



European Network of Councils
for the Judiciary (ENCJ)

Réseau européen des Conseils
de la Justice (RECJ)

ENCJ PROJECT TEAM

Distillation of ENCJ Guidelines, Recommendations and Principles

Report 2012-2013



With the support of the European Union

**Final Report of the ENCJ's Project Group on the Distillation of
ENCJ Guidelines Recommendations and Standards**

2012-2013

Index

<u>Section</u>	<u>Page</u>
Introduction to the Final Report	3
Summary of the Principles and Recommendations of the ENCJ	5
Appendix: Summaries of ENCJ documents	17
End-notes	30

Final Report of the ENCJ's Project Group on the Distillation of ENCJ Guidelines Recommendations and Standards

Introduction to the Final Report

- (i) This project group was formed in order to prepare a concise document distilling the principles established by the ENCJ, and its standards, guidelines and recommendations.
- (ii) The objective was to distil the wisdom of all previous ENCJ project teams and to create an approachable document that encapsulates the results of most of the pre-existing ENCJ reports and papers.
- (iii) It was hoped that the final document would be an accessible summary that could be used to enable member Councils for the Judiciary and equivalent bodies in candidate and potential candidate Member States to identify good practices in relation to the management of a modern European justice system.
- (iv) The members of the project group comprised representatives of 13 Councils for the Judiciary (Belgium, Bulgaria, England and Wales and Scotland, Denmark, France, Ireland, Italy, Lithuania, Netherlands, Portugal, Romania, Slovakia, and Spain) as well as representatives of two observer members from Turkey and Norway. The project group was chaired and co-ordinated by Ms Diana Labokaite representing the Judicial Council of the Republic of Lithuania.
- (v) The project group met on the following three occasions:-
 - (a) A kick-off meeting in Brussels on 17th and 18th September 2012.
 - (b) A meeting in Vilnius on 10th December 2012.
 - (c) A meeting in Rome on 11th February 2013.
- (vi) The Summary of the Principles and Recommendations of the ENCJ (the "Summary") has been prepared with the intention of producing as short a document as possible. Accessibility has been central to the project group's

objective. The consequence is that the project group has had to be selective. It has included the most important principles and recommendations, but has not always included all of them, and has often excluded the detailed reasons for them. Moreover, some of the wording of earlier documents has occasionally been altered slightly to achieve a consistency of style, or brevity, or both.

(vii) The Summary does, however, include two mechanisms to enable the reader to obtain further detail as to any specific theme:-

- (a) End-notes which refer the reader to the ENCJ documents from which the principles and recommendations are taken; and
- (b) A summary of those ENCJ documents in the Appendix to this report, with links to those documents on the ENCJ website.

(viii) The intention is to create “a living document” which will be augmented by further principles to be distilled from ENCJ papers and reports yet to be written.

Judge Diana Labokaite
Project Co-ordinator
13th May 2013

Summary of the Principles and Recommendations of the ENCJ

Prepared by the ENCJ's Project Group on the Distillation of ENCJ Guidelines Recommendations and Standards 2012-2013

Introduction

- 1.** This summary is intended to encapsulate the principles and recommendations of the ENCJ's reports and papers since its inception in 2004.
- 2.** The principles and recommendations are divided into the following 15 themes:-
 - (1) Independence of the judiciary.
 - (2) Councils for the Judiciary.
 - (3) Judicial ethics.
 - (4) Selection, appointment and promotion.
 - (5) Remuneration of judges.
 - (6) Judicial training.
 - (7) Prosecutors.
 - (8) Quality management.
 - (9) Case management and timeliness.
 - (10) Judicial performance and management.
 - (11) Access to justice.
 - (12) Court funding.
 - (13) Transparency, accountability and media relations.
 - (14) Public confidence.
 - (15) Mutual confidence.
- 3.** Where Councils for the Judiciary are referred to in this Summary, they are to be taken to include other equivalent independent and autonomous bodies.

Theme 1: Independence of the judiciary

4. Every citizen in a democratic society is entitled to benefit from an independent judiciary.ⁱ
5. An independent judiciary must be, and be seen to be:-
 - (1) independent of both the legislative and executive branches of government;
 - (2) established to safeguard freedom and the rights of the citizen under the rule of law;ⁱⁱ and
 - (3) self-governing.ⁱⁱⁱ
6. Judges and the Council for the Judiciary should be closely involved in the formation and implementation of all plans for the reform of the judiciary and the judicial system.^{iv}

Theme 2: Councils for the Judiciary

7. A Council for the Judiciary must be self-governing and operate autonomously to guarantee judicial independence, the maintenance of the rule of law, the promotion of civil liberties and individual freedoms, basic human rights and the effective and transparent administration of justice.^v
8. The following should be wholly or partly under the control of a Council for the Judiciary or of equivalent independent and autonomous bodies:-^{vi}
 - (1) The appointment and promotion of judges;
 - (2) The training of judges;
 - (3) Judicial discipline and judicial ethics;
 - (4) Complaints against the judiciary;
 - (5) The performance management of the judiciary;
 - (6) The administration of courts;
 - (7) The financing of the judiciary;

- (8) Proposing legislation concerning the courts and the judiciary.
- 9. A Council for the Judiciary shall control its own finances and activities independently of both the legislative and executive branches of government.^{vii}
- 10. At least 50% of the members of a Council for the Judiciary shall be judges chosen by their peers,^{viii} and the Minister of Justice should not be a member.^{ix}

Theme 3: Judicial ethics^x

- 11. Judges must fulfil their duties with integrity, and in the interests of justice and society.
- 12. Judges have the same duties of integrity in both their public and their personal lives.
- 13. Judges must refuse to accept any gifts or advantages for himself or for those close to him while exercising his functions as a judge.
- 14. Judges must decide cases without influence from any third parties.
- 15. Judges must be impartial. Impartiality means that judges should act and appear to act in all matters without prejudice or preconceived ideas.
- 16. Judges must treat all persons equally. This requires judges to recognise the uniqueness of the individual and to allow everyone the justice to which he is entitled at all stages of the judicial process.
- 17. Judges must decide cases diligently and within a period that is reasonable having regard to the subject matter.

Theme 4: Selection, appointment and promotion of judges^{xi}

- 18.** Judges should always be selected for appointment on the basis of merit and capability alone. The criteria of merit and capability include intellectual and personal skills, work ethic, and written and oral communication skills.
- 19.** The selection criteria and defined competencies, against which candidates for judicial appointment are to be assessed at all stages of the appointment process, should be public and accessible.
- 20.** The judicial appointment and promotion processes must:-
 - (1) be undertaken by a body that is independent of both the legislative and executive branches of government, and involves members of the existing judiciary;
 - (2) be open to public scrutiny and be fully and properly documented;
 - (3) be undertaken according to published criteria;
 - (4) promote the diversity of the range of persons available for selection, whilst avoiding all kinds of discrimination;
 - (5) only involve consultation which is open, fair and transparent, with views being (a) related to relevant competencies, (b) recorded in writing, (c) available for scrutiny, and (d) evidence-based.
 - (6) provide for an unsuccessful candidate to be informed of the reasons for his/ her lack of success; and
 - (7) provide for an independent process of challenge and complaint.
- 21.** Any role played by the government or the Head of State in the appointment of judges must be clearly defined. Their decision-making processes must be clearly documented.
- 22.** The bodies responsible for appointing and promoting judges must be adequately funded, and have procedures in place to guarantee the confidentiality of the process.

Theme 5: Remuneration of judges^{xii}

- 23.** The remuneration of judges must:-
- (1) remain at all times commensurate with their professional responsibilities and public duties; and
 - (2) be constitutionally guaranteed in law so as to preserve judicial independence and impartiality.
- 24.** All discussions and negotiations relating to judicial remuneration should involve the judiciary.

Theme 6: Judicial training

- 25.** High quality training must be available throughout a judge's professional career.^{xiii} Proper training promotes high quality and prompt judicial decisions, which themselves strengthen predictability and legal certainty.^{xiv}
- 26.** The body responsible for judicial training, if not the Council for the Judiciary itself, should be autonomous and have its own budget. It should be supervised by and/or bound by guidelines promoted by the Council for the Judiciary.^{xv}

Theme 7: Prosecutors

- 27.** The autonomy of criminal investigations must be guaranteed, and their outcomes must be monitored by an independent entity.^{xvi}
- 28.** Strong safeguards must be in place to ensure the autonomy and independence of the bodies in charge of investigations so that every offence is enquired into, especially those committed by those with political or economic power.^{xvii}

Theme 8: Quality Management^{xviii}

- 29.** The quality of the delivery of justice is paramount, and must be considered in relation to all activities that judges undertake.
- 30.** The main principles of quality management are as follows:-
- (1) The requirements and expectations of court users and other interested parties must be clearly understood.
 - (2) Quality objectives should be formulated that allow these requirements and expectations to be met.
 - (3) Quality management policy should aim for continuous improvement.
 - (4) Quality management decisions should be evidence-based.
 - (5) Judicial management must show a commitment to quality.

Theme 9: Case Management^{xix} **and Timeliness**^{xx}

- 31.** The interests of justice require speed, and speed is only advanced by case management. Accordingly, effective case management allows judges to ensure that cases are determined justly, at proportionate cost and in a timely manner.
- 32.** It is right to say that “justice delayed is justice denied”. Timeliness must, however, be balanced against other aspects of judicial performance. The quality of the decision-making should have the highest priority.
- 33.** Introduction of new technologies improves case management, access to justice, and the quality of justice. Judges, Councils for the Judiciary and all other stakeholders should proactively engage in these processes.
- 34.** To achieve timeliness in the delivery of justice, co-operation is required from the executive and legislative branches of government, Councils for the Judiciary, court

administrations, judges and court staff, as well as advocates and prosecutors.

- 35.** Changes in court practices proposed by Councils for the Judiciary and/or court administrations must always be evaluated by judges, so as to safeguard the independence of the judiciary.
- 36.** Councils for the Judiciary should achieve timeliness by analysing the problems of their judicial system, identifying remedies, considering the impact of proposed remedies, and establishing methods to measure outcomes, before implementing remedial action.
- 37.** Useful tools for improving case management and timeliness include the following:-
 - (1) Statistics should normally be published annually for each court, with more frequent data being available to the court administration. Data collection methods should be approved by the judiciary and the Council for the Judiciary.
 - (2) User surveys should be carried out regularly in order to obtain feedback on court performance.
 - (3) Objectives as to processing times may be published by court administrations in co-operation with the judiciary, but inflexible fixed deadlines should be avoided.
 - (4) Initiatives to reduce caseloads may include: (a) alternative dispute resolution and judicial promotion of amicable settlement, (b) methods to reduce the number of similar cases heard separately, including test cases and multi-party actions, (c) the extension of jurisdictional limits of lower courts, and (d) the restriction and/or limitation of rights of appeal.
 - (5) Introduction of capacity management systems to balance judges' workloads and capacity, enlargement of courts and re-allocation of judges.
 - (6) The efficiency of court procedures should be improved by (a) introducing small claims procedures, (b) reducing and setting time limits for procedural

steps, (c) limiting hearing times, (d) introducing court video and telephone conferences and electronic recording of proceedings, and (e) simplifying written decisions.

- (7) Processing initiatives may include: (a) electronic filing and access to documents, (b) electronic communication with the court, (c) court specialisation, and (d) delegation to administrative staff.

Theme 10: Judicial Performance and Management^{xxi}

38. The distribution of responsibilities within a court system should, so far as possible, allow judges to concentrate on their core task of judging.
39. Judges must be provided with all necessary support, including properly qualified staff.
40. Individual cases should be assigned to individual judges by a mechanism that safeguards the independence of the judiciary and excludes the possibility of any pre-determination of the decision.
41. When a judge's performance is evaluated:-
- (1) the independence of the judiciary must be safeguarded; and
 - (2) the evaluation must not include any review or re-examination of judicial decisions.

Theme 11: Access to Justice^{xxii}

42. The principle is that every citizen, from whatever background, should have affordable timely access to justice at convenient locations, so that all proceedings can be easily brought against any person whether public or private, natural or legal.

- 43.** Judicial decisions should be clearly reasoned and made public, subject to considerations of data protection, privacy, personal security and confidentiality.
- 44.** The interests of all those involved in judicial proceedings, including victims and witnesses, should be taken into account. They should all be treated with consideration and fairness.
- 45.** Measures to remove hindrances to access to justice should be carefully planned, analysed and implemented with the co-operation of judges. Such measures should include:-
- (1) Reduction of financial hindrances such as court fees and the absence of free legal aid and/or affordable insurance.
 - (2) Reduction of geographical and technological hindrances, such as excessively large court districts, absence of local seats or travelling courts: better transportation and communication, and the greater use of video and telephone conferences, e-working, and written evidence.
 - (3) Reduction of psychological and social hindrances, such as the use of formal attire and court rooms: improving access to information and explanations of outcomes and treatment of witnesses, linguistic and other facilities for minority groups.
 - (4) Reduction in the requirements for professional representation.
 - (5) Reducing delays and improving timeliness.
- 46.** Legislation, including EU legislation, should be accessible and easily understood.

Theme 12: Court Funding^{xxiii}

- 47.** The judiciary should be closely involved in the budgetary process and should be responsible for financial management within the budgets allocated to them.

- 48.** The allocation of court resources should:-
- (1) be agreed with the judiciary;
 - (2) be based on transparent, objective and cost-effective criteria; and
 - (3) be sufficient to allow the courts to manage their caseload effectively.
- 49.** Financial reports relating to court funding should be drawn up and independently audited.

Theme 13: Transparency, Accountability and Media Relations^{xxiv}

- 50.** Councils for the Judiciary, courts and judges must maintain an open and transparent system of justice.
- 51.** In discharging this responsibility:-
- (1) The judiciary should be active in promoting understanding of its work.
 - (2) Sufficient information should be provided to the public and to the media to ensure that the public gains an accurate perception of the administration of justice;
 - (3) All bodies, including Councils for the Judiciary, should
(a) provide periodic reports on how they have discharged their functions, and (b) publish such reports with a view to promoting the efficiency and quality of justice without jeopardising the independence of the judge's decision-making.^{xxv}
- 52.** The following tools to improve transparency should be considered and implemented:-^{xxvi}
- (1) A system of judicial spokespersons, press judges, and communications advisors. These persons should have a detailed knowledge of the judicial system, and be trained in the social and media skills necessary to provide intelligible information to the public concerning the judicial system and judicial decisions.

- (2) Audio and video recording of court hearings, under the control of the judge, with safeguards for non-professionals involved in proceedings.
- (3) Clear guidelines on the use of smart phones and other communication devices in court.
- (4) A strategy relating to the use of social media for communication of information concerning the judicial system and judicial decisions.
- (5) Freely available websites concerning the judiciary, the justice system and decided cases, under the control of the Council for the Judiciary.
- (6) Press guidelines, clarifying the goals and interests of both the judiciary and the media, and stating how courts deal with the media and what the media may expect of court staff.

Theme 14: Public confidence^{xxvii}

- 53. It is essential to secure respect for the law and public confidence in the judiciary.
- 54. Councils for the Judiciary should monitor public confidence in the judiciary and promote measures to increase it.
- 55. A system should be devised and improved to research public trust and confidence in 5 areas: (a) the justice system and its basic values, (b) the courts, (c) judges and court officials, (d) decisions, judgments and rulings, and (e) EU courts, European laws and regulations. The research should be undertaken at regular intervals and the results should be freely available to the media and the public.

Theme 15: Mutual confidence^{xxviii}

- 56. Mutual confidence amongst the judiciaries of the EU is required to promote mutual recognition and respect for judicial decisions in other Member States and to improve the functioning of the judicial systems throughout the EU.

- 57.** Judges and prosecutors should proceed on the general assumption that, even though another EU legal system may not be similar, it has the same fundamental guarantees.
- 58.** In order to strengthen mutual confidence, the following steps should be taken:-
- (1) Evaluation and maintenance of minimum standards and minimum procedural safeguards;
 - (2) Promotion of judicial training;
 - (3) Strengthening existing judicial networks and the creation of new links between judiciaries, Councils for the Judiciary, courts and interpreters; and
 - (4) The creation of a database of judicial decisions in other Member States on the interpretation and application of relevant European and national legislation.^{xxix}

Appendix: Summaries of ENCJ Reports

Mission and Vision I (2005)

The report, entitled “Mission, Vision, Rules and other Relevant Matters of the Councils” is at:-

<http://www.encj.eu/images/stories/pdf/workinggroups/missionandvision20042005.pdf>

The report defined mission as “What is our raison d’être”, including permanent intentions, targets, and central values. Vision was defined as “Giving an image of what the organisation wishes to achieve in the long term”, the purpose being to motivate the organisation to achieve concrete results. The objectives were to inform members of the usefulness of these means and to offer them support in using them or improving their use. It contained information about Councils of Justice etc.

Case Management (2005)

This speech, given by Sir John Thomas to the ENCJ General Assembly held in Barcelona in 2005, is at:-

<http://www.encj.eu/images/stories/pdf/GA/conferencereportbarcelona.pdf>

The speech (at pages 73 -75 of the report to the General Assembly) emphasised that the essence of case management is to provide an effective means by which the judiciary can ensure that cases are determined justly, at the lowest cost, and at the greatest speed. The speech stressed that this was a matter for the judiciary, as it is fundamental to the independence of the judiciary that judges control the business of the courts.

Judiciary and the Media I (2006)

The report entitled “Judiciary and the Media 2005-2006” is at:-

<http://www.encj.eu/images/stories/pdf/workinggroups/judiciaryandmedia20052006.pdf>

The report discussed different topics and findings made during the previous years. Major discussion points were the influence of media on the public’s trust of the Judiciary, the need of a limited role of national organisations, the relationship between media and justice and the daily practice in different countries. It pointed out the need for best practices.

Mission and Vision II (2006)

The report entitled “Mission and Vision — Developing a Strategy for the Council” is at:-

http://www.encj.eu/images/stories/pdf/workinggroups/encj_report_on_mission_and_vision_developing_strategy_council_2005_2006.pdf

Strategic management comprised defining mission, vision, values, and strategic plan. It upgraded the organisation’s performance. It implemented the role and the place of the judiciary, self-criticism, and confidence. Trust, strategy, performance and transparency are interconnected.

The Action Framework consisted of three basic processes: (A) formulating, (B) implementing and (C) evaluating a strategy. The first cycle was an experiment; each successive cycle was an improvement. Formulating the strategy comprises strategic analysis, strategic direction and strategic planning.

Mission and Vision III (2007)

The document entitled “ENCJ Working Group Mission and Vision III — If you can’t recognize failure you can’t correct it: Report on Managing and assessing the performance of a Council or Judicial System” is at:-

<http://www.encj.eu/images/stories/pdf/workinggroups/missionvision20062007en.pdf>

It described systems of strategic management and performance measurement. A multi-annual strategic agenda is encapsulated in successive year plans. Results are published annually. A planning and accountability system is used for implementation.

The report included a section entitled: policy evaluation and performance measurement use key indicators, currently comprising quality, production and finance, people and organization and development.

Courts Funding and Accountability (2007)

The final report of the ENCJ working group on Court Funding and Accountability (2006-07) is at:-

http://www.encj.eu/images/stories/pdf/workinggroups/encj_report_on_criminal_justice_in_the_eu_2007_2008.pdf

The report took the form of compiled answers from Member States to a detailed ENCJ questionnaire looking at the two topics of court funding and accountability.

Mutual Confidence I (2007)

The report entitled “ENCJ Working Group on strengthening mutual confidence in the European Union — Report to The General Assembly on the 6th / 7th June 2007” is at:-

<http://www.encj.eu/images/stories/pdf/mutualconfidence/mc2006-2007en.pdf>

The report recommended a step by step and practical approach to build mutual confidence. It included a useful table of relevant official websites of Member States.

Performance Management (2007)

The report entitled “Final report ENCJ Performance Management 2006-2007” is at:-

<http://www.encj.eu/images/stories/pdf/workinggroups/performanceamangenemt20062007.pdf>

The document constituted a fully-reasoned synthesis of all the responses to a questionnaire written by a working group of the ENCJ and entitled “Performance Management”.

Mutual Confidence II (2008)

The report entitled “Mutual Confidence” is at:-

<http://www.encj.eu/images/stories/pdf/mutualconfidence/m2007-2008en.pdf>

The report recommended practical steps for the ENCJ to promote mutual confidence including participation in the Justice Forum of the European Commission, co-operating with other EU institutions and the EJTN and developing the contact details published in the previous report.

The Budapest Resolution on Councils for the Judiciary (2008)

The resolution , entitled “Self-Governance for the Judiciary: Balancing Independence and Accountability” is at:-

<http://www.encj.eu/images/stories/pdf/opinions/budapestresolution.pdf>

The resolution sets out the general principles which the ENCJ affirms should apply to the governance and working of all Councils for the Judiciary.

Quality Management (2008)

The Report (entitled ENCJ Working Group on Quality Management: Final Report) and the Register of Quality Activities are at:-

<http://www.encj.eu/images/stories/pdf/workinggroups/reportqm20072008.pdf>
<http://www.encj.eu/images/stories/pdf/workinggroups/registerqm20072008.pdf>

The report defined the concept of quality and discussed the role of the councils and similar bodies. Best practices were described in the following categories: mission, vision and strategy, total quality system, leadership and management, complaints procedure, peer review, processing times and working procedures, training, quality assessment and judicial quality, staff evaluation, client evaluation, management information, auditing and reporting, and external communication.

The register listed quality activities in ENCI countries, thus facilitating the learning from experiences in other countries.

Criminal Justice in the EU (2008)

The report entitled “Working Group of the European Network of Councils for the Judiciary: *Criminal Justice in the EU*” is at:-

http://www.enci.eu/images/stories/pdf/workinggroups/enci_report_on_criminal_justice_in_the_eu_2007_2008.pdf

The report looked at terrorism within the context of the criminal justice system, and the need for impartiality of criminal investigations.

Mutual Confidence III (2009)

The collation of papers entitled “Working Group “Strengthening Mutual Confidence”” is at:-

<http://www.enci.eu/images/stories/pdf/mutualconfidenceworkinggroup2008-2009en.pdf>

The papers studied described and recommended further research into a possible model for a court co-ordinator in EU law.

E-justice (2009)

The report entitled “E-justice Report 2008-2009” is at:-

<http://www.enci.eu/images/stories/pdf/workinggroups/ejustice20082009.pdf>

The report focused its activities on channeling the needs of European Judiciaries towards e-justice initiatives in the EU. To that end they followed various European actions and instruments which are listed in the report.

Transparency and Access to Justice I (2009)

The report entitled “Quality Management Report 2008-2009; Quality Management and its Relation to Transparency and Access to Justice” is at:-

<http://www.encj.eu/images/stories/pdf/workinggroups/qmreport20082009.pdf>

The report dealt with access to justice in a narrow sense, access to information in judicial organisations and in proceedings. Quality management and transparency were viewed as instruments to improve access to justice. The report focussed on the transparency aspects of quality management activities corresponding to those described in the 2008 Report on Quality Management.

The register is at:-

<http://www.encj.eu/images/stories/pdf/workinggroups/qmregister20082009.pdf>

The register listed quality activities in ENCJ countries, including information on transparency. It updated the 2008 Quality Management register.

The Bucharest Resolution on Transparency and Access to Justice (2009)

The resolution is at:-

http://www.encj.eu/images/stories/pdf/opinions/resolutionbucharest29may_final.pdf

The resolution stated that Councils for the Judiciary or similar independent bodies, in order to maintain the rule of law, must do all they can to ensure the maintenance of an open and transparent system of justice.

Mutual Confidence IV (2010)

The report entitled “Mutual confidence 2009-2010 Report and Recommendations” is at:-

<http://www.encj.eu/images/stories/pdf/mutualconfidence/mc2009-2010en.pdf>

The report contained detailed recommendations for evaluation and training in relation to strengthening Mutual Confidence and the development of a European judicial culture. The report also contained recommendations on court co-ordinators, networks of experts on EU law, and proposals for future action from the ENCJ to strengthen Mutual Confidence.

Public confidence (2010)

The report entitled “Public Confidence: Report and Recommendations 2010” is at:-

<http://www.encj.eu/images/stories/pdf/workinggroups/publicconfidence20092010.pdf>

The report investigated various methods, including opinion surveys, to monitor and assess public confidence in the various justice systems in operation across the EU.

Access to Justice II (2010)

The report entitled “Quality and Access to Justice: Report 2009-2010” is at:-

<http://www.encj.eu/images/stories/pdf/workinggroups/finalreportqm20092010.pdf>

The report described specific hindrances to access to justice and the initiatives undertaken to remedy them. It described the methodology and analysis that must be the basis of any initiative. It contained a comparative description focussing on financial, geographical, psychological and social hindrances. Finally it described two national programs, both containing new attitudes and viewpoints.

The register (version 1st May 2011) is at:-

http://www.encj.eu/images/stories/pdf/GA/Vilnius/updated_register_access_to_justice.pdf

It described the current situation in ENCJ countries in relation to hindrances to access to justice in 9 categories: Financial, Geographical, Physical, Technological, Psychological, Personal Appearance, Social, Time, Enforcement, and Treatment of Victims of Crime.

Judicial Ethics (2010) – London Declaration (2010)

The report entitled: “Judicial Ethics: Report 2009-2010” is at:-

<http://www.encj.eu/images/stories/pdf/ethics/judicialethicsdeontologiefinal.pdf>

It said that Society’s expectations of judges have caused the [ENCJ] to reflect on the question of judicial ethics. It is concerned with striking a balance between the independence of justice, the transparency of institutions, the freedom of the press and the public’s right to information. It is also important to preserve judicial independence, free from any pressure or manipulation. This is so that the judge can maintain the impartiality and efficiency that the public expects. Judicial ethics have been addressed in a positive manner, so that the duties of the judge encompass the common founding values of the judge’s work and personal qualities of the judge in response to the public’s expectations. Independence, integrity, impartiality, reserve and discretion, diligence, respect and the ability to listen, equality of treatment, competence and transparency are the common values identified as essential to the judicial role (Part I). The judge must also demonstrate personal qualities of wisdom, loyalty, a sense of humanity, courage, seriousness and prudence, an ability to work hard and an ability to listen and to communicate effectively. A judge should be aware that his professional behaviour, his private life and his conduct in society have an influence on the image of justice and public confidence (Part II).

The London Declaration, which provided that ENCJ Members and Observers should promote actively the content of the above report on Judicial Ethics at national and European levels, is at:-

http://www.encj.eu/images/stories/pdf/ethics/encj_london_declaration_recj_declaration_de_londres.pdf

Timeliness (2011)

The report entitled “Timeliness Report 2010-2011” is at:-

http://www.encj.eu/images/stories/pdf/GA/Vilnius/report_on_timeliness.pdf

The report contained an analysis on the various solutions used for meeting the problem of long processing times, and a list of recommended actions. First, it contains some general views on aspects of the quality and independence of the judiciary. The report described the causes for delay, and the stakeholders in this problem. It emphasised the importance of cooperation between stakeholders. A chapter on quality management dealt with measurement, analysis and response. The larger part of the report dealt with various remedies to delays, focussing on time requirements, reduction of caseload, increase of capacity, facilitating and speeding up court procedures, and improvement on processing, including case management.

A questionnaire on timeliness asking both for statistics on processing times and for other information, and the answers are at:-

<http://www.encj.eu/images/stories/pdf/workinggroups/Timeliness/questionnaire.pdf>,

http://www.encj.eu/images/stories/pdf/workinggroups/Timeliness/guide_to_questionnaire.pdf and

http://www.encj.eu/index.php?option=com_content&view=article&id=97%3Aquality-management-2010-2011&catid=13%3Aquality-management&Itemid=231&lang=en)

Measurement of National and Transnational Public Confidence (2011)

The report entitled “Measurement of National & Transnational Public Confidence: Report 2010-2011” is at:-

http://www.encj.eu/images/stories/pdf/workinggroups/final_report_public_confidence_2010_2011.pdf

The report contained a series of practical suggestions as to how public confidence in judicial systems might be investigated and evaluated, including a common questionnaire, cooperation with Euro-Justis and the opportunity and feasibility to assess the national and transnational confidence of enterprises in courts throughout the European Union.

Councils for the Judiciary (2011)

The report entitled “Councils for the Judiciary: Report 2010-2011” is at:-

http://www.encj.eu/images/stories/pdf/workinggroups/report_project_team_councils_for_the_judiciary_2010_2011.pdf

It contained a set of recommendations dealing with the composition, presidency and powers of Councils for the Judiciary. It also considered the participation of the Minister of Justice in the Council and the relationship between the Council and the other State powers.

The Vilnius Declaration (2011)

The document entitled “Vilnius Declaration on Challenges and Opportunities for the Judiciary in the Current Economic Climate” is at:-

http://www.encj.eu/images/stories/pdf/GA/Vilnius/encj_vilnius_declaration.pdf

The declaration addressed how the judiciary might respond to the economic crisis having a significant impact in most European countries.

Standards I (2011)

The report entitled “Development of Minimum Judicial Standards: Report 2010-2011” is at:-

http://www.encj.eu/images/stories/pdf/workinggroups/encj_report_project_team_minimum_standards.pdf

The report described the proposals on minimum standards regarding judicial recruitment, selection and appointment; judicial training and judicial ethics.

The proposals were made in the conviction that mutual confidence in the judiciary of the various European countries may be undermined by a lack of understanding of the minimum standards applied by each country in these areas and that the adoption of minimum standards in these fields would support the development of independent Councils for the Judiciary and contribute to the attainment of a common European judicial culture.

Standards II (2012)

The report entitled “Development of Minimal Judicial Standards II” is at:-

http://www.encj.eu/images/stories/pdf/GA/Dublin/final_report_standards_ii.pdf

The Report focused on indicators of standards regarding recruitment, selection, appointment and evaluation and promotion of members of the judiciary.

Judiciary and the Media II (2012)

ENCJ Project Team on Distillation of ENCJ Guidelines, recommendations and principles 2012-2013

The report entitled: “Justice, Society and the Media: Report 2011-2012” is at:-

http://www.encj.eu/images/stories/pdf/GA/Dublin/encj_report_justice_society_media_def.pdf

The report discussed press judges and communication advisors, recordings in courtrooms, publications, press guidelines and proactivity of the judiciary. Each topic focused on recent developments and recommendations. The main recommendations were: the appointment of judicial spokespersons, how recordings can be allowed, the definition of communication strategies, dedicated websites for each court, regulated communication with the media and a proactive approach of the judiciary to involve the public, including use of social media.

Judicial Reform (2012)

The report entitled “Judicial Reform in Europe: report 2011-2012” is at:-

http://www.encj.eu/images/stories/pdf/GA/Dublin/encj_report_judicial_reform_def.pdf

The objective of a judicial reform process should be to improve the quality of justice and the efficacy of the Judiciary, to protect the independence of the Judiciary, and to make more effective its responsibility and accountability. Access to justice, including cross border judicial proceedings, has to be facilitated. The report focused on 5 major areas of reform:

1. Organization of courts and public prosecutor offices;
2. Volume of court cases;
3. Judicial proceedings, case management and new technologies;
4. Financing of the judicial system;
5. Court management and allocation of cases.

The report evaluated current developments and dealt with the process of reform requiring the maintenance of a careful balance between access to justice, effectiveness and efficiency. Fundamental rights must be guaranteed, despite adverse economic conditions.

Dublin Declaration 2012

The document entitled “Dublin Declaration on Standards for the Recruitment and Appointment of Members of the Judiciary” is at:-

http://www.encj.eu/images/stories/pdf/GA/Dublin/encj_dublin_declaration_def_declaration_de_dublin_recj_def.pdf

ENCJ Project Team on Distillation of ENCJ Guidelines, recommendations and principles 2012-2013

The ENCJ promotes the interaction between the judiciaries of Europe in order to improve collaboration and to stimulate the exchange of best practices which will reinforce mutual confidence. The ENCJ believes that the identification of minimum judicial standards and the relevant indicators in these particular fields provides a tool for self-evaluation for the judicial systems and will further the development of judicial systems in Europe. This will support the development of independent Councils for the Judiciary and contribute to the attainment of a European judicial culture. Continuing the ENCJ's work in the area of development of minimum standards for the justice sector, the Dublin Declaration set minimum standards for the selection, appointment and promotion of judges.

END-NOTES:

- i Judicial Ethics Reports (2008-2010), and the London Declaration 2010.
- ii The London Declaration 2010.
- iii The Budapest Declaration on Councils for the Judiciary (2008).
- iv The Report on Judicial Reform in Europe (2012).
- v The Report on Councils for the Judiciary (2011).
- vi The Budapest Declaration on Councils for the Judiciary (2008).
- vii The Budapest Declaration on Councils for the Judiciary (2008).
- viii The Report on Councils for the Judiciary (2011).
- ix The Report on Councils for the Judiciary (2011).
- x The London Declaration 2010, and the reports on Judicial Ethics 2008-2010.
- xi The Dublin Declaration of 11th May 2012.
- xii The Report on Judicial Reform in Europe (2012).
- xiii The Report on Councils for the Judiciary (2011).
- xiv The ENCJ is fully committed to the goals set out in the European Commission Communication of 13th September 2011.
- xv The Report on Councils for the Judiciary (2011).
- xvi The Report on Criminal Law in the EU (2008).
- xvii The Report on Criminal Law in the EU (2008).
- xviii The Report on Quality Management (2008).
- xix The Reports on Case Management I and II (2006) and the Report on Judicial Reform in Europe (2012).
- xx The Report on Timeliness (2011) and the Report on Judicial Reform in Europe (2012).
- xxi The Report on Judicial Performance and Management (2007), the Report on Case Funding and Accountability (2007), and the Report on Judicial Reform in Europe (2012).
- xxii The Report on Quality and Access to Justice II (2010) and the Bucharest Declaration on Transparency and Access to Justice (2009).
- xxiii The Report on Case Funding and Accountability (2007) and the Report on Judicial Reform in Europe (2012).
- xxiv The Report on Quality Management and its Relation to Transparency and Access to Justice (2009) and the Bucharest Declaration on Transparency and Access to Justice (2009).

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- xxv The Budapest Declaration on Councils for the Judiciary (Self Governance for the Judiciary: Balancing Independence and Accountability) (2008).
- xxvi Justice, Society and the Media – Report 2012.
- xxvii Public Confidence 2010, and Measurement of National and Transnational Public Confidence 2011.
- xxviii Mutual Confidence IV 2010.
- xxix E-Justice 2009.