



European Network of Councils
for the Judiciary (ENCJ)

Reseau européen des Conseils
de la Justice (RECJ)

A Proposal for a Permanent ENCJ Office

1. Introduction

The European Network of Councils for the Judiciary was formally established in Rome in 2004.

At that time we considered that the effectiveness of the “European Area of freedom, security and justice” required a good understanding by members of the Judiciary of firstly the legal and judicial systems in other Member States, and secondly the national, European and international instruments requiring co-operation.

Therefore, the following aims and objectives were formulated in article 1 of the ENCJ Charter:

Within the framework of the creation of the European Area of freedom, security and justice, the objectives of the ENCJ are co-operation between members on the following:

- analysis of and information on the structures and competencies of members;
- exchange of experience in relation to how the judiciary is organised and how it functions;
- issues pertaining to the independence of the Judiciary and other issues of common interest; and
- provision of expertise, experience and proposals to European Union institutions and other national and international organisations.

As a short-term perspective we thought that the Network organisation should be lean and mean. It should focus on organising the Annual Conference, addressing a couple of general themes relevant to all participants. In addition small working groups should be set up, with subjects to be elaborated upon by those members sharing a common interest in that particular theme.

The duty of the Secretary-General would be to support and facilitate these working groups, while the co-ordinating member of the working group should take the lead. Thus we would create a flexible organisation in which we could expect all members to participate. The results and findings of the working groups could be presented at the Annual Conference.

Another issue was the co-ordination of information flow and exchange between the members and observers of the Network. The Network should provide names and addresses, particular

expertise, regulations, reports and documents, news, figures and facts. This information should be made easily accessible through a web site and should be updated regularly. The Network could function as a kind of knowledge broker.

Lastly, in Article 9 of the Charter the Secretary-General was given responsibility for developing relations between the Network and the European Institutions and for ensuring coherence between the programme of activities of the ENCJ and the priorities set by the European Union. At that time we thought of:

- Enhancing the visibility of the judiciaries within the EU;
- Emphasising the importance of the independence of the judiciary, also within the European context;
- Organising possible responses from the judiciaries in the consultative legislative processes in the EU;
- Supporting operational activities aimed at cross border co-operation (European Arrest Warrant; European Payment Order; jurisdiction, recognition and enforcement of judgements in civil and commercial matters; jurisdiction and the recognition and enforcement of judgements in matrimonial matters and in matters of parental responsibility
- Co-ordinating EU support activities for the new member states and the candidate members (avoiding overlap and competing projects)
- Providing the EU with practical information on how to contact the judiciaries: names, addresses, mandates;
- Securing financial support for activities.

We have been functioning now for two and half years and it is imperative to consider the achievements and failures so far.

In many respects the ENCJ has been rather successful: almost all Member States have joined our organisation and are more or less actively involved in the various activities. We have been recognised by the European Commission and by the Council of Europe as an important partner. We have been invited for various activities in the European context, we have opened a web site and have published materials and there is no doubt that we have enhanced the visibility of the judiciary in Europe. Even more important perhaps is that we have worked towards creating a common mutual understanding between ourselves and that we have come to realise that the European judiciaries share many problems and find themselves often in similar positions.

However, it is also fair to conclude that the lean and mean organisation that we aimed at has not been able to meet all demands and ambitions and has indeed only been useful as a short term perspective. The Netherlands Councils has provided a small Office that has had to work with a very limited part-time staff and was not able to cater for activities as fully as was perhaps expected.

When contemplating about the future of the Network we now think that ultimately, in the long run, the ENCJ should develop to become the focal point in the European Union for all judiciary and judicial matters.

Judiciary organisations, judges and other employees, governments and European institutions should be able to rely on well-founded, high quality information and advice provided swiftly and in accordance with the objectives specified above. These objectives should all remain applicable in future.

As a mid-term perspective the ENCJ should therefore develop from a loose, voluntary network to a professional organisation, without however losing its flexibility, in order to cater better for the needs and demands of both members and others.

This has important consequences for the decision-making, administrative and organisational set-up.

The Secretariat would like to propose the following model, based on the discussions and conclusions of the Working Group on Internal Affairs co-ordinated by Spain.

2. Permanent ENCJ Office

1.

It is important to establish a **Permanent ENCJ Office** with a full time international staff (preferably on a renewable contract basis) and in a fixed location.

Given the growing importance of the EU for our work, the most sensible location would be Brussels. Any other location would complicate the effective implementation and would complicate achieving the functions and objectives described above.

The position of the Secretary General should no longer be fulfilled by an appointed or elected official Member of one of the member organisations. Instead, a **Director of the ENCJ Office** should head the Permanent Office. The Director should be an employee, who would have to be carefully instructed and directed by the Member States. It should be a full-time position, with a mandate for 2 years (once renewable). Naturally, we need to work on a proper profile and job description for the Director, once this model has been approved.

As a consequence, the administrative set-up of the ENCJ should be changed to some extent. In order to avoid creating a bureaucratic entity that would be difficult to control by the members, the role of the Steering Committee should be adjusted. The Steering Committee should consist of 8 or 9 officially appointed or elected Members (no civil servants!) of the Member Organisations and should meet on a regular basis to discuss all relevant policy issues.

As it will be difficult to convene in full on a sufficiently regular basis, 3 or 4 persons from the Steering Committee should be appointed as the **Executive Board**.

Both Steering Committee and Executive Board members should be nominated by the Members and be elected by the General Assembly. Once elected, their ENCJ-positions will automatically end at the very moment that their official term in their own national council ends.

It should be noted that all appointments in the Executive Board should be personal.

The 3 or 4 individual Board Members could be allocated responsibility for specific subjects or dossiers and could be responsible for the internal and external representation on these subjects, if necessary jointly with the President and supported by the Director.

Possible subjects for the Board could be:

- EU relations
- Council of Europe relations
- Development of best practices
- IT co-operation
- Research programme
- Web site
- Internal affairs
- Etc.

Members from the Steering Committee will participate in Commissions, based on the division of responsibilities in the Executive Board described above, in order to achieve an optimal involvement, participation and influence on the decision making process by the Steering Committee and ultimately by the General Assembly. Major policy issues are to be presented and discussed in these Commissions.

It is crucial that the members of the Executive Board meet very frequently, at least every 6 weeks, in order to be able to direct all activities. This implies a rather large commitment from the involved Councils, as one of their members will be absent on a very regular basis.

The President should chair the Executive Board. The President-elect¹ should also be included in the Executive Board.

¹ The term of office of a new president will start per January 1st of the year following the General Assembly election in May of the previous year.

3. Estimated costs of a Permanent ENCJ Office

Staff:

• Secretary/director	€110.000
• policy advisor	€ 60.000
• communication officer	€ 50.000
• web master (part time)	€ 30.000
• Secretary	€ 40.000
• Accountant (part time)	€ 10.000
• Interpreters	€ 10.000

Sub total: €310.000

Office costs

• Rent	€ 20.000
• Furniture	€ 2.000
• Equipment	€ 10.000
• Telecommunication	€ 12.000
• Video conferencing	p.m.

Sub total €44.000

ENCJ Web site:

Initial costs	€ 50.000
Hosting costs	€ 20.000
Operating costs:	€ 3.500

Sub total € 3.500

Travel costs €20.000

Programme costs €30.000

Contingency €22.500

GRAND TOTAL: €430.000