

## Minutes Steering Committee ENCJ

**Venue:** London  
**Date:** Friday, 15 February 2008

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### 1. Opening and news

The President welcomes the participants and a special welcome for the Hungarian colleagues. As the Hungarian delegation has to leave at 11:00 hrs the theme and programme for the General Assembly in Budapest will be discussed first.

### 2. General Assembly Budapest, 21-23 May 2008

#### General theme

After a discussion to which all members contributed it was finally decided that the programme and agenda of the General Assembly would amount to the following:

- The general theme for the 2008 General Assembly will be: **Self-governance of the Judiciary in Europe;**
- The General Assembly should have an interactive approach;
- At the end of the General Assembly a statement containing conclusions, general guidelines and recommendations be drawn up;
- The statement will strengthen the position of the new Association as the voice of the Judiciary in Europe and will be directed to national governments and the European institutions.
- Input for the discussions and the statement could be derived from the CCJE opinion no. 10 on Councils for the Judiciary
- The 1994 Council of Europe Recommendation 94 on the independence, efficiency and role of judges is being reviewed at the moment by the Ministries of Justice. The reviewed recommendation could give some valuable input as well.
- Out of the opinion and the recommendation some principles (especially paragraph 42 of the opinion) will be picked to be discussed and voted on in an interactive session
- With the possible exception of Quality management the current working groups will not have finished their work before the General Assembly in Budapest. Therefore it is proposed that no new working groups will be formed in Budapest;
- In the afternoon session the current working groups could be discussed in separate groups. The idea for them is to work towards the theme 'Transparency', which will be the general theme at the 2009 General Assembly in Bucharest.
- The Quality management working group has specifically requested some time in the programme to present their work. As their topic fits very well within the general theme they should be given the opportunity to do so.

The President requests all members of the SC to write some lines on the general theme (ten lines maximum) and send it to the Secretariat within two weeks time. These contributions will serve as input for the programme and the content of the General Assembly in Budapest.

#### Practical issues

- Delegations of Members may consist of max 4, for observers 2 delegates.
- The Secretariat will make a time frame for the organisation of the General Assembly.

## **Election of the different bodies**

The elections will be held at the end of the first day.

The Secretary General stresses the importance of finding a new President for the Association. The President should have the same stature as the predecessors Luigi Berlinguer and Edith van den Broeck.

### **3. New National Developments**

#### **Netherlands**

Two people in the Netherlands, Ayaan Hirsi Ali and Geert Wilders, are very outspoken against the Islam. Their security is under threat. Geert Wilders will be making a film that might cause problems similar to the problems caused by the Danish Cartoon.

#### **Italy**

General elections will be held in April. The current Minister of Justice is a former judge and President of the Court of First instance in Rome. The law has been changed and Presidents can now not be longer in this position then 8 years. The Council will have to elect a lot of Presidents because of this new legislation. For the first time in history a Division in the Court of Cassation is presided by a woman. In the same same plenary session the Italian High Council for the Judiciary appointed also for the first time in the judiciary's history of Italy a woman as President of the Court of Appeal (Venice).

#### **England&Wales**

England&Wales are still in the process of sharing the management of the courts between the judiciary and Ministry of Justice. The judiciary is making sure to advise the Minister of Justice where necessary.

The Bill of Right is currently being reviewed and most probably will be renamed to Bill of Rights and Responsibilities. The aim of the new name is to underline the fact that judges should not only tell people what their rights are but also what their responsibilities should be.

A commission of 500 people, randomly picked, will draw up a document on the Values of Britain.

#### **Poland**

Salaries in Poland are growing but not those of the members of the judiciary.

There is discussion on the future of newly appointed judges. The legislator has to decide whether young judges will be appointed for life or will have a temporary appointment.

The President has refused to appoint nine candidate judges nominated by the Council without reasoning. This seems neither legal nor fair. The Chief Justice could consider going to the Constitutional Court.

#### **Spain**

General elections will be held on March 9. The Council will have to be renewed. The appointment is expected to take place in June or July. A few women are nominated for positions in the Supreme Courts.

#### **France**

A new Carte Judiciaire is designed. The majority of the sub-district courts are going to be dissolved.

There is a proposal to reduce the number of judges in the Council leading to a minority of judges in the Council. The Council, with CCJE opinion number 10 backing them up, is campaigning for at least equilibrium between judges and non-judges in the Council. It seems that the opposition is not in favour and that the required 2/3 majority amending the Constitution will not be met.

The power of the judges in penal law will be reduced; in case of recidivism there will be a fixed minimum punishment in the law.

There is a proposal to develop a system in which convicted child abusers may be forced to undergo psychiatric treatment after their imprisonment. This treatment will not be decided on by judges but by a group of psychiatrists.

### **Belgium**

There is a temporary government at work until 23 March. They will draft a government budget and a working group will work on the reform of the State system.

The new Minister of Justice has drawn up some ambitious plans for judicial reforms, but there is no mandate and no money.

The Training Institute for the Magistrates is established. There is a director, Edith van den Broeck but nothing else, no legal basis no budget no buildings.

## **4. New Structure**

Time frame for the next months (decided on in The Hague in November 2007)

End of February	Drafts for by laws and proposal on the functioning of the Permanent Office to be send all Members
21 March 2008	Approval and adoption by the Members (GA) of the by laws and proposal on the functioning of the Permanent Office
1 May 2008	Submission of nominations for the Presidency and the Steering Committee by the Members
21 May 2008	Steering Committee meeting in Budapest
22-23 May	General Assembly meeting in Budapest, election of President and Steering Committee and appointment of the Executive Board
1 September 2008	Opening of the ENCJ office in Brussels

The different proposals were discussed and amended according to the discussions.

- Rules of Procedure, small change and adopted
- Financial regulations adopted
- A plan for a well functioning permanent office adopted, one amendment concerning the website inserted in the footnote. (Spain accepts to keep the management of the website during another 2 years ensuring a link with all judicial organisations of the Spanish speaking countries. After 2 years the management of the website will be transferred to the Permanent Office. When that time comes Spain will make a proposal ensuring the maintenance of the Spanish language after the transfer of the management of the web site to the Permanent Office.)
- Job description director adopted

## **7. Plan of activities 2008**

The proposed budget is discussed.

The commission has asked for a programme of activities and a budget for 2008 to ensure the subvention.

The Steering Committee adopts the draft programme of activities with the following conditions:

1. No travel reimbursements for participants in the General Assembly meeting in Budapest
2. The Hungarian Judicial Council will be reimbursed part of the costs for hosting the General Assembly (10.000euro)
3. In the case of travel costs, real costs are reimbursed up to a maximum of € 400.
4. For a one day activity 2 per diems will be calculated
5. The expenses of commissions are not yet included in the budget
6. Members could decline the reimbursement of travel costs for working group meetings that already took place and the money saved could be used for the Permanent Office
7. The office space offered by the Belgium HRJ till September 2009 for the amount of € 25.000 is accepted but is up to the General Assembly to decide on.
8. Belgium proposes that the travel cost by the Presidents will be deducted from the annual membership fee. The reimbursement by the European Commission of these costs will then stay with the Association.
9. The membership fee is normally due on the 31 of January, but this year will be different. Membership fee will have to be paid before the General Assembly meeting to secure the voting rights.

## **5. Working groups –progress reports**

### **1 Criminal Justice, coordinators England&Wales and Italy**

Eng&Wales have met with Caroline Morgan from the European Commission. An expert group consisting of judges will be set up by the EC to see what will be done in this area once the Lisbon Treaty is taking effect.

Italy, a questionnaire has been sent out and filled in. Next meeting is March 14. A document will be prepared and will be sent to Pr and SG and it would be a good idea to organise a scientific seminar based on the findings of the working group. Maybe finances for the seminar could be found with the EC.

### **2. E-justice, coordinator Spain**

Some work has already been done; the next meeting will be in March. The working group supports the idea to have an ENCJ representative in the E-justice meetings of the EC.

### **3. Liability of Judges, coordinator France**

The first meeting has taken place. The working group has determined the goal: how to safeguard judicial independence in relation to the different aspects of liability of judges. For the next year they want to focus on European values of deontology/judicial conduct.

### **4. Mutual Confidence, coordinator Belgium**

There was a meeting in Brussels in November 2007 with two representatives of the EC present. For the EC the Forum for discussing EU justice policies and practice is a very important instrument and it could also be interesting for the ENCJ. The objectives are to prepare a motion for the General Assembly i.e. on the participation of the ENCJ in the Forum. The Members also have to decide what the position of the ENCJ in the Forum will have to be. Furthermore the work will focus on the relations between the different judicial actors and the relations between the different judicial networks.

### **5. Public Confidence, coordinator Poland**

First meeting took place in January. A questionnaire was designed which will be sent out in February. Practical information and instruments will be registered.

### **6. Quality management, coordinator the Netherlands**

Two meetings have taken place, two more are planned. A report will be drawn up comprising:

A chapter on the concept of quality management

A chapter on the roles of the Councils therein

A chapter on quality activities in the participating members including best practices  
A register with all the known quality management instruments and activities and the contact details of persons involved in these activities will be included.

## **6. Web-site standing committee**

The standing committee met in November 2007. A next meeting of the Standing Committee will be organised in Barcelona. They will work on a programme for the workshop to be held in June in San Sebastian to show every body the possibilities of the web site.

## **7. EJTN exchange programme**

The ENCJ was asked to become a partner in the EJTN programme, there will be a moment in Brussels where this will be formalised.

The 2008 exchange programme will have to start as soon as possible. The Secretariat together with the Presidency will make the matches and send them together with a list of the national contact points to all Members. For 2008 20 places are available.

## **9. CCJE/CEPEJ**

- Final text opinion no. 10  
Opinion no 10 has been used by France and Belgium already in relations with the executive and legislative powers.
- Observer status CCJE, observer status was given to ENCJ in the CCJE

The 1994 Council of Europe Recommendation 94 on the independence, efficiency and role of judges is being reviewed at the moment by our Ministries of Justice. The members are asked to comment on it and send their comments to the Council of Ministers.

## **10. Networks paper by John Thomas (latest version attached)**

All members are asked to look into the list and see whether it is complete. Every one is free to use the information in the document for their own web sites.

## **11. Protocol for experts hearing at the European Parliament (parliamentary committees document attached)**

In England the parliament has or claims to have the right to hear judges whenever they feel fit. These judges will be cross-examined on specific topics. A set of rules was developed to provide general guidance for judges in this situation. For the ENCJ a set of rule similar to the English will have to be developed. This could be done within the framework of the Mutual Confidence working group and discussed and adopted at the General Assembly in Budapest.

## **12. EUROsocial**

On behalf of the ENCJ Italy and France participated in 3 meetings of EUROsocial. It is a network of Latin American countries and Spain, Portugal and Andorra. It is a mixed network including the Councils for the Judiciary and the Supreme Courts. The proposal is to establish a Commission. The Commission will establish a framework for dialogue and exchange of information. All activities are paid by the EUROsocial programme. It is directed at the exchange of information.

As the EURO social is meeting at the beginning of March in Brazil, the ENCJ is requested to provisional decide to establish the Commission.

## **Decision**

The President will give a provisional signature and the General Assembly meeting in Budapest will have to approve the establishment of the Commission involving the Ibero-American Judicial Summit, the ENCJ and the Network of Presidents of High Courts of the European Union.

### **13. Other matters arising**

Flowers will be sent to Marlies Bouman on behalf of the SC to wish her a speedy recovery.

### **14. Next meeting Steering Committee**

Budapest May 21<sup>st</sup>, hour yet to be fixed.

### **15. Draft minutes Steering Committee meeting 27 September 2007**

Approved

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### **List of participants Steering Committee meeting 15 February 2008**

#### **Belgium**

Edith van den Broeck  
Marc Bertrand  
Jacques Hamaide

#### **England & Wales**

John Thomas  
Michael Walker  
Barbara Flaxman  
Philip Cash

#### **France**

Gracieuse Lacoste

#### **Ireland**

#### **-Italy**

Milena Falaschi  
Roberto Maria Carelli Palombi  
Fabio Roia

#### **Netherlands**

Bert van Delden  
Sophie van Duijn  
Monique van der Goes

#### **Poland**

Teresa Flemming-Kulesza  
Irena Piotrowska

#### **Spain**

Pilar Ruiz Carnicero  
Javier Laorden

#### **Hungary**, special guest with regard to the General Assembly in Budapest

Zoltan Lomnici  
Peter Sarkozy