



## Minutes Steering Committee meeting

**Date:** Friday, 24 October 2008  
**Venue:** Brussels

### 1. Opening and news

The President welcomes the new members of the Spanish council; Miguel Carmona **Ruano** and Antonio **Montserrat** Quintana. Jean Pierre Dreno is welcomed as well as he has not attended a meeting of the Steering Committee for a while.

The President underlines the fact that the current meeting will deal with a number of important issues, both internally and on a European level.

### 2. Minutes of Steering Committee meeting London July 2008

The minutes are adopted and have been sent to the Members of the ENCJ.

### 3. Executive Board

#### 3.1. Report

The President gives a short report of the Executive Board meeting that was held on September 25<sup>th</sup> in Brussels. The President presents his Directory on European Judicial Networks. It will be sent to the members of the ENCJ and it will be put on the ENCJ web-site.

#### 3.2. Composition

The Spanish Council has a new composition. Javier Laorden who was previously a Member of the Council and of the Executive Board will have to be replaced.

Article 13, paragraph 1, of the Statutes reads as follows:

*The Executive Board will consist of the President and of three persons appointed by and from within the Steering Committee. These appointments to the Executive Board shall be of specific named individuals. Anyone who is not able to continue as a member of the Executive Board, in particular when he shall cease to be a member of his national institution, must be replaced within three months by the Steering Committee upon the proposal of the national institution concerned.*

The Spanish Council proposes to appoint Miguel Carmona Ruano as a member of the Executive Board.

The Steering Committee appoints unanimously Miguel Carmona Ruano as member of the Executive Board.

### 4. Relevant national developments

#### France

The constitutional reform has become reality. Thanks to the ENCJ resolution that was adopted in Budapest it was decided that for disciplinary measures the CSM should decide on the basis of parity between magistrates and non-magistrates.

## **Denmark**

A regulation on the showing of religious symbols by judges during court sessions and robes for judges will be discussed in Parliament. The court administration feels that they should be competent in this field.

New rules for the recruitment of judges are being drafted. The profession will be opened for experienced professionals like lawyers. The difficulty for lawyers is the requirement that they should work in a court for 9 months without any security that they will be appointed.

A quality management system will be put in place. A division is made between quality measures in judgements and organisational quality measures. Quality measures in judgements should be initiated by the judges.

## **Hungary**

There is still no new President appointed for neither the Council nor the Court of Cassation. It is a political issue.

A programme has been initiated called E-justice. The functioning of the courts is improved by electronic procedures. Other developments relate to the Quality of Justice, backlogs and recruitment and training of young judges.

## **Poland**

Judicial salaries are being decided by the government. The judges have lodged protests against the level of the judicial salaries. Both society and politics have reacted negative on this protest. The plan to appoint young judges for a limited period has been considered unconstitutional. The Minister of Justice is trying to set up a school for the initial training of judges and prosecutors. The Council considers itself to be competent, but the plan is for the Minister of Justice to have the power.

## **Italy**

The following ideas are being developed by the new government.

The composition of the Council is being challenged. A body will be created composed of 1/3 magistrates, 1/3 chosen by parliament 1/3 chosen by the President of the Republic.

The other idea is to separate the careers of judges and prosecutors.

Lastly the separation of the police and prosecutors has been discussed. The dependence of the police on the prosecutor is being perceived as problematic.

The ideas have not been developed and adopted yet as there is a more important problem that needs resolving first. In Southern Italy there is a shortage of judges. New rules are being developed that foresee economic and career incentives for judges working in South Italy.

In two cases involving the Prime-Minister the judges dealing with the case have posed questions whether the law granting immunity to politicians is in conformity with the Constitution.

## **Netherlands**

Consultations on reducing the number of courts are ongoing.

In the district court of Rotterdam an Islamic lawyer refused to stand up for the court. The reasoning being that God created all mankind to be equal. The Assembly of Court Presidents decided that in such cases a complaint should be lodged with the Dean of the Bar Association.

The Council has set a 10% benchmark for cultural diversity.

## **Belgium**

The government is still alive. The institutional reform is dealt with by the communities. Next year regional elections and probably also national elections will be held.

The newly elected Council has two major projects;

1. Reorganisation of the number of courts or managerial boards.
2. Developing a new HRM policy for magistrates

## **England & Wales**

In civil cases wigs are abolished. There are too little women judges, measures should be taken. The government is planning to raise the court fees. It is a hidden tax measure. There is a growing concern among judges about the quality of advocates. The defence advocates are paid for by the government. Poor quality leads to longer cases and higher costs. The judges want to get involved in quality standards for advocates.

## **Spain**

A new Council was appointed by Parliament upon proposal of the judges. The other 8 Members are lay men.

Both society and the judges are demanding a modernisation of the system. The problems are; backlogs, insufficient organisation and insufficient resources. Resources and other measures are the competence of the Minister of Justice. The Council will try and lead the discussions.

## **President**

The texts above will be put in the Bulletin therefore all members should check the texts carefully. Public confidence is easily damaged. The commission Internal Affairs should gather national developments of all members and see what could be distracted to lead to a resolution. The focus should be why the Councils are important, not only for the judiciary but also for society.

All members will be asked to contribute to the ENCJ Bulletin by **November 14**.

## **5 Permanent Office - State of Affairs**

### **5.1 Staff**

- **Director**

Upon proposal of the Executive Board the Steering Committee appoints Marc Bertrand and Monique van der Goes to be director and deputy-director of the Permanent Office, after approval of their respective Council and for a duration of two years.

- **Management Assistant**

After some discussion the Steering Committee agrees that the position of Management Assistant should be fulfilled. The position will be opened on short notice. The call for candidates will be sent to all the members. The Executive Board will be in charge of the selection.

- **Stagiairs**

The possibility of stagiaires from the members to work for a period at the Permanent Office is welcomed by the Steering Committee. The financial conditions will have to be researched. There might be a possibility to reimburse the costs of housing for the stagiaires.

### **5.2 Location**

The service contract between the Belgian High Council for Justice and the ENCJ has been signed.

### **5.3 Opening of the office and date next Steering Committee meetings**

The official opening of the office is scheduled for January 22 or 29, depending on the date on which Jacques Barrot, Vice-President of the European Commission, is available.

## **6 Finances of the Association/State of affairs**

The first payment by the European Commission has been received on the bank account of the Association. The subvention of the European Commission is meant for 2008 and as much as expenses as possible should be made in 2008 without engaging in long term investments or obligations. The hosting of the website costs money as well. It would be reasonable to have some money in that direction, but no long term investment at this stage.

The reimbursement of travel costs for meetings of the ENCJ bodies which were held in 2008 will start in November. A letter of reimbursement will be sent to the Members.

For the next Steering Committee meeting a financial report will be drafted that will include money spent, financial obligations and a budget forecast.

## **7 Permanent Commissions: presentation of ideas and working method**

The Proposal of the commissions is adopted by the Steering Committee. The document will be sent to the members on October 27.

## **8 Activities of Working Groups (and the General Theme of Transparency and Access to Justice)**

### **8.1 Criminal Justice** (coordinators England & Wales and Italy)

The European Commission is launching a lot of initiatives in this field. At the same time there is no European criminal law network for judges. Therefore it seems that there is a real need for this working group. At the last working group meeting representatives of the European Commission and Eurojust attended. The working group is planning to set up a group of contacts that will initially focus on the European Arrest Warrant

### **8.2 E-justice**, (coordinator Spain)

As a coordinator of this group the Spanish Council would like to be appointed as representative in the E-Justice working group of the European Council. The Steering Committee agrees that Spain will represent the ENCJ in this working group. Furthermore it might be a good idea to merge the E-justice working group, the Standing Committee and the Permanent Commission on Communications. The Spanish Council will prepare a paper on how to deal with E-justice for the next Steering Committee meeting.

### **8.3 Liability of Judges**, (coordinator France)

Meetings will be held in December in Brussels (with interpretation) and in March and if necessary in May.

The question is raised if the CCJE should be involved in the work as the working group will base its work on the Opinion that was drafted by the CCJE on Judicial Ethics. (CCJE opinion number 3, 2002, on ethics and liability of judges).

### **8.4 Mutual Confidence**, (coordinator Belgium and the President)

A meeting will be planned shortly.

### **8.5 Public Confidence**, (coordinator Poland)

The scientific work is being prepared. Funds will be sought to do some scientific research on identifying the influences of public confidence.

### **8.6 Quality management**, (coordinator the Netherlands)

The working group met in October. The working group has difficulties outlining the work as regards the topic of transparency and access to justice. Quality Management is geared towards assessing and improving the quality of the organisation. CEPEJ is working on a resolution on the same topic but from the position of the he Ministries of Justice. The opinions of the CEPEJ should not be adversary to the report of the working group. Therefore the cooperation should be continued. The CCJE draft opinion on the quality of judicial decisions should also be taken into account. The President invites a member of the working group to join him at the CCJE meeting on November 12-14. Marja van Kuijk who coordinates the working group will check her availability.

## **9 ENCJ website Standing Committee**

Spain presented the minutes of the Standing Committee meeting that took place in October in San Sebastian. See also under E-justice working group

## **10 ENCJ representation E-justice and E-law working groups**

See E-justice working group

## **11 EU developments**

### **11.1 European Council resolution on judicial training**

The resolution will be adopted on October 24<sup>th</sup>. It would be interesting to know if and how the various Councils have been consulted by their governments, especially since the time judges do not spend on cases because of training is the business of the Council.

### **11.2 EP Resolution on judicial training**

The President met with Ms Wallis. She was very interested in consulting the ENCJ in judiciary related matters.

### **11.3 EP Draft report on E-Justice (by Mrs. Diana Wallis)**

The President has drafted a reaction on behalf of the ENCJ. As there was a very short time to reply on the report there was no time for further consultation. For the future a fast consultation instrument must be developed. (attached)

### **11.4 Future EU Programme on Home Affairs and Justice**

The Steering Committee agrees upon a procedure (attached) for drafting a joint reaction on the report. The reaction should focus on issues of a general character and not on specific themes that do not directly relate to the judicial organisations. .

### **11.5 State Aid enforcement by national courts**

The Steering Committee agrees with the letter drafted by the President. (attached)

### **11.6 Report of the Fundamental Rights Platform of the EU Fundamental Rights Agency**

The Steering Committee agrees with the proposal as set out in the report (attached). The Spanish Council adds that the Brazil rules of the EUROsocial programme could be helpful in the co-operation with the Fundamental Rights Agency.

## **12 External relations**

### **12.1 Joint Commission on Latin America**

The Latin American Summit at their last meeting decided that the High Court Presidents Network should not be excluded from the Joint Committee yet. The President of the ENCJ will get in touch with the secretary of the Network of the High Courts President and ask what their position is.

### **12.2 Exchange Programme EJTN**

The EJTN and ENCJ will meet and discuss the organisation of the exchanges. The current financial problems of the EJTN seem to create the momentum to propose that the ENCJ organises their own exchanges. It could be a job for the Permanent Commission on Internal Affairs to look into the expectations of the Members of the exchanges.

## **13 A.O.B.**

The President was invited by the German Judges Association for a lecture on Councils for the Judiciary.

For the future the Agenda of the Steering Committee meetings will list fewer items. The related documents will be sent well in advance (at least 3 work days) and will be listed for discussion or for information.