

Newsletter n°32/2017

Colloquium held in Madrid, 21 October 2016

Judicial Exchanges

Editorial

President Priit Pikamäe

The Network entered into its thirteenth year of existence in 2017. Chief Justice Susan Denham of Ireland was congratulated by us all, at the end of her term at the head of our Network, for her dynamic presidency, during which we had discussions with the European Court of Human Rights (June 2016) and held a conference in Dublin (December 2015), then our colloquium in Madrid (October 2016). Among the topics discussed at these meetings was the filtering of appeals to Supreme Courts, the role of Supreme Courts in the evolution of the law and ADR.

At its AGM in Madrid on 20 October 2016, at which you honoured me by making me President, the Network also appointed to the Board as members, with effect from 1st January 2017 and for a period of two years, Presidents Branko Hrvatin (Croatia), António Silva Henriques Gaspar (Portugal), Bettina Limperg (Germany), Jean de Coudt (Belgium), Rimvydas Norkus (Lithuania), Maarten Feteris (the Netherlands), Myron Michael Nicolatos (Cyprus) and Timo Esko (Finland).

I would also like to welcome President of the Supreme Court of Denmark, Thomas Rørdam, and President of the Supreme Court of Slovenia Damijan Florjančič, who joined us at the beginning of the year, as well as President of the Supreme Court of Albania, Xhezair Zaganjori, who was admitted as an observer.

In 2017, we are all going to meet on 19 and 20 October in Tallinn where we will examine the question 'What criteria are required to achieve genuine separation of power?'

You will be sent a Questionnaire shortly, and in the light of your replies, the general reports will be drafted that will provide a basis for our work.

I can also inform you that in 2018, we are already planning a meeting with the Court of Justice. That way, we will keep open the dialogue that started in 2011 and that every one of us is keen to maintain.

Colloquium held in Madrid 21 October 2016

Opening Speech

Carlos Lesmes Serrano

President of the Supreme Court of Spain

We feel very honoured to provide the venue for the colloquium of the *Network of Presidents of the Supreme Courts of the European Union*

in this emblematic building, which has borne witness to a large portion of Spanish history.

This has been a history of the incorporation and co-existence of different cultures, which have left their stamp from north to south and from east to west, forging the character of a country that occupies a privileged position as a meeting point between Europe, Africa and America and that looks to the future with courage, responsibility and hope (?).

The fact that, once again, the senior representatives of the European Supreme Courts and the courts of our other guests have met in order to reflect on matters of mutual interest, reveals to society at large the consolidation of shared values and concerns, a strong expression of a true *ius commune* within the context of freedom created by our Europe, defining us as a clear framework of rights, freedoms and commitments that draw us together and make us increasingly equal.

Nevertheless, the Europe of freedom, of integration, has been plunged into an era that requires special attention in the face of the uncertainties that now surround us. Therefore, the words spoken by the first rector of the College of Europe in Bruges, Handrik Brugmans, at The Hague Congress in 1948 may perhaps afford some comfort: *Europe is the place where no certainty is accepted as truth, if it is not continually rediscovered...*

At the pinnacle of the Judiciary, the Supreme Court of each State does not only provide a unified interpretation of the Law, but also serves as a catalyst towards its innovation.

Throughout history, judges have taken on a leading role to address the shortcomings and conceptual vagueness of the Law despite the fact that, at the same time, another phenomenon was proving unstoppable: the growing complexity of legal and social relations.

However, judges are neither heroes or exceptional beings, but rather, first and foremost, men and women who are prudent, honest and capable of performing one of the highest mandates that can be bestowed on an individual: judging your peers. This is the grandeur of the legal system.

This task, in its entirety, is grounded on a unyielding concept: the unswerving institutional commitment of the judge to the rule of law, to the society he or she serves and to legal excellence.

Whether or not we achieve these aims is up to us, it is in our hands.

Over the course of 2016, we have commemorated the 4th centenary of the death of Miguel de Cervantes (?). As you are well aware, the timeless modernity of Cervantes is best expressed in Don Quixote. Don Quixote is the embodiment of a universal concept, the idea of absolute freedom in the service of a

comprehensive justice for all. Don Quixote, in the hands of Cervantes, becomes an instrument for dreaming... for dreaming of a more just society wherein the true legacy of the individual resides in his or her acts.

It is for this reason that this character informs his squire: *Every man, Sancho, is the product of his deeds?*

This also holds true for all of us, as we promote the development of our legal systems, as we draw attention to the hierarchy of the sources of Law in the context of directly applicable supranational regulatory catalogues and as we safeguard the irreversible nature of social conquests via real commitment to the values of our States.

We are not alone in this very important task, as we consider ourselves members of a community, a veritable community of judges, such as the community that our association represents, structured around independence and efficiency in the exercise of our duties.

Dear friends, long may the European Union continue to inspire a sense of fraternity shared by millions of people; long may the Supreme Courts forge ahead together, as a beacon of development within the legal system, safeguarding legal certainty, cohabitation and freedom.

Esteemed President of the Network, dear Susan, dear colleagues, let us raise a toast to such a future!

Welcome to Madrid and welcome to the Supreme Court of the Kingdom of Spain, which you may now consider your home.

Ladies and Gentlemen, thank you for your presence here.

Judicial Exchanges

The Network has once again been active in the organization of judicial exchanges for judges of the Judicial Supreme Courts.

In 2016, nine supreme courts (Austria, Estonia, France, Germany, Ireland, Italy Malta, Spain and UK) hosted sixteen candidates of German, Austrian, Belgian, Bulgarian, Estonian, French, Italian, Lithuanian, Dutch and Polish nationality.

In 2017, seventeen exchanges are planned.

The exchange program, in view of its popularity among judges, needs a constant appraisal of its quality. At the initiative of President Feteris (Supreme Court of the Netherlands), the Board at its session in Madrid on 20 October 2016, decided to circulate the following questionnaire. The answers will be submitted to the Board at its next session in Tallinn on 5 May 2017.

Questionnaire - Evaluation of the Exchange Program

- 1.Has your Court participated in the exchange program (as a host) or has one of the members of your Court been visiting another Supreme Court in the context of this program? If yes, what other Court was involved? If no, what has been the main reason for not participating?
- 2.Who took the initiative for the exchange? And in what way?
- 3.For what period of time did the exchange take place? Was this period sufficient (or too short)?
- 4.How were things arranged regarding the spoken language at the Court (for example: use of an interpreter)?
- 5.How were things arranged regarding to (possible) costs involved with the exchange?
- 6.What were, in concrete, the schedule and the activities during the exchange? (participation to hearings and deliberations in particular)
- 7.Did you find the exchange fruitful? If yes, in what way? And if no, why not?
- 8.Do you have any suggestions for improvements? Or other comments?
- 9.Are you interested to choose a shorter time (one week) with an agreed language between the host Supreme Court and the visiting Judge?

New Members and Observers

- Mr. Thomas Rørdam has been appointed President of the Supreme Court of Denmark succeeding Judge Poul Søgaaard.
- Mr. Damijan Florjančič has been elected new President of the Supreme Court of the Republic of Slovenia on 14 February 2017.
- Mr. Xhezair Zaganjori, President of the Supreme Court of Albania, has been admitted as Observer.

Attached file:

[newsletter32fr_en.pdf](#)[1]

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