to identify the problem. The interesting thing to be discussed in the report about statistics is how they are used differently in each country. Also the result of any initiative taken will show in the statistics. The judicial-

ies should however make sure that they are not ruled by statistics, and that statistics are not used against the independency. One must be aware of the need for judicial quality. Regarding statistics the aim of the Report should thus be to develop a way of doing statistics that reflects the case processing more accurately.

It was decided to have 6 sections with subsections in the Report. The enclosed draft table of the Contents of the Report was agreed upon by the Team Members. The draft, which headlines sections and subsections and shows examples of solutions/ideas to be discussed, will serve as a basic structure of the Report. It was left for the writer of each section/subsection to suggest a headline that might be more appropriate.

The Team Members also decided to draw up two Appendixes containing the following:

Appendix 1: Best Practices/any possible recommendations

Appendix 3: Further reading (list of links – including a link to Answers to Questionnaire on Timeliness on the ENCJ website)

5. Delegation of Homework and Time Schedule

The Team Members volunteered to have the writing of the Report's sections and subsections spread out among the members as follows:

1. Introduction – *Coordinator*
2. Situation and Impact – *Coordinator*
3. Causes – *Sweden and Slovenia*
4. Stakeholders – Competence, Initiative, and Cooperation – *Lithuania and Belgium*
5. Registration and Reaction – *Italy*
6. Remedies
 - 6.1. Requirements and consequences – *Coordinator*
 - 6.2. Reduction of Caseload – *Portugal*
 - 6.3. Increase of Capacity – *Austria and Hungary*
 - 6.4. Facilitating and speeding up court procedures – *England and Wales, Ireland and Scotland*
 - 6.5. Improvement of processing – *England and Wales, Ireland and Scotland*
 - 6.6. Logistics – *Finland and Netherlands*

Appendixes 1 and 2 – *Coordinator*

Coordinator has subsequently asked the Belgium, the French, the Romanian, the Polish and the Spanish members of the Project Team whether they would volunteer in writing or co-writing any of the sections or subsections in the Report. Coordinator will inform the Team Members of any changes in the distribution of tasks that their answers may lead to.

It was decided that the contributing members should send their contributions to Coordinator who will collect all contributions and edit them in order to present them as a whole.

Contributions must be sent to Coordinator within **17 January 2011** and Coordinator will send out a first draft of the report on the **15 February 2011**.

Scotland has kindly offered to arrange the Project Team's **4th meeting on 28 February – 1 March 2011 in Edinburgh** and the Team has been invited to **Bucharest in Romania for the 5th meeting on 11- 12 April 2011**.

The Project Team decided to have a 5th meeting and to accept both invitations with gratitude.

The Judicial Council of Scotland and the Romanian Superior Council of Magistracy will hereinafter send out information on the location for the meetings and a list of recommendable hotels situated close to the meeting place.

Coordinator will revise the Time Schedule accordingly and send it out together with the minutes.

Referent: Kira Kolby Christensen 06-12-10