

Court Coordinators European law (CCE)

EUROPE "INTER-CONNECTED"

The Hague Conference
23-25 September 2012

Report



Introduction

On 24 and 25 September 2012 the Dutch network of Court Coordinators European law, abbreviated, the Dutch CCE-network, organised a conference in The Hague, The Netherlands.

Delegations from Belgium, Bulgaria, Czech Republic, Denmark, Italy, Poland, Romania and Spain participated in this conference. Most of them have a CCE-network, or a somewhat similar network, too. Some are preparing to have a CCE-network or have just established one.

Mr. Luigi Berlinguer, Member of the European Parliament, Mr. Robert Bray, head of the Unit of the secretariat of the Legal Affairs Committee of the European Parliament,

Ms. Michou, director of the DG Justice of the European Commission and Ms. Saastamoinen, head of the Civil Justice policy unit of the DG Justice, attended the conference as well.

The aim of the conference was to investigate whether it would be valuable and possible to create a form of interconnection between these networks and what the role and function of modern technology is in this respect.

Prior to the conference the organization committee had sent 2 questionnaires to the participating members of the delegations. One concerning knowledgemanagement and interconnection. The second dealt with preliminary references



Mr. Spencer Michael, Senior Law Clerk and Deputy Judge at the opening of the Conference.

Opening Speech

The chairman of the Dutch Council for the Judiciary, Mr. Erik van den Emster, welcomed the participants.

After reminding the audience why the Dutch judiciary started, more than a decennium ago, with Eurinfra (the knowledgemanagementsystem concerning EU-law), he emphasized that knowledge is constantly changing and so knowledgemanagement has to change as well in order to remain effective.

Working together would bring here the best results and that is why the Council for the Judiciary embraced this initiative of the Dutch CCE-network. This Council itself also strives to adopt an European attitude.

The interaction and exchange of experiences between the different Councils for the Judiciary will, so he stated, contribute to the identification of shared values and best practices.

Towards more interconnection; Key note speech

In his speech, Mr. Rudolf R. Winter, coordinating senior vice president of het College van Beroep voor het bedrijfsleven (The Administrative High Court for Trade and Industry) started to emphasize that the three pillar structure of (the Dutch) Eurinfra (the application of EU law by means of information access technology, education and network) has stood the test of time as such. It is the content of the different pillars that is changing. Improvement of the technology in the first pillar concerning the approachability of information has redefined and still redefines the relation with the educational aspects of the second pillar and the functioning of networks of CCE's in the third pillar. Judges and their staff should have all the relevant information at their disposal in a state of the art manner, by means of apps and mobile websites.

The general part of the Union Law could be an area of law to start with this modern, state of the art, approach.

E-learning in the second pillar, can, so he stated, be considered as a natural complement of the advantaged technology to gather information in the first pillar.

Winter underlined that the situation should be avoided that Member States will start to develop their own technology and their own digital structure.

That would be a waste of energy and financial resources.

This could be avoided, Winter concluded, by more interconnection between the Member States in EU-law management as well.

Lectures and presentations concerning EU-law could be saved and made re-usable by voice-overs and/or subtitles for judiciaries in other Member States.

Realising an interconnection between national networks of CCE's would mean creating an EU-law rapid deployment force. Member States should work together to create a (digital) environment in which knowledgemanagement, Union wide, contributes strongly to bring fast and good justice to the persons seeking it.

When judges in their daily practice could easily have contact (for instance via a safe and secure social medium), they could contribute in that way to more unity in applying European Law, without putting an extra burden on the shoulders of the Court of Justice in Luxembourg.

Finally, Winter brought forward, that on the European level, as far as it European law knowledgemanagement concerns, a pivoting point is missing.

A pivoting point that coordinates the different activities of the stakeholders within and between these pillars of knowledgemanagement.

What actually is needed, is an outline for an operational master plan concerning European law knowledgemanagement.

This coordinative pivoting point, maybe temporary and maybe operating as a small network, could contribute to the making of such a plan, in which should be made a clear distinction between the accessibility of respectively information, education and networks while taking into account what the role and function of technology could be in these respects.



Presentation “Recent developments in the European Parliament on judicial training”

Honourable Luigi Berlinguer, Member of the European Parliament, held his speech about the European Parliaments pilot project on judicial training.

Mr. Berlinguer stated that here has been a fundamental change in the European Parliaments approach towards judicial training. Because of the entry into force of the Lisbon treaty, the objectives set down in the Stockholm programme, and an enormous European ius commune, the role of the members of the judiciary and judicial staff becomes crucial.



All judicial authorities should have an in depth knowledge of the European legal instruments in this field, a sufficient knowledge of foreign languages and legal terminology. Training activities should include staff exchanges, study visits, working shops, seminars, the development of online modules, based on information communication technologies and a further development of e-learning tools. Mr. Berlinguer pointed out that these activities should be organised and promoted by already existing specialized bodies and organisations.

Judges are not to be addressed as children sitting behind desks, waiting to be taught a lesson. Their starting point, Mr. Berlinguer underlined, should be not so much a general approach, but rather individual cases, individual problems that judges have to deal with.

A key role should be played by the existing legal networks which should coordinate the action on the various national structures without replacing them.



The EU should support member states best practices and encourage successful institutions such as EU law coordinators and other examples in Italy and The Netherlands.

This is, as Mr. Berlinguer emphasized, also the aim of the pilot project which is scheduled and run already at the end of 2012. It is of a paramount importance to create networks of judges of different cultures and improve of the coordinating of existing networks in order to create circles of coherence.

This is, as Mr. Berlinguer concluded, the philosophy of today: relations in an interconnected world.

Europe interconnected is the reason why we are here.

Presentation “Recent developments in the justice policies”

Honourable Paraskevi Michou, Director European Commission DG JUSTICE Directorate A — Civil Justice, started her speech stating that the European area of justice should be an area of mutual trust, where court judgements should be recognized and forced throughout the EU.

To respond to the economic crisis the Commission has prioritized new legislative measures that facilitate the free movement of judgements of civil documents and propose common rules within the EU in order to strengthen the functioning of the civil market.

Ms. Michou stated that adopting these laws and improving national judicial systems will not be enough for making it work.

They need to cooperate with each other with best possible ways.

In that respect Ms. Michou adverted to the European judicial network in civil and commercial matters. This network is composed of national contact points from bodies of certain authorities, magistrates and legal practitioners at national level.



Furthermore Ms. Michou put forward that to interconnect European judicial contact points, training of legal practitioners plays a crucial role.

A study of the EP published in 2011 indicates that there are quite substantial obstacles to the participation of EU training for judges, prosecutors and court staff in the member states, such as work load, financial problems, and language barriers.

The Commission has set the goal that in the years 2011 to 2020 an European judicial training session or an judicial exchange should be offered for a number equivalent of the half of the legal practitioners. That means 700.000 participants. It looks unrealistic, but, as Ms. Michou underlined, with the initiatives how to interconnect and how to use the knowledge management systems makes her at least more optimistic about the achievement of that.

Ms Michou ended her speech by stating the DG Justice welcomes the work of the network of court coordinators: “Within DG Justice we are willing to work with you together to learn from your experience, to hear your thoughts and views of how to improve the implementation of EU law and how to achieve quality of national judicial systems.”

Presentations by the different delegations

The different delegations have explained, by short introductory (powerpoint) presentations what the structure of their national (CCE) network is and how it is functioning. Some of the delegations had their powerpoint presentations and some background information distributed prior to the conference in Yammer (a social medium).

The organisation committee had arranged an area on Yammer, specially reserved for the participants of the conference.

For a view on a powerpoint presentation you can click on a specific Member State;

Bulgaria

Czech Republic

Denmark

Italy

The Netherlands

Spain

Furthermore we have made a short summary of the presentations of the Belgian, Polish and Romanian delegations:



Beatrice Andresan, EU Law Trainer Romania

Belgium:

The Belgium judicial network was created because of the growing awareness that help was needed for the individual Belgian magistrate to apply European law. The members function on a voluntary basis with very few facilities. It has two central contact points: one official of the Ministry of Justice and Mrs. Deconinck, councillor of the Court de Cassation. A group of representatives of professional organizations (lawyers, bailiffs) can participate at the meetings of the network on special invitation. The core of the network is formed by 15 judges (3 from each of the 5 courts of appeal). Each member serves in his or her court as a contact point for questions on the application and the interpretation of European or foreign law. The network tries to ensure the uniform application of European law by holding meetings on a regular basis. The focus of the network is primarily on European/international private law. The network issues an electronic newsletter, called Euralert. The network has very good contacts with the Dutch colleagues.

Poland:

In 2009 Poland had a network of Judge-coordinators but it ceased to exist mainly because it lacked of a formal basis. The aim is to re-establish this network. Every court should at least have two coordinators, one in civil matters, the other in criminal matters. This year an in depth training is planned for future trainers on the network in both EU law as ECHR law.

Romania:

Just a few days prior to this conference Romania has established their own network. With 5.000 judges and prosecutors this network is facing the challenge, for instance, how to make preliminary references and how to deal with 50.000 tax cases concerning EU law. A data base has been set up with a catalogue of all 43 Romanian references. The network consist of more than 40 judges from the courts of appeal and the court of cassation. Judges of the courts of first instance have shown a keen interest of joining the network too.

Working groups



During the conference the delegations and the members of the Dutch CCE's discussed in 5 working groups about different aspects of a CCE network. Working group 1 has discussed about all the aspects related to the establishing of a CCE network: Mr. Neils Feilberg, judge at the Court of Odense, Denmark, was the chair.

Working group 2 has discussed about all the aspects concerning maintaining a CCE network. Mr. Gianluca Grasso, Judge and member of the Council for the Judiciary in Italy was the chair.



Working group 3, concerning the extensions and development of an existing CCE network had Ms. Diana Miteva, judge at the district court in Varna, Bulgaria, as the chair.

Working group 4, that dealt with questions concerning national CCE networks which are interconnected with similar networks in other Member States was chaired by Ms. Ilse Couwenberg, councilor at the Court of Appeal in Antwerp.

Working group 5, chaired by Rudolf Winter, discussed the question:

"An interconnected CCE network; A new forum?"



“Recent developments in the application of the Charter of Fundamental Rights of the European Union”

Honourable Thomas von Danwitz, Judge in the Court of Justice of the European Union, held a lecture about the application of Charter of Fundamental Rights. In a nutshell, Mr. von Danwitz discussed the following.

The function of the Charter is not to bring about harmonization of the systems of protection of fundamental rights of the Member States. This is a fundamental difference between the Charter and the Convention. The Charter is the exclusive tool of EU law ensuring the conformity of primary and secondary EU law and its application with fundamental rights.



As far as the applicability *ratione temporis* is concerned, the Court has examined the validity of those legislative acts in light of the Charter, that entered into force before December 1st, 2009 and are still in effect after that date, thereby implicitly assuming the applicability of the Charter to such acts. This rationale also should apply to administrative acts that have permanent effect, even if they have been issued prior to that date. To the contrary, in principle, the applicability of the Charter should be denied in situations that have become definitive in law before the Charter's entry into force.

When it comes to a detailed interpretation of Article 51 (1) as such, it seems that, in light of Article 52 (7) of the Charter, the most conclusive support for the interpretation of Article 51 can and should be drawn from the explanatory notes on that provision.

Its substantive meaning results from the interplay of the three lines of jurisprudence cited therein, namely *Wachauf*, *ERT* and *Annibaldi*.

Concerning the distinction between “rights” and “principles” which are explicitly introduced by the preamble and the second sentence of Article 51 (1) of the Charter, the wording of the Charter does not characterize individual articles as being constitutive of rights, principles or both. It seems clear that they do not confer a subjective right that can be invoked by individuals. The fact that the provisions mentioned above do not confer subjective rights which can be invoked by individuals implies that they only have limited justiciability.

In his final conclusions Mr. von Danwitz highlighted the role of the European Court of Justice in laying the conceptual foundations for a uniform application of fundamental rights in the European Union.

Panorama Mesdag

In the afternoon of 24 September 2012 the participants visited the famous museum “Panorama Mesdag” (for more information: www.panorama-mesdag.com) and had a reception there as well.



Workshop preliminary references

Speaker: Mr. Marc Fierstra, Justice of the Supreme Court (Hoge Raad der Nederlanden), The Netherlands)



In this presentation, also inspired by the answers given in the framework of the second questionnaire, Mr. Marc Fierstra, gave a broad survey of all the aspects that are relevant as to the lodging of a request for a preliminary ruling.

You can follow this presentation by watching his powerpoint slides

Interconnection and Social Media

Speaker: Mrs. Irene Tiepel, Deputy Director of
Spir-it (the ICT of the Dutch judiciary) [Prezi](#)

[Presentation by Irene Tiepel](#)

INTERCONNECTION AND SOCIAL MEDIA

Final conclusions

12.1 Policy results

The presentations of the different delegations showed clearly that the idea of making use of a kind of a national network of Court Coordinators European Law is firmly based in the policy approach of the nine Member States that were gathered at this conference.

Some Member States are preparing the establishing of a network (Poland) or just have started (Romania).

It became clear that there are differences in structure of the different networks and it was obvious that they are not working within the same organizational framework.

Nevertheless the conclusion can be drawn that the different participating Member-States have CCE-networks that are adapted to their national visions and are presenting considerable added value as to the correct application of EU-law.

The answers to the first questionnaire, concerning the networks, that were sent to the participants prior to the conference, showed that in some of the Member States the CCE has not enough time to carry out the task and activities that come along with being a member of a national network.

Others do have enough time.

Furthermore, already from the answers on the questionnaire, it became quite clear that the general idea was that an international network of fellow judges from other Member States would help to be better equipped in the application of European Law.

To the question:

What conditions must be met in that respect a large variety of opinions was received:

“Informal ways to easily ask questions and receive replies” (Belgium)

“Internet access, list of contact points (e-mail addresses, fax and phones (Bulgaria)

It must be “fast, flexible and cheap” (Czech Republic)

“Easy access through a common forum” (Denmark)

“Contact, phone numbers, e-mail addresses” (Poland)

“A list of available judges in different countries, with their expertise, would be helpful” (Romania)

“Flexibility and reliability” (Spain).

Taking into account the different presentations, the visions that were presented from the European level, by Mr. Berlinguer and Ms. Michou, the opinions that were formulated by the working groups, there is a solid foundation to draw the following conclusions.

Concerning European law knowledgemanagement:

1. European law knowledgemanagement should distinguish clearly between

- access to information technology
- education
- networks

2. These pillars of knowledgemanagement are interdependent.

The content of the technology pillar influences the educational and the network pillar.

3. Judges throughout the Union are entitled to have easy access to judicial information in a state of the art manner.

4. The development of technical searching tools like apps, mobile website's etc. should be done as much as possible in cooperation to avoid waste of financial resources.

5. Support from the European level as well as coordination is needed to avoid such a waste.

Concerning the networks of court-coordinators EU-law:

6. The goal of the establishing of a national network of court-coordinators European law (CCE's) must be to contribute to the correct application of European law.

7 A network of CCE's should not be a duplicate of other networks.

8. A network of CCE's should be embedded in a structure in which access to information technology and education are recognised as different tools aiming at the same result.

9. The CCE should have some assumption from part of his other duties to allow time for his work as CCE.

10. Contacts between national CCE networks on a more structural basis by way of "interconnection" or "enlargement" must in the first place aim at the uniformity of the application of European law.

11. Participants in an "interconnected" or "enlarged" network must be able to exchange views, opinions and best practises in a (digital) environment in which they can feel safe and secure.

12. "Interconnection" or "enlargement" should have, as a first step, a simple structure.

Putting an extra burden on the shoulders of the participants should be avoided.

13. Entrance in an "interconnected" or "enlarged" network could be open for non- judges as far as it concerns technical and organizational matters.

Exchanging of legal opinions should be reserved for judges.

Practical results

As a practical result of the conference a list with names, e-mail addresses and telephone numbers are digitally distributed to the participants of the conference as a first, simple, step towards more interconnection.



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