

Minutes

ENCJ Project Team on Quality and Timeliness

1st Meeting / 9th and 10th September 2010

Present: Niels Grubbe (Coordinator), Kira Kolby Christensen (Secretary); Milena Falaschi (Italy); Zita Smirnoviene (Lithuania); Patrícia Helena Costa (Portugal); Joaquín Delgado Martín (Spain); Thomas Gottwald (Austria); Maren Reuß (Germany); Ann Ganelind (Sweden).

1. Opening

Niels Grubbe opened the meeting and bit everyone welcome.

He informed that also Bulgaria, England and Wales, Netherlands, Slovenia and Finland has entered the Project Team but that they where all unable to participate in this first meeting. It is still uncertain how many more will join the Project Team before the Kick Off meeting on 11-12 October 2010 in Leuven. Regretfully, Norway having done a great work in the Working Group on Quality and Access to Justice has declared that they will not be able to participate in this Project Team as they have chosen other projects.

Ms. Milena Falaschi informed that Italy would appoint a new member to the Project Team who will participate at the Kick Off meeting in October. Ms. Ann Ganelind informed that she was substituting Mr. Jörgen Nilsson who could not be at this meeting himself.

Mr. Niels Grubbe informed that it – due to the very short notice and the fact that many Members and Observers only just arrived back from summer holidays – had been considered to cancel this meeting and to have the Team’s first meeting in October as also envisaged by the ENCJ-secretariat. Considering the great deal of work ahead and the little time the Team has at its disposal he did however find it advantageous to start as soon as possible.

2. Assignment given by the General Assembly

Mr. Niels Grubbe informed the Team members of the background for establishing this Project Team.

The Working Group Quality and Access to Justice, which was established by the European Network of Councils for the Judiciary (ENCJ) in June 2009, completed its work with a report and a register. The Report and the Register contain a comparative description and analysis of how the Members and Observers who participated in the Working Group handle various hindrances to access to justice. The work was presented at the ENCJ General Assembly in London in June 2010.

At the General Assembly it was upon the proposal of the Working Group decided to continue the work in a new working group that would specifically address the issue Timeliness as this is a general problem all over Europe.

In the “Strategic Plan for the ENCJ” the work of the Project Team on Timeliness constitutes a part of Strategic Goal no 4: “To promote best practices in Justice Sector for quality management” – and is defined as:

- Project 1: “Provision of information on and development off best practices in the justice sector on selected topics such as quality management, transparency and access to justice”,
- Project 2: “Updating and supplementing information on the best practices in the justice sector”,
and
- Project 3: “Regular organisation of conferences gathering the stakeholders (including decision makers on a specific topic in the Justice Sector).

According to the Strategic Plan the Project Team is to develop the following activities:

- Supplementing and updating of the Quality and Access to Justice Register.
- Establishing a working group on provision of information and development of best practices and common standards to secure timeliness in judicial procedures and decisions.
- Organising a conference of the judiciary and stakeholders on this subject.

3. Scope and Content

The main purpose of this meeting is to decide how to go about the project – thus the contents of the work (which issues to address), the method to be applied (how to f.i. gather information) and the format of the result (a written report or other).

Regarding the Project Team’s first project, which is to update and supplement the Register done by the Working Group on Quality and Access to Justice the Team members decided to send out a request in which all Members and Observers of the ENCJ are asked to either update or supplement the Register by following the same format used by the members of the previous Working Group. The Request should be sent out together with either a link to the Register and the Report on the ENCJ website or with a copy of the documents attached to the request if the documents have not yet been made public.

Regarding the second project on informing of best practices and developing common standards the Team decided to draw up a questionnaire with simple questions covering both statistics on processing times in all Members and Observers of the ENCJ and information on any methods applied or contemplated to be applied in the near future in order to meet long processing times. On basis of the answers to the Questionnaire the Project Team will draw up a report that will contain a comparative analysis on how all the Members and Observers of the ENCJ in various ways have handled the issue on timeliness. In the Report the Team will also discuss best practices and if possible make recommendations or give ideas on how to meet the problem on processing times.

The Report and any Recommendations will form the topics to be discussed at the Conference that is project three of the Project Team. Many of the problems or issues related to Timeliness will need to be dealt with by politicians. The purpose of the Project Teams work is thus merely to disseminate all the issues for discussion at the Conference where also other stakeholders will participate. The Project Team will revert to the framework of the Conference in a later meeting.

4. Project 2 – Best practices and common standards

Mr. Niels Grubbe presented a draft Catalogue of Issues that could constitute the overall framework of the Report and could function as a basis for drawing up the Questionnaire.

The focus on this Team's work is how the problem on processing times has been and is being sought remedied in any way and thus in practice. Interesting information may therefore not necessarily lie within the court administrations, but may also be found with the individual courts as some might have implemented a practice within their own district which seeks to f.i. minimise the preparation time. In some cases interesting information might even only be found with a single judge, who has found a way to f.i. effectively control the preparation time.

The Team therefore discussed the proper addressee for a Questionnaire. As it is not possible within the framework of this Project Team to send out a questionnaire to all the singular actors in the judicial system, the Team decided that the Questionnaire should be addressed to only the court administrations and that it should be clarified in the Questionnaire that the aim is to receive information on best practices used in the courts.

It was also decided that if a Member or Observer state has different administrations covering different branches of legal litigations, the addressee should be the council who is the actual member of the ENCJ. Further, this administration should only give information that it is able to gather within its own competence.

The fact that the European legal systems are variously organized will make it difficult to do the comparative analysis for the report. It will be necessary in some cases to specify that a system in question be organized in a certain way. The Team therefore decided that the Questionnaire should contain a preliminary question in which the Members and Observers are asked to give a short description of how their system is organized (in f.i. different branches).

The Team members decided that the essence of the Questionnaire should be ordinary criminal and civil cases and that this should be specified in the Questionnaire.

All the Team members agreed upon and underlined the necessity of keeping the Questionnaire simple containing only questions that are easy to answer.

The Team members hereinafter discussed the contents of the Questionnaire on basis of the draft Catalogue of Issues that addresses the following issues:

- Available Statistics
- Requirements and Transparency
- Reduction of Caseload and Facilitating Court Procedures
- Increase of Capacity and Improvement of Processing
- Enforcement

The Team members made some concrete remarks to the description of each issue addressed. It was decided that coordinator would incorporate these remarks and sent out a revised draft Catalogue of Issues to the Team members, as the Catalogue will serve as an overall framework for the Report.

The Team members also made some general comments when discussing the contents of the Questionnaire and they decided on the following:

Available statistics

It was decided that the main aim of the questions on available statistics should be ordinary civil and criminal cases and that statistics on prosecutors and on investigation time in criminal cases should be left out.

Regarding the fact that some Members and Observers only have statistics on total processing time whereas others have divided statistics on processing time as well as on decision time the Team members agreed to simply ask for the available information – specified or not – and to ask the administrations to explain the statistics for the purpose of the comparative analysis.

Requirements and Transparency

The Team decided to clarify in the Questionnaire that the aim is merely to get examples for the comparative analysis. The aim of the Questionnaire is thus *not* to receive a full detailed description of all statistics available at each level.

Reduction of Caseload and Facilitating Court Procedures

There are without doubt big differences between the individual courts as well as the individual judges on how court procedures are sought speeded up, and it will not within the timeframe of this Project Team be possible for the court administrations to give a full description of all best practices applied in their court system. In coherence with also the general aim of the Questionnaire it was therefore decided to clarify in the Questionnaire that the Project Team merely need examples on which methods are applied to some extent by more efficient courts and judges. It should however also be specified that it is interesting to have this information regardless of the type of cases as some methods may be used in all types of cases.

Increase of Capacity and Improvement of Processing

The Team members decided to ask also whether the court system has had any good experience with any available method used to improve the processing time.

Enforcement

Due to the limited timeframe and the fact that the Member's and Observer's enforcement systems are all very different from one another the Team Members decided that it would be best to have this issue dealt with separately and to in any event leave it out of this Project Team's work.

Other general remarks

It was decided that coordinator should draw up a draft Questionnaire on basis of the Team member's discussions and concrete remarks. The draft Questionnaire will be sent out to the members for comments. Coordinator will also draw up a separate paper containing a guide on how to answer the questions in the Questionnaire. This paper will also be sent out to the members for comments.

The Team members decided that the Questionnaire and the separate Guide should be made ready to send out to all Members and Observers within the end of September. The deadline for any comments from the Team members will therefore be **no more than one week** from the day coordinator sends out the drafts.

It was decided that the deadline for answering the Questionnaire should be **within the end of November**.

5. Project 1 – Request for updating and supplementing

The Team members decided that the two requests for information (the Questionnaire and the Request for updating/supplementing the Register) should be sent out separately as they are two different things. The members also agreed that the Request for updating/supplementing the Register can be sent out now with the few comments from the Team members incorporated. It should however in the Request be made clear to the addressees that they within the end of September also will receive a Questionnaire on Timeliness with a deadline for answering the Questionnaire within the end of November. This will make it easier for them to plan their work.

It was decided that the deadline for updating/supplementing the Register should be **15 December 2010**.

6. Next step

The draft Time Schedule was discussed and coordinator will send out a revised Time Schedule with the amendments agreed upon by the Team members.

Coordinator will also send the Team members a draft Project Fiche to be presented at the Kick Off meeting on 11-12 October 2010 in Leuven.

The Kick Off meeting is hosted by the ENCJ secretariat and an invitation has already gone out to all Members and Observers. Coordinator will send out a copy of the invitation to all the Team members who will then make sure to register for the meeting.

Neither the dates nor the places for Project Team-meetings after the Kick Off meeting were finally decided. The members did however decide not to have a meeting on the 10-11 November 2010 as suggested in the Time Schedule, but to postpone this meeting until after the deadline for answering the Questionnaire.

The members were asked to reserve the following dates for the third meeting and to consider hosting either this meeting or any of the later meetings:

29-30 November 2010

and

08-09 December 2010

Coordinator will ask the members not present whether they are unable to participate in a Team meeting on either of the reserved dates and whether they will be able to host the meeting. Coordinator will hereinafter on basis of the responses from all the Team members decide which of the reserved dates to have the third Team meeting. The Team meeting will in any event **begin at 15.00 on the 1st day and end at 15.00 on the 2nd day**.

Referent: Kira Kolby Christensen 14-09-10