

Newsletter n° 17/2011

Towards a European Legal Culture

Questionnaire - The Budget of the Supreme Courts of the European Union

Editorial

President Griss

We are now preparing a Conference in Sofia on October 13-14 which will bear on the Budgetary Management and Resources of our Supreme Courts. This theme was already one of the discussion subject at the second Colloquium of the Network in Warsaw in 2006 on "Relations between the Supreme Court and the Executive Branch" but our Board suggested to revisit it from a different angle. First President Lamanda (France) agreed to prepare the questionnaire which is published in this July Newsletter. As already mentioned in our last Newsletter, the Network has been invited at the European Court of Justice (CJEU) in Luxembourg last March where two round-tables were organized, the first one focussing on Judicial co-operation in civil matters with introductory reports from President Koskelo (Finland) and Judge Toader (ECJ), and the other one on Judicial co-operation in criminal matters with introductory reports from President Corstens (The Netherlands) and Judge Bay Larsen (ECJ).

We will also hold in Sofia at the kind invitation of President Lasar Gruev (Bulgaria) our next General Assembly where we will elect a new Board for the next two years.

Finally, the readers will find in this issue of our Newsletter information regarding the Opening Congress of the European Law Institute in Paris on 1 June 2011, an initiative which the Network has been associated with for the past year.

President Skouris (CJEU) and the Members of the Network in front of the European flags - Luxembourg, March 2010

Towards a European Legal Culture

Europe is a 'Rechtsgemeinschaft', as Walter Hallstein put it, a community held together by the rule of law. That is emphasized by the fact that European integration has been and is integration by law. The European Union was founded by a treaty and its enlargements are also based on contractual agreements. With the entering into force of the Lisbon Treaty and the Charter of Fundamental Rights and with the announcement of the Stockholm Programme the quest for developing a European legal culture has been intensified. One of the tools to that end are networks as they exist already

in great number. One of the networks is the Network of the Presidents of the Supreme Judicial Courts of the European Union.

A representative of the Network I feel both honoured and pleased to be invited to speak at the Opening Congress of the European Law Institute. The Network and the European Law Institute are somewhat related, one might say. Both are mentioned in the Stockholm Programme and both are seen as tools to create a European legal culture.

The Network was established in 2004. Its first assembly was also held in Paris, another parallel between both institutions.

What were the reasons to establish the Network of the Presidents and what are its objectives? Can the European Law Institute further these objectives?

In order to understand what has led to establishing the Network of the Presidents one has to be aware that courts of law in Europe have to face major challenges:

- the law has been and is in a continuous process of change, and it is becoming ever more European.
- fundamental rights have become and are becoming more and more important in both civil and criminal law.
- changes in society and developments in science, especially in the medical and in the biomedical sciences, and the new communication technologies are raising new questions.

To meet these challenges judges have had to change their style of work. When I started to work as a judge

- more than 30 years ago
- I worked mainly on my own, exchanges of experiences and ideas with fellow judges were rather limited. The main source of information were law books and law journals.

Today things are different. Both on national level and on European level a culture of communication, a culture of exchange of ideas and experiences has evolved. This development has been facilitated by new information technologies but it is also due to the insight that new challenges require new strategies.

So it can be seen as a strategic decision to intensify international contacts by establishing the Network of the Presidents. According to its statutes the Network was established to provide a forum through which European institutions are given an opportunity to request the opinions of Supreme Courts. Additionally, the Network shall bring the Courts closer by encouraging discussion and the exchange of ideas.

How have we tried to realize these tasks?

We have had regular meetings, we have got to know each other, and every two years the Network organizes a colloquium dealing with a topic which is of interest to the national Supreme Courts. So we have had colloquia on the decision making process or on practical aspects of judicial independence. Taking into account that meeting and securing high standards in judicial work is a global issue we have had meetings with the Chief Justice and with Justices of the US Supreme Court and with Justices of US State Supreme Courts. The topic of our last conference with US State Supreme Courts was cooperation among Courts. And we do not only discuss it we live it. So we have made enquiries among our Members on behalf of Members, for example on legal aid since in the State of one of our Members a reform of the respective law was envisaged. Enquiries also usually precede a colloquium.

In both cases, in preparation of a colloquium and on a member's request, questionnaires are distributed to all Members. Since we have gained a lot of information on the situation in the different Member States and have often obtained useful insights in such circumstances it would have been desirable to have some academic follow-up. Such follow-up could be provided or at least organised by the European Law Institute.

In 2006 the Network started to develop a Common Portal of jurisprudence, which allows its members to search in all the national databases. The Common Portal is equipped with an automatic translation programme. The programme does not provide a perfect translation but it gives a first impression and enables further research. The Common Portal is of great assistance to the judiciary but there is room for improvement. Also in this connection academic support could be helpful and again the European Law Institute could be a very valuable partner.

An important topic in the discussions within the Network is the fact that we are being confronted with an ever-increasing number of EU provisions and rules. At the time being the feasibility study on European contract law is under discussion and the Network too is invited to comment on it. As in this case also in other cases there has been academic input in the European legislative process but the process is sometimes far from transparent. In addition, very often there is insufficient input from judges, despite the fact that judges have to cope with the situation before the rules are enacted - they are therefore familiar with the problems to be solved ? and that they have to apply the new rules afterwards. Judges in particular must have a fundamental interest in rules and provisions that are practical and workable and will enable citizens to understand the law more easily. Such rules will also assist courts in delivering timely and effective justice.

It seems therefore a logical consequence of the developments in the European legal sphere that the initiative to establish the ELI was started and proved successful. It took some time but good things come to those who wait and they take their time.

Questionnaire - The Budget of the Supreme Courts of the European Union

(Sofia, 13-14 October 2011)

I. Financial management of the Supreme Courts of the European Union

- What is the origin of the Court's budgetary resources? As regards the public funds assigned to the Court, are they allocated by the Ministry of Justice, by another Ministry or by some other entity?
- What is the procedure for adopting the amount of the budget allocated to the Court? Is it a unilateral process? Is it through dialogue with the decision-making power? Or by some other means?
- Who makes the final decision to grant the funds?
- What is the total amount of your Supreme Court's budget? (salaries, costs and operation)
- Indicate the main areas of the Court's budgetary management.
- Does the Court, or can the Court if need be, have any other resources besides public funds?
- What are the legal bases permitting the use of funds other than public ones?
- What is the role assigned to the president of the Court with respect to its financial management?

II. Organisation and operation of the Budget Department

- Is the Department run by a judge, an official or a contract agent?
- What categories of staff members make up the Court's Budget Department? Judges, officials, contract agents? How many are there?
- What are the provisions that apply to the Supreme Court's accounting and financial management?
- What budgetary control system is the Court subject to?
- Do the managers carry responsibility for their work? Indicate the type and nature of any sanctions that may be applicable.

III. Effects of the general economic situation on the financial management of the Supreme Courts' budgets

- Does the general context of the current economic crisis in Europe have any perceptible impact on the Court?
- If so, indicate the areas in which the Court is affected by the crisis and what responses have been found to

cope with it.

- Has there been any change in the equipment judges are provided with for their work?

Attached file:

[Newsletter n° 17/2011.pdf](#)^[1]

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