

JUDICIARY IS QUALITY

Committee for the Evaluation of the Modernisation of the Dutch Judiciary

December 2006
The Hague
The Netherlands

Presentation letter

The Hague, 11 December 2006

To the Minister of Justice

In early 1998, the Leemhuis Committee published 'Judiciary Up To Date' (*Rechtspraak bij de tijd*), a report that served as the starting shot for the modernisation of the judicial organisation. Political confirmation for the report was given that same year in the outline policy document entitled 'The Judiciary in the 21st Century' (*Rechtspraak in de 21e eeuw*). In a formal sense, the new system entered into effect in 2002 under the Dutch Judiciary Organisation and Management Act (*Wet organisatie en bestuur gerechten*) and the Act on the Council for the Judiciary (*Wet Raad voor de rechtspraak*).

Five years are in fact too short to be able to completely map out an overview of the effects of such a drastic system change. The Committee for the Evaluation of the Modernisation of the Judiciary would therefore rather consider this evaluation as an assessment of the half-time score, central to which is the question: is the judiciary on the right track? The Committee is impressed by what the judiciary has achieved in recent years. The principal objectives of the new legislation, and the modernisation operation in a wider sense, have largely come within reach. A major system change was conducted and successfully concluded, without significant shocks. Given the fierce debate during the preparation of the new system, this smooth transition had by no means been taken for granted. It is the Committee's view that the courts involved, the Council for the Judiciary and the Ministry of Justice have each contributed their share to the judicial system's successful modernisation.

The judiciary is now largely up-to-date again. There is, therefore, no need for any drastic changes to the recently innovated system. Where flaws can be found, they are not so much a consequence of the current statutory division of duties, authorities and responsibilities, but rather of the way in which they are currently put into effect by the parties involved. The Committee's recommendations are largely aimed at adjusting certain aspects of various practices that have developed. The Committee was struck in particular by complaints of employees of the judiciary regarding forced production, bureaucratisation and risk of quality loss. To assess the value of those collective complaints and to separate fact from fiction, the Committee had an inquiry conducted. Based on this fact-finding mission, targeted measures can be proposed with due regard for the special position of independent judges within the system.

In the recent pioneering years, much of the emphasis has, justifiably, been on sound financial and economic control of the new system. In the years ahead, the challenge for the judiciary will be to undergo the development from control to management. To make this possible, the legislature will need to offer the courts more opportunities and space to organise their management, subsidiary places of session and mutual cooperation. In turn, the Council and the courts will need to define the responsibilities granted to them more accurately and should

actually assume them in the years ahead. The Committee is of the opinion that this process could transform the nature and scope of the current management model, which is perceived as bogged down in a culture of excessive consultations, and that it could improve the organisation's responsiveness and reduce the work pressure and bureaucracy perceived by employees. The central theme in all of this is quality improvement, which is why this final report is entitled 'Judiciary is Quality'. Against this background, the Committee has come to the following, more specific recommendations.

Is the judiciary on the right track?

1. The judicial organisation should be more accessible (electronically), work faster and with more legal unity than before. This external orientation towards societal objectives is essential to keeping the judicial system on the right track.

Quality and productivity of the judiciary

2. The quality of the judiciary and the work motivation of the employees working in the judiciary should be reinforced by greater attention to the development and management of employees in staffing policies and greater external orientation (including customer panels). The existing instruments to promote judicial quality (including training, case law meetings, three judge panel, rotation policy) should be intensified in specific respects. Moreover, the application of (new) instruments should be explored or deepened (including intervision, consultations between appeals courts and district courts, self-reflection procedures, case differentiation, customer appreciation in combination with a mentor system). The Committee would draw special attention to a quality policy differentiated according to types of cases, for example, by systematically distinguishing a workflow where speed and unity are the primary objectives, a workflow where soundness and expertise are the primary objectives and a workflow where experience and courtroom skills are the primary objectives.

3. It should be recommended that the Council for the Judiciary consults on the nature and substance of legal agreements with the Supreme Court of the Netherlands and/or the relevant highest administrative courts with a view to the legal unity and uniform application of justice. In order to monitor the quality of the legal system, the Supreme Court and the highest administrative courts should report frequently-occurring mistakes or undesirable practices within the judiciary in their annual reports.

Organisation and management of courts

4. There is something to be said for wider application of the proceedings that are usual in subdistrict courts. All cases regarding consumer purchases can be handled by subdistrict court proceedings. The competence of judges presiding in these proceedings should be increased to EUR 25,000. The Committee is of the opinion that the legal obligation to have a representative of the subdistrict sector in the management of each court should remain in place at least three years after the opportunities for such proceedings have been broadened. The availability of the possibility to hold subdistrict court proceedings in every court should be safeguarded via procedural law. With the growing number of cases, a need has arisen to refer cases that prove to be too complicated for fast-track handling to a court's three judge panel (civil-law) division.

5. Rather than regulate the location of subsidiary places of session by law, it should be recommended incorporating in the law only the fundamental principle that the public should be provided with ready access to the judicial process. Moreover, a policy framework should be set up to help establish where places of sessions are needed.

6. The management boards of courts should ensure that the judges and legal staff be called to account, as professionals, with regard to both quality and effectiveness. Managerial quality should be given much more attention in future selections, appointments and career development. In the short term, a consistently developed and applied management development programme is needed to develop the required management potential within the judicial organisation.

Council for the Judiciary

7. Now that the development stage of the organisation has been completed, the number of members of the Council for the Judiciary can be reduced from five to three. Moreover, staff of the Council's bureau should be assigned in accordance with the set priorities, and the initial number of employees of the bureau should be taken as a standard. Periodical audits should be provided into the execution of duties by the bureau's departments. Those audits should be supervised by experts from outside the judiciary. The Council for the judiciary should be answerable to the courts for the results of the audits.

8. The national consultative structures, the central staff divisions and advisory bodies should be streamlined in response to an inventory compiled of all consultative bodies, projects and committees. A clean sweep is required with a view to clearly defined responsibilities and the prevention of work duplication. In addition the division of duties of the Council for the Judiciary, the meeting of court presidents and the national assembly of sectorheads should be clarified. The starting principle in dividing those duties should be that the Council for the Judiciary can only decide after consulting the courts. The meeting of court presidents should play a role in this respect, as it is the joint informal consultative platform of the chairpersons of the court management boards. The national sector meetings are focused on the legal quality, the primary process and the supporting systems. The same applies *mutatis mutandis* to consultations between directors on the various aspects of the operations. Advice formulated by those bodies should be passed on to the meeting of the court's management board, so that considerations of the sectors can be taken into account in the overall considerations of the court.

The system in operation

9. Structural collaborative relationships between courts should be formed within the judiciary. Collaboration should lead to a division of duties between the Dutch courts that allows for efficient handling of specific types of cases at a regional or national level. The Committee would argue in favour of a further opinion on the Van der Winkel proposal. The Committee agrees with Van der Winkel that national criteria should be developed in order to structure these collaborative relationships in a transparent manner. The Committee believes that it is desirable to include a legal basis for collaboration within the judiciary in the Judiciary Organisation Act (*Wet op de rechterlijke organisatie*).

10. The starting principle for further computerisation and ICT development should be the work processes of courts and their design or new design with regard to both their own primary

process systems and the exchange of information with partners in the justice chain. Directors should be appointed for each chain, the chairpersons of the national assembly of sectorheads should be defined as process owners and the number of consultative bodies at other levels should be reduced, since reinforcement of the control over ICT is now accepted at a special organ ('regieraad') chaired by a member of the national assembly of sectorheads, and ICT systems should be structured by reference to the demand side.

11. The funding system works properly in practice and should therefore be left intact. More experience should be acquired with the system in order to take full advantage of the system's possibilities. The Committee is of the opinion that quality of judging is a condition for funding the judicial system and should not become a variable of the funding system. The necessary room for quality as part of the budgeting process (time and money) should be guaranteed by the administration. The board of a court may be expected to set target levels (standards) for quality in the same way as it does for production and effectiveness. To monitor the results, the quality must be recorded systematically and consistently over time with the help of key figures. This is a role for the Council for the Judiciary.

12. Five years are too short to give an opinion on the effects of such a monumental system change. It should be recommended that a new external evaluation is conducted in five years' time in order to be able to evaluate the more structural effects. Given the preparatory activities that were undertaken to compile this evaluation, that future evaluation could be much more limited in scope, and could focus on specific aspects of the judiciary's performance. In that regard, it is important that an independent evaluation committee is installed well in time.

The Committee wishes to thank everyone involved in the evaluation for their cooperation and the trust they have put in the Committee.

Sincerely,

[signature]
W.J. Deetman
H. Andersson
J.W. van den Berge
M. Herweijer
H.N.J. Smits

Table of contents

Chapter 1 Introduction	7
Chapter 2 'Is the Judiciary on the right track?'	9
2.1 Introduction.....	9
2.2 The administrative-organisational objectives.....	9
2.3 Societal objectives	10
Chapter 3 Quality and productivity of the judiciary	13
3.2 Quality of the judiciary	13
3.3 Quality systems and substantive legal quality.....	16
3.4 Productivity of the judiciary.....	19
3.5 The tension between quality and productivity	20
Chapter 4 Organisation and management of courts	22
4.1 Introduction.....	22
4.2 The governance model	22
4.3 Subdistrict court justice	25
Chapter 5 Council for the Judiciary	29
5.1 Introduction.....	29
5.2 Fulfilment of duties by the Council for the Judiciary	29
5.3 Staffing and budget of the Council for the Judiciary.....	31
Chapter 6 System in operation	33
6.1 Introduction.....	33
6.2 Collaboration between courts	33
6.3 ICT for the judiciary.....	35
6.4 Funding system	37
6.5 In conclusion.....	39
Annex 1	41
Annex 2	43
Annex 3	44

*A bridge had been built.
'The bridge needs to be guarded!' the people said.
So guards were hired.
But guards need to be paid salaries.
A cashier and a bookkeeper were hired.
The guards, the cashier and the bookkeeper needed leadership.
A manager was appointed.
The manager held a great number of internal and external meetings.
And those meetings needed to be coordinated.
So, an administration was formed.
After a great deal of consultation, it was decided to size down the administration.
As a measure of economy, the guards were dismissed.*

(Adapted freely from Fritz Hofmann, Beamten Brevier, Bern, 1972)

Chapter 1 Introduction

In the autumn of 2004, the Dutch Minister of Justice installed the Committee for the Evaluation of the Modernisation of the Judiciary (the 'Deetman Committee') (Annex 1). The Committee was installed to comply with the evaluation provisions of the Dutch Judiciary Organisation and Management Act (*Wet organisatie en bestuur gerechten*) and the Act on the Council for the Judiciary (*Wet Raad voor de rechtspraak*).

Both acts (which entered into effect on 1 January 2002) provide that the Minister of Justice would report on the extent to which the objectives were achieved and the first experiences with the performance of the amended judiciary system five years later. The enactment of the Judiciary Organisation and Management Act and the Act on the Council for the Judiciary were the final piece of the modernisation operation 'Judiciary in the 21st century', which was implemented in the period from 1998 - 2002.

As the Committee explained in a reference model, the central question was whether the stakeholders (parties sentenced under the laws of the justice system, chain partners) and the judiciary itself believe that the organisational changes that are being pursued through the modernisation process have actually enabled the judiciary to respond adequately to societal demands.¹

Can the judiciary deal adequately with the rapidly changing societal demands arising from increasing globalisation, pressure on public services and juridification? Does a party seeking justice get what it expects in terms of processing times of cases, expertise, treatment and comprehensibility of judgments? Have the opportunities been taken to overcome the fragmentation between the dispensation of justice and the management of operations (dual system), to conduct a more rational debate on the division of the necessary resources, the elimination of waiting lists, the collaboration between courts, the increased public responsibility, the coordination with partners in the justice chain and the public? Or has the opposite come true and do integral managers corrupt the independence of courts, or does the framework designed by the Ministry leave the Council for the Judiciary and courts no more room, are courts trapped in their own organisational limits, has quality become secondary to efficiency pressures, and is a more self-centred bureaucratic system actually managing a paper reality? Does the modernised judicial system develop towards a professional organisation, as was argued in the papers of Toekomst ZM? Or has the judiciary developed into a bureaucracy which has grown 'out of control' - as described so vividly as a warning in the 'parable' in the introduction to this chapter- which is the biggest fear of the advocates of modernisation²? In all, given the objectives of the modernisation operation, are we on the right track?

Reactions to the reference model were received from individuals, and from the courts, the Dutch Association for the Judiciary (*Nederlandse Vereniging voor Rechtspraak* ('NVvR'), the Board of

¹ Modernisation of the Judiciary Evaluation Committee; Reference model, The Hague, March 2005.

² R. Lampe, *Rechtspraak toen, nu en straks*, Justitiële Verkenningen, volume 21, no. 2. Theme number *Rechtspleging in beweging*, 1995, p. 109

Representatives (*College van afgevaardigden*), the Working Group for Administrative Incorporation of Subdistrict Courts (*Werkgroep Bestuurlijke Onderbrenging Kantonrechtspraak*) and the Council for the Judiciary (*Raad voor de rechtspraak*). Over the past 18 months, the Committee also paid a large number of working visits to courts, the Council for the Judiciary and societal and judicial partners of the judiciary (Annex 2). Finally, the Committee had a number of surveys conducted, organised three symposiums and received a large number of investigation reports, in particular from the Council for the Judiciary (Annex 3). A draft version of this report was presented to the Minister of Justice and the Council for the Judiciary with a request that they correct any factual inaccuracies.

As was emphasised in the reference model – which the Committee published at the start of the inquiries – the Committee primarily reviewed the actual developments in relation to the modernisation operation, of which the above-mentioned acts are the most weighty elements. The Committee did not focus on the constitutional debate on the position of the judiciary in the *Trias*, the third phase of the Revision of the Judicial Organisation, or the recent debate on whether laymen courts should be introduced. The central questions in this report concern whether the judiciary is on the right track (Chapter 2), the development of quality and productivity of the judiciary (Chapter 3), the performance of the organisation and the boards of courts, including the subdistrict sector (Chapter 4), the performance of duties and the internal organisation of the Council for the Judiciary (Chapter 5) and the operation of the judiciary system (Chapter 6).

Chapter 2 'Is the Judiciary on the right track?'

2.1 Introduction

During the parliamentary debate on the legislative proposals that led to the Organisation and Management of Courts Act (*Wet organisatie en bestuur gerechten*), and the Council for the Judiciary Act (*Wet raad voor de rechtspraak*), it was noted that an evaluation of the acts involves an assessment of whether the objectives of the outline policy document have been actually achieved.³ On that basis, the guiding principles for evaluating the modernisation of the judicial organisation are the objectives formulated in the Outline Policy Document on Modernisation of the Judicial Organisation,⁴ the Council for the Judiciary Act⁵ and the Organisation and Management of Courts Act.⁶ In part, these objectives relate to improving the judicial system internally, for example, by introducing the principle of integral management or by improving operational processes within the judicial organisation. At the same time, the modernisation operation aims to improve the performance of the judiciary in society in terms of speed, unity of justice and accessibility.

The Committee acknowledges that the judiciary has been influenced not only by the Organisation and Management of Courts Act and the Council for the Judiciary Act. Societal developments also permeate organisations such as the judiciary. Society has become more businesslike and fast-paced and the level of transparency has increased strongly throughout society as a whole. Autonomous developments in the field of ICT, the government's budget and the influx of cases also have an effect on the judiciary. Other factors that have an effect on the development of the judiciary are the introduction of new legislation and regulations, such as the revision of civil-procedural law and measures to streamline criminal procedural law. The effects of those factors are difficult to separate from the effects of the modernisation acts.

2.2 The administrative-organisational objectives

A broadly based inquiry was conducted for the Committee to establish the degree to which the objectives of the legislative operation have been achieved.⁷ On the basis of self-assessments by courts and a survey of employees of the judicial organisation, the achievements of recent years were brought into view.⁸ The following table summarises the results of the survey for each judicial objective. The first four objectives relate to the level of courts. The last five objectives involve the entire national judicial organisation, which is the Council for the Judiciary's special responsibility.

Tabel 1: Achievement of the internal, administrative organisational objectives of the modernisation

<i>Administrative organisational objectives</i>	<i>Achievement</i>
1. Accountability and transparency of courts	Strongly improved
2. Administrative capacity of courts	Improved
3. Advantages and working method of subdistrict courts	Remained the same
4. External orientation of courts	Strongly improved
5. Unity of the judicial organisation	Strongly improved
6. Cross-border approach of the judicial organisation	Improved
7. Administrative independence of the judicial organisation	Improved
8. Ministerial responsibility	Remained the same
9. Independence of courts	Remained the same

³ Plenary Session on the Judicial Organisation, EK 4 December 2001

⁴ Lower House of Parliament, meeting year 1998 – 1999, 26 352, nos. 1 and 2

⁵ Bulletin of Acts and Decrees 2001, 583

⁶ Bulletin of Acts and Decrees 2001, 582

⁷ Boone M; Kramer P, Langbroek P., Olthof S, Ravesteyn J. van: *Het functioneren van de rechterlijke organisatie in beeld, Breedtestudie evaluatie Wet organisatie en bestuur gerechten en Wet Raad voor de rechtspraak*; KPMG Business Advisory Services B.V. in collaboration with the faculty of law of Utrecht university by order of the Wetenschappelijk Onderzoek- en Documentatiecentrum, Utrecht/Den Haag/Amstelveen, 2006, 182 pages

⁸ Boon M et al. op. cit. in particular Chapter 6, pp. 155 – 162

The explanation of the investigators shows that much progress has been made in improving the accountability structure and the transparency, in particular by introducing a predictable planning and accountability cycle. The courts' administrative capacity increased as a result of the introduction of integral management, but has not yet been fully developed in all respects, given the big differences between courts and sectors. The advantages and the working methods of the subdistrict courts were preserved after the administrative incorporation into the district courts. In practice, the subdistrict sector is relatively autonomous and efficient. The external orientation of courts has improved greatly, through consultations with regular partners, web sites, customer appreciation surveys and complaints arrangements. The judiciary clearly presents itself more as a unity, and progress has been made notably in the field of operational management, the allocation of cases and national judicial guidelines. Cross-border collaboration has improved, but staffing policies and ICT policies are an area for attention. The Committee established that the administrative independence of the judicial organisation has been achieved, although it should be noted that the Council for the Judiciary and the courts have no independent legal personality and their budgets fall under the Minister of Justice.⁹ Ministerial responsibility has been preserved, given the budgetary responsibility and legislative authorities of the Minister of Justice. The independence of courts has also been preserved. The table above expresses the Committee's opinion that an improvement or strong improvement has occurred with respect to most of the objectives.

It may be concluded from the survey that the judiciary is on the right track. The Committee was impressed by what the judiciary has achieved. Modernising the judiciary has been a smooth operation. Since the introduction of the Organisation and Management of Courts Act and the Council for the Judiciary Act, which are at the basis of the amended system of justice, there have been no insurmountable problems that may prevent the completion of the modernisation operation. Progress was made on all fronts. A complex and major system change was completed without significant hitches in recent years. Given the fierce debate that was conducted when the new system was being prepared, this result was not something that had been taken for granted.

Recommendation

The principal objectives of the administrative and organisational changes have been achieved. There is no reason to change the principal features of the existing system.

2.3 The societal objectives

The outline policy document also formulates a number or more externally oriented, societal objectives, including wider electronic accessibility to the judiciary, improving unity in the dispensation of justice and reducing processing times of cases. As there are no hard and fast standards for those aspects, analysing them was the only way to find out whether they had improved or deteriorated by reference to the proposed target. Societal objectives are affected even more strongly by factors outside the judiciary. Besides, there is, strictly speaking, no hard and fast zero measurement of the past against which to compare the results currently achieved. Material and figures were available from 1998 and 1999, for example data on inflow and outflow, processing times and time series. In addition, qualitative case descriptions are available of the situation before 2002.¹⁰ With the help of that material, a comparison could be made on certain elements. In the following table, the Committee sets forth the findings regarding its societal objectives.

⁹ With respect to the marginal comments regarding the administrative independence of the judiciary by the investigators (Objective 7), the Committee notes that the classic debate on the constitutional positioning of the judiciary is no part of the legislative evaluation. The Committee further believes that imbedding the judiciary's budget in the regular budgeting process is instrumental to an effective use of the resources with respect to other parts of the budget. Because the Minister of Justice must indicate in public whether and, if so, how he will amend the Council's proposed budget, parliamentary review remains possible.

¹⁰ Programme for reinforcement of the judicial organisation: *Oogsten om te zaaien, Eindrapport*, Bureau PVRO, Amersfoort 2002, 201 pages

Tabel 2: Achievement of the external, societal objectives of the modernisation

<i>External, societal objectives</i>	<i>Achievement</i>
1. Electronic accessibility of the judiciary	Remained the same/improved
2. Unity of justice	Improved
3. Processing time of cases	Improved

Increasing (electronic) accessibility

The outline policy document indicates that proper electronic access must be quickly available to citizens and organisations with the help of modern means of communication. More specifically, the exchange of messages between a desk, bailiffs and/or parties subject to judicial sentences on the one hand and the Office of the Clerk of the Court on the other hand must be able to take place electronically.

In the field of ICT, small but irreversible steps have been taken in recent years. The establishment of the Council for the Judiciary played a positive role in the creation of *Rechtspraak.nl*. This website provides public information (press releases, itineraries, household rules and regulations, a register of sidelines, the guardianship register, the central insolvency register, rulings, etc.) Although courts now have email, Internet is not available generally within the judiciary; the primary process systems *REIS* and *GPS* (being developed by order of the Public Prosecution Department) are having a difficult start. As a consequence, the connection to the operational processes of the chain partners, such as the Public Prosecution Department, is insufficient. Similarly, citizens can still not log onto the court to find out when their case will be reviewed.¹¹

The Council for the Judiciary has taken the necessary initiatives towards electronic accessibility, but it appears that progress is not being made to the same degree in all respects. The Committee considers this a risk for the system as a whole in our modern information society. The digital infrastructure has an impact on other forms of accessibility, both financial accessibility (court fees, compulsory representation at hearings) and geographical accessibility (location policy) because the use of ICT facilitates the exchange of information between parties subject to judicial sentences, institutions and courts, regardless of location.¹²

Improving unity of justice

As the review committee notes in Chapter 3 below, unity of justice is a crucial element in the functioning of the judiciary.¹³ Uncertainty about the court's opinion is a barrier to parties making objective choices.

Unity of justice, i.e. legal equality as an element of judicial quality, can improve by increasing the use of information, registration and experts systems (sentencing policies, for example), uniform docket regulations, quality control and electronic access to legal resources. Initiatives towards procedural unity seem to be getting underway more easily. For example, courts now use uniform docket regulations. Initiatives that are more substance-oriented seem more difficult to realise, e.g. the focal points for determining sentences and the database for a consistent fixing of sentences.

The status of the legally complex concept unity of justice can be brought in view by derivation. At the sector level, increases in unity of justice were reported of 46% by judges in the civil courts, 36% in the subdistrict and criminal sectors, and of 24% in the administrative sector. The appeal courts are less positive about this subject than the rest of the courts.¹⁴ A customer appreciation survey shows that professional partners are generally less satisfied about legal unity than the 50% standard.¹⁵ That should make legal unity an area of attention for the judiciary. According to judges, the two modernisation acts have not led to more unity of justice. Although progress has been made, that is mainly the result of activities initiated earlier.

¹¹ Lawyers can consult the commercial docket at www.roljounaal.nl.

¹² For a more elaborate analysis, see paragraph 6.3 of this report

¹³ Court review committee; *Rapport visitatie gerechten 2006*, Council for the Judiciary, The Hague, 2006, p. 30.

¹⁴ Boone M et a.. op cit. p. 148.

¹⁵ Court review committee op cit. p. 30.

Processing times

The objective of reducing processing time is generally considered to be very important because lengthy, protracted proceedings eventually undermine the government's administration of justice. Citizens will be less likely to litigate and legal entities will more often resolve the disputes between them by mutual settlement among themselves.

In light of the improved definition, registration and publication of processing times, the Council for the Judiciary placed the issue of processing times at the centre of attention. It has become an easily measurable indicator, and has played a role in the management of the courts. A normalisation process was put into motion, which has had an effect on the results achieved by the courts. In the administrative and criminal law sectors of courts, processing times were reduced, while they remained the same in the civil-law sector, with the exception of commercial cases eligible for defence, which increased. In the criminal law sector, a reduction of processing times was achieved in police courts and juvenile courts, and with respect to the appeal boards of the administrative sector.¹⁶

The Committee concludes that the processing times of judicial procedures in general has been reduced. The reduction in processing times can be attributed not only to the modernisation acts, but been to improvements in work processes, changes in procedures such as the revision of civil procedural law and increases in the workforce, among other factors.

Recommendation

The judicial organisation should become more accessible electronically, work faster and with more unity of justice than before. This external orientation to societal objectives is essential to keeping the judiciary on the right track.

¹⁶ J. van Erp in collaboration with A. Hendriks (editor) *Kwantitatieve ontwikkelingen rechtspraak 2000-2005. Informatie ten behoeve van de evaluatiecommissie modernisering rechterlijke organisatie*, Wetenschappelijk Onderzoeks- en Documentatiecentrum, The Hague 2006, see in particular paragraphs 2.5, 3.9 and 4.5.

Chapter 3 Quality and productivity of the judiciary

3.1 Introduction

Since the 1990s, the emphasis in funding public institutions has increasingly been on the demand of citizens and the generation of production.¹⁷ This general trend has also had its effects on the judiciary. Since the recommendations by the Meijering committee, a financing model has been developed in which the courts are funded on the basis of performance.¹⁸ The introduction of the financial model was preceded by lengthy discussions on the way quality and quantity of judiciary are related and how they would be affected by the new system. Now, almost 5 years later, it is possible to evaluate the actual performance of the judiciary. This will be done by addressing: the quality of the judiciary (paragraph 2), quality systems and substantive legal quality (paragraph 3), the productivity of the judiciary (paragraph 4) and finally the field of tension between productivity and quality (paragraph 5).

3.2 Quality of the judiciary

Monitoring quality is generally described as 'verifying whether standards are met'. The inevitable next question is what the standards are. The public at large and professional partners such as lawyers and judges all seem to apply different, often implicit, criteria to assess what good justice is. The common factor in the various standards are the minimum quality standards for the dispensation of justice, laid down in Article 6 of the European Convention of Human Rights. This provides that justice must be administered by independent, impartial judges, who are accessible to everyone, will hold fair and public hearings and render judgment within a reasonable term. The quality of the Dutch judiciary is safeguarded on the one hand by the system of appeal and appeal in cassation and enhanced on the other hand by a specific quality system, *RechtspraakQ*, which was developed by the Council for the Judiciary in consultation with courts. *RechtspraakQ* consists of a normative framework (quality charters, a court performance measurement system), measurement instruments (*INK/EFQM*-position finding, customer appreciation surveys, employee satisfaction surveys and peer review committees) and other elements (interviews, handling of complaints).¹⁹ In all, there is a variety of sources offering a diverse view. How has the quality of the judiciary developed over the past years according to society and judiciary?

Quality development according to society

The Dutch scientific research and documentation centre, WODC, investigated the general appreciation of the judiciary in four different trend studies and concluded as follows: 'From those four sources we can conclude that the confidence in the judicial system declined in the nineteen nineties. More recent sources (which measure other aspects of appreciation) offer no indications that appreciation for the judiciary was still in decline in the period between 2000 and 2005. By contrast, the appreciation for the judiciary in the period 2000-2005 was fairly stable and remained around 60%.²⁰

Anyone reading the newspaper headlines of recent years might have a different impression. Notorious murder cases in Putten and Schiedam shocked the confidence in the correctness of judges' opinions. Although every wrongly sentenced person is one too many, wrong sentences are not a problem of noticeable quantity. In the Committee's opinion, it would take matters too far to claim on the basis of a very limited number of regrettable incidents that there is a breach of confidence in the judicial system. The results of the survey of the public have confirmed this.

¹⁷ Andersson Elffers, Felix, *Met recht gefinancierd, Ontwikkelingsgericht onderzoek financiering rechtspraak*, Utrecht, 2003, p.13.

¹⁸ Interdepartementaal beleidsonderzoek naar de bedrijfsvoering rechtspraak, *Recht van spreken*, Den Haag, 1999, 71p.

¹⁹ Zuurmond. A. Castenmiller P. Jörg P; *RechtspraakQ beoordeeld. Over het kwaliteitssysteem van gerechten*: Zenc by order of the Council for the Judiciary, 2006, p. 14.

²⁰ Erp J. van et al; op. cit. p. 70

All courts have conducted customer appreciation surveys in recent years. In those years, the general customer appreciation for the courts increased from 78% to 82%.²¹ General customer satisfaction seems to be primarily determined by the court's specific work. The 2005 annual report by the Council for the Judiciary noted the following:

The results of the past three years (2003-2005) show that appreciation for the courts has increased compared to the period between 2001 and 2004. In a broad sense, the judiciary performs well, scoring relatively high on matters such as the way courts handle matters and treat the public, and somewhat lower on unity of justice and processing times.²²

The appreciation expressed by professionals (including lawyers, municipalities, public prosecutors) in relation to unity of justice increased from 38% to 46%; the appreciation for the processing times of cases increased from 28% to 41%.²³ These increases are considerable, although it should be noted that the levels achieved are very low compared to the other scores.

In early 2006, an independent review committee consisting largely of professionals from outside the judicial organisation reviewed the quality of 26 courts.²⁴ This committee concluded that the courts have a strong integrity awareness. A cautious treatment of integrity issues and privilege of nondisclosure are, as it were, embedded in the employees' genes. Although there is attention to speed, it can still improve. Courts undertake many activities to improve expertise but often fail to develop a sufficiently clear structure. Customer orientation in the form of a correct treatment of parties and their lawyers is given much attention in courts. Improvements still need to be made with regard to feedback and involving employees in quality care. The review committee noticed a certain tension between work pressure and quality. The review committee did not come across any cases in which quality limits were exceeded. Organisationally, quality control has improved in recent years although it should be noted that many courts still need to take this a step further.

Quality development according to the judiciary

Courts have surveyed the appreciation of employees in recent years. Employees believed that courts worked with greater customer orientation between 2003 and 2005. Customer orientation of the organisation increased over the past years from 46% to 63% according to clerks, from 63% to 72% according to judicial administrative assistants and from 58% to 72% according to operational management officers. Asked about the quality of their own work, however, employee appreciation appeared to have dropped between 2003 and 2005 among both judges (from 86% to 84%) and clerks (from 91% to 84%). Divided by sector, the clerks believe that the quality of work increased only in the subdistrict court sector.

The broadly based study offered a mixed view regarding quality of work. Surveys showed that most judges (70%) believed that the quality of the judiciary had remained the same. A smaller portion (15%) reported an improvement or a deterioration since the introduction of the acts. However, in-depth interviews which the investigators had with employees of courts often showed them to be much more critical.²⁵

From the many interviews that the Committee had with the members of the judiciary during work visits, a picture arises that work pressure and the pressure to generate production have increased in recent years and that the quality of the judiciary has come under pressure as a result. This is widely felt, and formulated by the Dutch association for the judiciary, NVvR, in a letter to the Committee as follows:

The message with regard to the evaluation essentially is: push back the bureaucracy that has arisen and the rush effect of the funding system, invest in communication between management and the work floor,

²¹ Prisma: *Iets duidelijker a.u.b. Klantwaarderingsonderzoek onder gerechten in de periode 2003-2005*. Amersfoort, 2006, p.8

²² Council for the Judiciary; annual report 2005, the Hague, 2006, p. 40

²³ Counsel for the Judiciary, annual Report 2005, the Hague 2006, p. 41

²⁴ Court review committee, op. cit.

²⁵ Boone M. et al. op. cit. p. 122 et seq.

monitor professional decision-making discretion and return the initiative to the courts. Most of all, find the correct balance between quantity and quality.²⁶

In talks with the Committee, the Dutch Supreme Court also reported flaws in the quality of the dispensation of justice by judges. An opinion by Advocate General Jörg in 2004 contained a list of cases in which to Supreme Court had to repair and correct flaws and mistakes by lower courts in criminal cases in recent years.²⁷ This conclusion led to a broad debate within and outside the judiciary about the quality of work (in substantive legal terms) of judges in courts of appeal and district courts.²⁸ This problem is not limited to the criminal law sector.

The differences reviewed more closely

According to the available sources, society believes that the quality of the judiciary has remained at least the same in the period under review (the general public opinion) or has increased (customers, review committee). The committee is satisfied with that. The judiciary itself though is much less positive. According to the available sources, employees were of the opinion that the quality of the judiciary had declined (employees survey, the Dutch Supreme Court, NVvR). How can this difference in appreciation between parties seeking justice and employees of the judiciary be explained?

Although 'customer' appreciation increased, processing times, unity of justice and substantiation of judgments scored relatively low. Those are precisely the standards that appeal strongly to the legal professionals of the judiciary. The Committee also noted that there is no clarity and agreement about the specific standards that can and may be expected for that purpose. Moreover, differences between the sectors are considerable. In criminal cases, professionals appeared to be relatively dissatisfied with impartiality and handling time. The family sector scored relatively low on aspects of visits to court. The commercial sector lagged behind in almost all aspects of the judges' performance.²⁹

It seems to the Committee that the relatively high appreciation of customers arises from the strong emphasis on improving work processes in recent years. As a result of the court programs in particular, procedures were streamlined and logistical processes improved. This is generally expressed in rising customer satisfaction, albeit that the differences between the sectors are considerable. For a better understanding of this problem, more courts could organise annual meetings with customer panels. Such sessions can be held at higher frequencies with less effort than a major customer appreciation surveys to address the backgrounds of the differences observed in more detail.

Attention for the judges and their supporting legal staff did not remain in step with the relatively large amount of attention that was given to aspects such as financial management, production and streamlining work processes in recent years. Against that background, it is not surprising that the staff's appreciation (which was very high) for the quality of work seemed to be on the decline. In this respect, there were also differences between the sectors. Staff of subdistrict and criminal law sectors are increasingly dissatisfied with the large volumes of work, the high pace of work and the reduction in the quality of work.³⁰ In the long term, such development poses a great risk to the judiciary. To reduce the discrepancies reported, the staff within the organisation should be given more attention in the coming years, whereby leadership styles and development opportunities of the law clerks should be areas of attention.³¹ In particular, the management development policies and collaboration in teams could be strengthened.³²

²⁶ NVvR. Letter to the evaluation committee on consulting members about the modernisation; RO of 31 May 2006, p.1

²⁷ Opinion for HR 25 January 2005, no. 01698/04, NJ 2006, 411. The ruling and the opinion were published on www.rechtspraak.nl and Porta Juris (LJN AR7190).

²⁸ See H.L.C. Hermans and P.A.M. Mevis *Over de kwaliteit van rechtspraak en het bewaken daarvan*, Trema, February 2005, no. 2 pp. 45-47.

²⁹ Prisma, *De zaken meer op orde*, Amersfoort 2006, pgs 20-21.

³⁰ Prisma, *Stemmingswisselingen*, Medewerkerswaarderingsonderzoeken van de gerechten in de jaren 2003-2005.

³¹ Prisma, *Stemmingswisselingen*, Medewerkerswaarderingsonderzoeken van de gerechten in de jaren 2003-2005, Amersfoort 2006, p.5

³² See paragraph 4.2 of this report.

Recommendation

The development of quality within the judiciary and the motivation of the employees working in the judiciary need to be strengthened by dedicating more attention to staff and leadership development in employee policies and by increasing external orientation (for example customer panels).

3.3 Quality systems and substantive legal quality

An essential element for society's acceptance of court decisions and for their constitutional effectiveness is that individual judges are independent in forming their opinions on the cases brought before them. In practice, exercising this central judicial function is closely related to the way in which the court works and is also affected by how well it is equipped. A difficult issue in the debate on modernisation was whether - and, if so, how - integral management would be able to handle this area of tension. There was much fear that the integral management, through its link with the management of the operations, would compromise the independence of judicial decisions.

The modernisation has, however, not had any negative consequences for the independence of individual judges; almost three-quarters of judges at district courts and courts of appeal feel that they are free to deviate from agreements on the substance of decisions.³³

The general conclusion of the investigators was as follows: 'During the self-assessments and interviews, almost no complaints were put forward about professional autonomy being compromised. There is therefore no question of the independence of judges being compromised (in terms of third parties interfering with the handling of cases or the substance of judges' opinions). One explanation of this perception by judges is that they are rarely held to account directly for the substance of their decisions. Managing unity of justice is difficult because chairpersons of sectors and of divisions generally do not wish to coerce their fellow judges in a certain direction on matters of substance. As board members, they are also forbidden to do so in concrete cases. (See Article 23(3) of the Judiciary Organisation Act).³⁴

In the present context, the respect for judges' independence means that the governing board will not do anything in the way of reviewing the substance of the work done by judges. The board principally focuses on managing the operations and the production. If the boards addresses the quality of the administration of justice, it does so in accordance with the *RechtspraakQ* quality system. This management system is primarily known to the governors and is hardly seen as a current issue in the minds of those on the work floor. As the review committee put it: 'In practice, quality and the measurement of it are often seen as a toy of the board that seems to be remote from the primary process, while maintaining or introducing quality and professionalism should be inextricably linked to the primary process.'³⁵

In that conclusion, the Committee questioned the development of the quality management. Because the substantive legal quality of judges is not taken into consideration, there is the risk of a bureaucratic system developing at the level of the organisation as the whole that is unrelated to the work of individual judges in their everyday practice, which involves the risk that a strong intrinsic motivation of professionals for internal improvement of their profession is discouraged.³⁶

On penalty of developing a stifling bureaucratic system, it is, therefore, necessary to move substantive legal quality more to the centre in the internal management of quality. This, according to Loth, involves the following issues: 'In addition to obvious expertise such as knowledge of the law and skills in drafting judgments, there is a less tangible kind of knowledge, which Aristotle called *phronèsis* (practical wisdom), with which he referred to the eye of the workman (in this case the judge) to understand what the circumstances require and to act accordingly. In the General Section of the Asser series,³⁷ Scholten referred to the judge's practical wisdom: "The judge who 'sees' what the decision will be, immediately after the case

³³ Boone M. et al. op. cit. p. 141.

³⁴ Boone M. et al. op. cit. p. 153.

³⁵ Court review committee, op.cit. p. 43.

³⁶ F. van Dijk and F. Lauwaars. *De zittende magistratuur in verandering. Is moderniseren ook verbeteren, in: Justice explorations*, from a theme edition on judicial explorations, judge and society, 2003, no. 1 p. 131.

³⁷ Asser Serie 3th dr. 1974

is submitted to him, even if he does not know precisely how he will substantiate it, intuitively also uses his legal knowledge, his whole experience in that intuitive view." Practice makes perfect, with experience comes practical wisdom. It is a form of knowledge that is not simply transferable, but can be acquired only through learning by doing and that needs to be maintained. This element merits a central role in forming ideas for the education of judges.³⁸

A judge acquires most of this practical wisdom by training on the job. In that context, the judiciary's long-established quality instruments play a crucial part. They include the special educational track for junior judges within courts, the debate as part of case-law consultations, the rotation policy across sectors, the deliberation in the three judge panels, the public nature of hearings and the system of appeal and cassation appeal. The existing quality instruments have proven their value in the past and should be retained and reinforced in the future.

In addition there are useful and innovative initiatives. The Council for the Judiciary developed proposals for permanent education and argued in favour of strengthening the intervision system within courts.³⁹ At present, a judge spends an average of four to five days a year on education, which the Committee believes to be very little for a knowledge-intensive organisation such as the judiciary.⁴⁰ Moreover, consultations were initiated in the resorts between courts of appeal and district courts. Arguments were put forward in favour of self-reflection in cases in which the judgments on appeal or cassation appeal are very different from the judgment in first instance.⁴¹ Other countries can also be a source of inspiration for improving judicial quality. The Council of Europe recently awarded Finland a prize for a quality system of appeal courts in which the opinions of judges are requested and taken into consideration.⁴² In Canada, a pilot was conducted in which judges were given individual feedback on their performance on the basis of inquiries among professionals supervised by a mentor whom they themselves chose.⁴³

The Committee would recommend exploring such innovations and implementing them selectively. The Committee would especially draw the attention to a quality policy differentiated according to types of cases. 71% of judges believe they have enough time for standard cases; for special cases, only 43% have enough time.⁴⁴ As the subdistrict court judges in particular have shown, it is well possible to handle standard cases quickly and properly by a combination of formalising decision-making rules, by delegation to support staff and by applying ICT.⁴⁵ For more complex cases, more professional space and attention are necessary and possible. In a general sense, a more systematic distinction could be envisaged between a workflow oriented towards speed and unity, a workflow oriented towards soundness and expertise and a workflow oriented towards experience and session skills.⁴⁶ An example of this is England where a gatekeeper judge will hold a cause-list session to refer cases to a small track, a fast track or a multi-track. This approach improves the efficiency and quality of justice. Various courts are exploring the possibilities to do so.⁴⁷

Recommendation

The existing instruments to improve judicial quality (including education, case law meetings, and multiple-judge divisions, rotation policies) should be retained and intensified. In addition, the application of instruments should be explored or intensified (including intervision, consultations between courts of appeal and district courts, self-assessment procedures, case differentiation, customer appreciation in combination with a mentoring system). The Committee would ask special attention for a quality policy differentiated

³⁸ Loth, M.A. *Rechtspraak in verandering. Over de contourennota en de cultuur van rechtspraak*, from Trema, 1999, no. 7. p. 246.

³⁹ Project safeguarding permanent education. Advice, Council for the Judiciary, The Hague, 2006, p. 39.

⁴⁰ Boone M. et al. op. cit. p. 129.

⁴¹ A.H. van Delden, *De reflecterende rechter*; in NJB, no. 26, 2006, pp. 1413-1417.

⁴² Quality project in the courts in the jurisdiction of the court of appeal of Rovaniemi, Finland, *the evaluation of the quality of adjudication in the courts of law*, Principles and proposed quality Benchmarks, Oulo, 2006, p. 51

⁴³ Dale H. Poel: *Measuring Judicial Performance; lessons from the Nova Scotia (Canada) judicial development project*, from Trema 2001, no. 4a, 29-34.

⁴⁴ Boone M. et al. op. cit. p. 121.

⁴⁵ See for example: Werkgroep voor administratieve onderbrenging kantongerechten: *Kantonrechtspraak in de 21ste eeuw. Naar afdoening op maat*. Z.P. March 2006.

⁴⁶ The agenda of the judiciary 2005- 2008 includes a differentiation of workflows as an objective.

⁴⁷ Council for the judiciary, letter concerning administrative positioning of subdistricts, 24 October 2006, p.2.

according to types of cases, for example a systematic distinction of a workflow oriented towards speed and unity, a workflow oriented towards soundness and expertise and a workflow oriented towards experience and session skills.

The role of the Supreme Court

Pursuant to Article 94 of the Judicial Organisation Act, it is the Council for the Judiciary's duty to support activities of courts that are aimed at a uniform application of the law. The activities among the courts envisaged in that article are not to be used to make agreements on the interpretation of statutory provisions or to answer other questions of law. Such questions should be submitted by means of appeal or appeal in cassation to the Supreme Court or to the highest administrative courts (the administrative law division of the Council of State, the Central Board of Appeal and the Board of Appeal for the Business Community). Such appeal has to be initiated by one of the parties to the dispute.

Moreover, the Procurator General may submit a ruling by a lower court to the Supreme Court, if he believes that the Supreme Court's decision is needed to decide a certain issue of law in the general interest and the parties have not taken the opportunity to lodge an appeal (cassation appeal in the interest of the law, Article 78 of the Judiciary Organisation Act). Article 94 of the Judicial Organisation Act does not – according to the parliamentary history – govern the formation of the law, but the uniform application of the law by the various courts in specific situations. Nonetheless, useful agreements can be reached with a view to achieving a uniform application of the law. While such agreements by their nature are not binding on a judge in appraising an individual case (the judge may deviate), citizens should not have the impression that, due to such agreements, the outcome of their case is determined in advance. Moreover, it is desirable that the Council for the Judiciary consults with the Supreme Court and/or the aforementioned administrative courts on the nature and substance of such agreements in the interest of unity of justice. For example, in response to the agreements on the handling of what are known as the Dexia cases, it was further agreed that agreements on the treatment of such cases would be about the manner of proceeding and the mutual provision of information between the courts. Of course such agreements should be published so that citizens can consult them if necessary.

Monitoring the quality of adjudication is another duty of the Supreme Court. The Supreme Court can correct any incorrect interpretation of a statutory provision by a lower court if a complaint is submitted to it. In response to complaints submitted, the Supreme Court also checks the substantiation of judicial decisions and the compliance with formal requirements. It can quash a court of appeal ruling for such breach of formal requirements. It did so, for example in the Supreme Court Ruling of 24 May 2005, no. 00456/04, NJ 2006, 433 after an opinion of deputy Advocate General Fokkens with annotations by P.A.M. Mevis, in which the Leeuwarden court of appeal had sentenced a suspect to a prison sentence of 24 months, of which 149 days unsuspended, in a judgment without any substantiation (a so-called head-tail judgment). If mistakes or undesirable practices appear to occur more often, the Advocate General can draw attention to them. One example is the opinion of Advocate General Jörg in the criminal case cited in this report earlier, HR 25 January 2005, no. 01698/04 NJ 2006, 411. Such incorrect, frequent errors or practices should also be reported in the (bi-annual) report of the Supreme Court.

Recommendation

The Council for the Judiciary needs to consult with the Supreme Court and/or the relevant highest administrative judges about the nature and substance of judicial agreements with a view to unity of justice. Frequently occurring mistakes or undesirable practices of the judiciary should be reported in annual reports to improve quality control of the judiciary by the Supreme Court and the highest administrative courts.

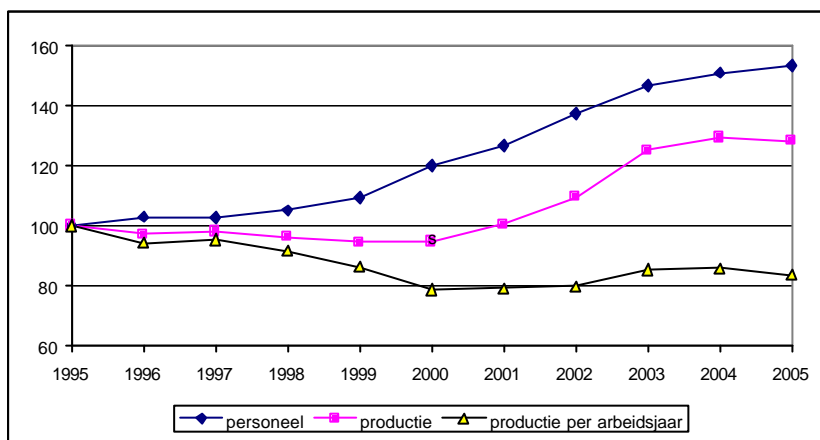
3.4 Productivity of the judiciary

How has productivity developed over the past years? What factors played a role in that respect? Has the introduction of the two acts led to a larger productivity and efficiency of the judiciary?

The development of productivity from 1995 to 2005

The diagram below gives an impression of the development of production per year of work in the whole of the judiciary since 1995. This is shown in the form of an index, the year 1995 being 100. What do we consider to be production? Production is the benchmark for the total number of cases handled, taking into account the average weight per type of case and sector. For example, a criminal act has a greater weight than an offence.

Figure 1: Production per year of work of the judiciary, 1995-2005 (indices 1995 = 100)



Source: Council for the Judiciary

Explanation of legend:

personeel = staff

productie = production

productie per arbeidsjaar = production a year of work

The diagram shows that the production per year of work between 1995 and 1999 dropped by approximately 20%, remained stagnant between 2000 and 2002 and then increased again in 2002.⁴⁸ Since 2005, the productivity has dropped slightly.

Period from 1995 to 2002

Research by the Dutch Social and Cultural Planning Agency, SCP, points to a declining trend in productivity in many sectors of public services.⁴⁹ In the judiciary, this was an average of 7% in the mid-1990s, which saw a strong decline especially in the second half of the 1990s. Clear explanations for this trend are not available. SCP states that the decline may be attributable to the tougher nature of the problems, such as organised crime, increased professionalism of the legal profession and an increase in the number of appeal proceedings. The Council itself suggested that lighter cases should be brought before the court less often due to increased transaction possibilities at the police and the Public Prosecution Department and stricter quality requirements (calling witnesses). Around 2000, much was invested in expanding and improving the quality and organisation of the judiciary, which led to temporary modification costs. There has been a clear growth in efforts aimed at matters such as improving the judicial organisation, ICT and

⁴⁸ Source: Rechtspraak.nl, facts and figures, 19-10-2005

⁴⁹ B. Kuhry and A. van der Torre. *De vierde sector; achtergrondstudie kwartiere sector*, The Hague, Sociaal en Cultureel Planbureau 2002.

training. This involves costs that do not yield benefits until later. This could be a significant background factor in the explanation of the initial reduction and later increase in the number of cases per year of work.

Period 2002-2004

Against the background of declining productivity in many parts of the Dutch public sector (e.g. health, education, police) the stabilisation of productivity in the judiciary since 2000 and the subsequent increase since 2002 – the year in which the modernisation acts entered into force – were a remarkable trend break. The 2004 annual plan of the Council for the Judiciary gave the following explanation:

'In 2002-2004, the judiciary increased its staff capacity more than its budget allowed. Partly for that reason, the judiciary had to economise in 2003. It did not economise on staff but on materials expenditure. To prevent the dismantlement of all investments, clearly this could be done only once.⁵⁰

Besides, the influx in those years appears to have grown stronger than expected. According to an econometric survey, the amount of the influx led to a strong increase in the judiciary's productivity.⁵¹ That factor also played a role.

The year 2005

In 2005, a new performance-oriented funding system was introduced. In that year the rising line in productivity took a dip again. In its explanatory notes to the annual accounts 2005, the Council noted that the staff count and materials expenditure had normalised again. The Council further noted that, as a result, the quality had come under pressure. The Minister of Justice made a number of marginal notes to the actual figures in his recommendation letter to the 2005 annual report to the lower house of Parliament. Eighteen of the twenty-six courts achieved positive financial results. In 2005, the first year of the new funding system, the courts remained well within the adopted prices on average. The financial reserve of the courts increased to EUR 37.6 million as a result. The Minister concluded that there was room to invest in quality and efficiency improvement under the new finance system. Many courts decided to save rather than improve productivity and quality. In its explanatory notes, the Council for Judiciary indicated that it suspected that courts had not yet made optimal use of those possibilities in 2005 due to a lack of familiarity with the new funding system and the uncertain multi-annual perspective.

3.5 The tension between quality and productivity

The judiciary has managed to bring decades of declining productivity to a halt and, in the period from 2002 to 2005, turn it around to an increase. A first major factor was the tight and transparent financial management by the Council for the Judiciary. This development is also perceived in this way by judges. 80% of judges believed that the attention for efficiency had increased since the introduction of the acts.⁵² In the interviews held by the investigators, it was frequently noted that judges find it difficult to resist the productivity pressure and maintain their own professional quality standards in the current situation. It is, however, more a pressure felt by judges than a tight control exercised by court presidents and chairpersons of sectors. The investigators concluded that judges appeared to be more sensitive to the general efficiency idea than was expected before the modernisation operation.⁵³

In addition, there is another important societal factor that plays a role in this process. According to a comparison of courts in the period 2002-2005, the size of the stock appears to have an influence on productivity.⁵⁴ This objective information is in line with the subjective perception of the employees of the judicial organisation. For them, it is of great importance that the backlog of cases is not allowed to increase further in a certain year. Steadily increasing case backlogs remain a burden on a court for years, and are on the whole comprised of cases that tend to be more laborious. And that results in less satisfaction among the

⁵⁰ Council for the Judiciary, Annual Plan 2004, the Hague, 2003, p.7.

⁵¹ Sociaal en Cultureel Planbureau/Raad voor de Rechtspraak. *Rechtspraak; productiviteit in perspectief*, The Hague, draft report dated 29 September 2006, p. 45. The final report will be published at the end of 2006.

⁵² Boone M et al. op. cit. pp. 117

⁵³ Boone M. et al. op. cit. pp. 117-118; pp. 152-153

⁵⁴ Sociaal en Cultureel Planbureau/Raad voor de rechtspraak op. cit. p. 47

parties seeking justice. In the years since 2002, the influx of new cases increased between 10 and 15% due to an economic recession (increase in the number of dismissal cases, bankruptcies) and the security program (more criminal cases before the subdistrict and police courts).⁵⁵ There was not enough timely recruitment of new staff to keep pace with the growing number of new cases. Under the pressure of the steadily mounting backlogs, the courts subsequently tackled their work with renewed determination. Most sectors boasted a much higher annual production than they had agreed to in the management contracts with the Council for the Judiciary.⁵⁶ Since 2005, the increase in the influx has dropped to 2% and the weighted productivity is also slightly lower.

The perception of judges is dominated by the idea that the performance-oriented funding system introduced in 2005 is the cause of a decrease in quality, and an increase in production pressure.⁵⁷ The survey material above shows that the facts are more differentiated. First, the development of quality within the judiciary is not as one-dimensional as is claimed, given the differences in the appreciation of quality by society and by the judiciary. Secondly, the increased production pressure is not only due to the policies introduced by the Council for the Judiciary but is clearly also caused by the strong increase in the influx of cases since 2002. Thirdly, there has been an actual decline in productivity with regard to the previous year since the introduction of the new finance system in 2005.

This does not alter the fact that quality is under great pressure and does not appear to be sufficiently safeguarded at present. As the court review committee noted, the courts are at an early stage with regard to implementation of their quality system. International experience has learned that developing quality systems and the related control of quality can easily take between five and 10 years.⁵⁸ The *RechtspraakQ* system in itself is an innovative form between a conventional production-related benchmark and a measurement of actual quality. *RechtspraakQ* measures the prerequisites for quality of the judiciary without bringing the quality itself in view.

In continuing the development, care should be taken to preserve the link with the primary process and to avoid generating too much of a bureaucratic burden. Not all operations need to be recorded and accounted for in detail in the charters or protocols of the various sectors. As the review committee stated: 'A little bit of paper goes a long way, it is more a way of looking at the work, both the primary work process and the quality-enhancing processes, such as the effectiveness of the professional consultations or the performance of the internal database. The focus should always be on improvement.'⁵⁹

In the medium-long term, a limited set of reliable basic data can be compiled as part of the process to account externally for improvements in the field of quality. The availability of such information can also redress the dominant debate on productivity. The limited set of key figures which the Council for the Judiciary has developed to enable courts to account externally for their quality management activities without an undue burden on their activities is a step in the right direction.⁶⁰

Recommendation

*In the coming years the courts should also improve their accountability with respect to quality. By applying it in day-to-day practice, the current quality system should be improved over time. In the medium-long term, a limited set of indicators should be developed that is suitable for an improved system of external accountability with respect to quality.*⁶¹

⁵⁵ Erp J. van et al., op. cit. see p 13 (civil cases) and p. 38 et seq. (criminal cases)

⁵⁶ Erp J. van E. et al. p.57.

⁵⁷ Boone M. et al. op. cit. e.g. p. 125.

⁵⁸ E.C. Lauwaars, E.C.J. van der Doelen and A. Weimar, *Professional quality; the balance between judicial independence and social effectiveness*. from a Trema special *Quality of Justice in an International Perspective*, April 2001, no. 4a pp. 43-48

⁵⁹ Court Review Committee: op. cit. p. 42

⁶⁰ Project Kengetallen, *Projectoplevering (projecteindrapport)*, Council for the Judiciary, July 2006, 11 pages

⁶¹ Further details can be found in paragraph 6.4 of this report, on the way quality should be embedded in the costing system.

Chapter 4 Organisation and management of courts

4.1 Introduction

The Judiciary Organisation and Management Act has confronted the courts (with the exception of the Supreme Court of the Netherlands and the Administrative Law Division of the Council of State) with a profound organisational change. A new governance model was introduced within the courts, consisting of a president, sectorheads and an operational director. The board is integrally responsible for all affairs of the court. A second important change was the incorporation, in terms of governance, of the subdistrict courts into the district courts.

4.2 The governance model

Sectors

Since the modernisation, all district courts and courts of appeal work according to the sector model. The sectorheads are members of the board of the district court or of the court of appeal. They share that role with the president of the district court and with the operational director. The board as a whole is integrally responsible for the affairs within the court. The board has been entrusted with the court's general management pursuant to Article 23 of the Judiciary Organisation Act. In particular, the board is responsible for ICT, management information, the preparation, the adoption and the implementation of the budget, the accommodation and security, the quality of the court's working methods in terms of governance and with the organisation, the staff affairs and other physical provisions. To carry out these duties, the board may give general or special instructions to all officials working in the court.⁶² Those instructions may never relate to the procedural handling, substantive appraisal or the decision of a specific case or category of cases. The president represents the court externally.⁶³

The surveys and working visits have left the Committee with a positive impression of the course of affairs with respect to the sector model. It was clear that for some of the courts, it had taken some time to get used to the model.⁶⁴ The integral responsibility and the responsibility for the court's finances has led to a greater involvement of the members of the board with their own courts. By exercising that governance they are better able than before to provide direct guidance for certain developments, and can experience the consequences of such guidance in a more direct manner. Addressing one another on performance per sector as members of the board requires a change in attitude. All indications are that this change of attitude is underway.⁶⁵ The Committee has noticed during its visits that it is difficult to find staff to fill the position of sectorheads. This is a matter of concern to the Committee. The Committee recommends as matter of priority that measures be identified to make the position of sectorheads more appealing, for example by offering higher pay or career perspectives.

The Committee has taken note of the ideas for adjusting the governance model. A case was made for a board consisting of a president, an operational director and a quality director. The Committee sees no reason to issue a recommendation to introduce that model. The current model has the advantage of all district court sectors being present at the board table. That way, the voice of every sector can be heard. However, the Committee believes that the president and the operational director could act as a day-to-day management board.⁶⁶ They will as such be the first contact for external parties. Within the sectors, the first contact will be the sectorhead.. The day-to-day management could also prepare the agenda of board meetings. The Committee sees no need to lay down this form by law, as it is an internal organisational arrangement. Decisions concerning the entire district court should, in the Committee's opinion, be adopted at the board meeting. The day-to-day management board is, by its nature, not suitable for that purpose.

⁶² Article 24 of the Judicial Organisation Act

⁶³ Article 27 of the Judicial Organisation Act

⁶⁴ Boone M. et al. op. cit. pp. 156-157

⁶⁵ Franssen J. Mein A; Verberk S; *Gerechtsbesturen, Integraal Management en MD-beleid, Eindrapport; Beleidsonderzoek & Advies b.v (B&A Groep)*, The Hague, 2006, p. 26.

⁶⁶ Also see Franssen J. et al. op. cit. pp. 26 and 34.

When the activities of the boards of courts are examined more closely, it appears that these activities involve 'management' rather than 'governing'. This in itself can be explained by the emphasis - since the introduction of the governance model - on the need to be 'self-supporting'. Thus far, too little attention has been given to the activities of the board in relation to its environment. The board members have thus far done little to translate the developments of their environment into their own organisation. Larger courts are more advanced than smaller courts in this respect. Within the courts, the criminal-law sectors have the most attention for external developments, which is not surprising because they have already emphatically incorporated the chain philosophy into their activities. The survey indicates that the boards of court will need to develop from 'bookkeepers' to governors in the coming years. Thus the governance capacity will also develop further.⁶⁷

Recommendation

The sector-based governance model of district courts and courts of appeals works well in practice. The Committee recommends leaving this model intact. Reducing the perceived burden involved in governance is possible by improving the delegation of duties to the sector chairpersons.

National assembly of sectorheads

The sectorheads take part in national sector consultations. These sector consultations play a useful role in the transfer of knowledge, the improvement of unity of justice and the responsibility for the primary process and the supporting systems. The national consultations are currently given their own staff bureaus, with which they threaten to assume a policy-making role.⁶⁸ This development is unsuitable in the Committee's view. Policies should be developed within the courts themselves, not in sector or national consultations. The role of national sector consultations should not become diffuse, undermining the sector model and requiring the sectorheads to spend too much time on those consultations.⁶⁹

Recommendation

National sector consultations play a useful role in the transfer of knowledge, the legal unity, the primary process and the supporting systems. The Committee does not recommend a further expansion of that role. In this way the sector model will be prevented from being undermined and the sectorheads can avoid having to spend too much time on those consultations.

Quality improvement

The Committee has learned from surveys and working visits, for example to bailiffs and lawyers, that the quality of justice is good. During the visits, the Committee noticed that judges regularly remarked that the boards primarily focused on operational management issues. They were under the impression that attention for substantive quality has become secondary. The Committee believes it to be of great importance that the boards of courts emphatically include this item on their agendas. Like other professional groups, courts should invest in training courses and permanent education. Surveys have shown that courts lag behind other professional groups in this area. Judges who wish to assume duties that require management skills should be able to attend training courses to develop their skills. The Council for the Judiciary and the boards of courts should address this issue of training.⁷⁰

In recent years, the presidents and sector chairpersons have increasingly developed into managers. As a consequence, those governors were less able to fulfil their judicial duties than they consider desirable.⁷¹ Given the entirely new set of duties since 2002, it is understandable, in the Committee's view, that much energy was spent on improving the managerial skills of presidents and sector chairpersons, because there was a backlog that had to be cleared up. For the future, the Committee recommends pursuing an appointment policy in which sector chairpersons and presidents have management experience, while they keep a solid position as judges within courts.

⁶⁷ Franssen J. et al. op. cit. p. 37.

⁶⁸ Also see Franssen J. et al. op. cit. p.28 and p.36.

⁶⁹ Boone M. et al. op. cit. p. 79 and Franssen J. et al. op. cit. p. 28 and p. 36.

⁷⁰ Boone M. et al. op. cit. pp. 56-62

⁷¹ Franssen J. et al. op. cit. p. 29.

Given the very nature of the judicial organisation, the Committee's opinion is that the board of a court should have authority among the judges.⁷² The professionalism of the judiciary is promoted just as much by a sector chairperson who acts as a role model in the dispensation of justice as by a sector chairperson who sets up a quality system, including standards and figures, for the organisation as a whole and communicates that externally. If the board members are involved not only in managing the operations but also have attention for the quality of the judicial work, the bureaucratic effects of a quality system can remain limited.

It is important to use existing instruments and to address one another on quality improvement. Courts can improve their culture on this count: 'Giving feedback is not something that comes naturally in courts. This holds true for judicial officials in their relation to judges as well as for judges, who can be reluctant to hold one another accountable.'⁷³ A board of substantive authority can improve such culture. Against this background, it is remarkable, in the Committee's view, that no publicity is given in the Netherlands to poor performance of judges. In other European countries (such as Norway, Austria and Germany) this issue seems to be approached with much more frankness. Research has shown that disciplinary measures in these countries occur dozens of times a year.⁷⁴ In the Netherlands, disciplinary measures against judges are rare, as far as is known. The need for greater frankness, mutual accountability and collaboration is apparent on the work floor. For example, judges stated that they do not regard substantive and procedural arrangements to improve the unity of justice as restrictive. Generally, substantive consultations with colleagues, whether or not structured, are much appreciated.⁷⁵ The Committee also believes that by focusing more on the substance of the work, the increasing distance between employees and executives, or members of the board, can be reduced again.⁷⁶

Recommendation

The boards of courts have brought order to the courts' financial accountability. This has led to the risk that less attention might be paid to the quality of justice. The Committee recommends that boards place quality high on their agendas and invest in education. Keeping the substantive development of judges and support staff at a high level is in the interest of society as a whole.

Staffing policy

It is important that the Council for the Judiciary and courts invest in the training of future presidents and sectorheads and offer a career perspective to all employees of courts. The Committee believes that the Council should pursue an active policy for the succession of the current presidents and sectorheads. The Council currently exercises restraint in this area.⁷⁷ The Committee has had an extensive survey carried out into the management development policy of the Council and the boards of courts. Measures were taken in the field of management development policies. The Committee nonetheless believes that this policy can be pursued much more vigorously.⁷⁸ The management development, staff training courses and development, and strategic staffing policies are on the boards' agendas, but they are not pursued in a structured and systematic fashion.⁷⁹ The Committee believes this to be very important with a view to the future development of the judiciary's performance. It is the Committee's view that the Council for the Judiciary has not been effective enough in this area thus far.

It is important that potential management staff are monitored and given the opportunity to follow training to prepare for managerial functions. The Committee also believes it desirable for the Council and the courts to put into effect a career policy. That way, people can be prepared step-by-step for a certain managerial position. A good sectorhead is not by definition a good president. Through a career policy, judges can develop themselves by fulfilling certain positions and acquiring the necessary skills.

⁷² Franssen J. et al. op. cit. p. 29.

⁷³ Court Review Committee, op. cit. p. 28.

⁷⁴ European Commission for the Efficiency of Justice – CEPEJ, *European judicial systems 2006 (2004 data)*, Council of Europe 2006, pp. 123-124.

⁷⁵ Boone M. et al. op. cit. pp. 140-141.

⁷⁶ Prisma, *Stemmingswisselingen*, op. cit. p. 5

⁷⁷ Franssen J. et al. op. cit. pp. 31-32.

⁷⁸ Boone M. et al. op. cit. pp. 56 and p. 62 and Franssen J. et al. op. cit. pp. 31-32

⁷⁹ Franssen J. et al. op. cit. p. 32.

The Council's career policy is aimed in particular at (potential) members of the board and management staff.⁸⁰ In surveys, court management have indicated that they are better equipped thanks to this development policy. It is advisable to develop such policy also for the middle management level in the courts. The Committee sees an important role for the Council in this respect and, as stated, is of the opinion that the Council has not been effective enough in this area thus far, in particular, because smaller courts have indicated that they find it difficult to develop such policies in practice. Larger courts are better equipped in this respect.⁸¹

Recommendation

Boards of courts should hold judges and legal staff, as professionals, to account on both quality and efficiency. In future selections, appointments and career development, managerial quality should be given much more attention. In the short term, a consistently developed and applied management development programme is needed to develop the necessary management potential within the judiciary.

The Committee is of the opinion that, in the context of the management development policy, extra attention should be placed on the position of chairperson of the criminal-law sector. The chairperson of the criminal law sector plays a special role in the relation with the Public Prosecution Department. The chairperson of the criminal law sector consults with the Public Prosecution Department on the supply and planning of cases.

Following that line, the Committee found that there is often a difference between the number of cases to be supplied and the number that is handled by the criminal-law sector. This leads to tensions within the sector. A complicating factor is that the Public Prosecution Department and the courts do not always know who is responsible for the arrangements on the cases to be supplied and tried. The Committee is of the opinion that the Council for the Judiciary and the Board of Procurators General, together with the Chief Public Prosecutors and the boards of courts should improve the synchronisation of those matters.

Recommendation

The Committee noticed that there is a friction between the supply of cases by the Public Prosecution Department and the handling of them by the courts. The Committee believes that measures should be taken to improve the performance of the criminal-law justice chain.

The relationship between adjudicators and other staff

Part of the modernisation operation has been to reduce the distance between adjudicators and other staff. The Committee noticed that the degree to which that distance was reduced varies from court to court. In particular, the courts where judges and judicial officers work together in teams came out favourably. Interviews with representatives of non-adjudicators made it clear that the availability of possibilities for moving up within the courts was highly valued.. The Committee believes that the close cooperation of adjudicating and non-adjudicating staff in teams and a well-considered mutual division of duties is a sound development.

Recommendation

The Committee would ask all courts to review the current experience of one of the courts where judges and support staff work together in teams, and to consider adopting this working method. Working in such teams can lead to benefits for the quality and efficiency of justice and the motivation of staff.

4.3 Subdistrict court justice

The subdistrict court is for cases such as disputes on rent, purchases, employment relationships, land lease and other lease matters. Cases regarding authority, protective guardianship and traffic offences are also tried by subdistrict courts. The contact that many parties seeking justice have with the judiciary is generally limited to those cases. This makes the subdistrict court a visible link between the judiciary and society. In

⁸⁰ Franssen J. et al. op. cit. p. 32

⁸¹ Franssen J. et al. op. cit. p. 32

terms of contact with parties seeking justice, it is also important for these parties to be able to explain their positions orally at a hearing. Assistance by a lawyer or legal counsellor is not compulsory. Subdistrict court judges are experienced judges, selected for their ability to deal with parties litigating orally, often personally, without legal assistance. The organisation of subdistrict courts is such that large numbers of cases can be handled within a limited timeframe. This efficiency is achieved by a culture that is characterised by a great deal of delegation and a rapid handling of incoming cases. Subdistrict court judges are competent to hear claims up to EUR 5,000.

One result of the Judiciary Organisation and Management Act was that subdistrict courts were administratively incorporated within the district courts. All district courts are obliged by law to have a subdistrict division. In what is known as the Zeist memorandum of understanding, five subdistrict courts and vice-presidents of district courts made additional agreements on behalf of the subdistrict courts and the district courts. The memorandum of understanding contains agreements on control, pay classification (vice-president), positioning within the district Court and execution of training duties.⁸²

Organisational safeguards for subdistrict justice

During the working visits and the surveys conducted, the Committee found that the working methods of the subdistrict courts meet with satisfaction. The advantages of subdistrict court justice have been retained after the incorporation of those courts into the district courts. Subdistrict court judges continued to handle cases in a fast, professional and accessible way. Parties that rely on subdistrict courts are pleased with those qualities⁸³. The working methods of the subdistrict court are well in keeping with the principles of the current funding system.

The Committee has extensively addressed those developments, including by various meetings with representatives of subdistrict courts and president of district courts. The Committee received letters from the Council for the Judiciary and the Dutch Association for the Judiciary, from which it follows that the Council and the subdistrict courts are discussing a future model for the subdistrict courts. A letter that the Committee received from the Dutch Association for the Judiciary makes it clear that the discussion on the position of the subdistrict court is proceeding with difficulty.⁸⁴

The Committee is of the opinion that the achievements of the subdistrict courts need to be safeguarded and reinforced. Moreover, the Committee is of the opinion that a number of adjustments are needed to enable the district courts to absorb those future developments organisationally.

The Committee acknowledges the value of the organisational safeguard that has been incorporated into the modernisation process, thus obliging district courts to have a subdistrict court division. As well as inspiring confidence in subdistrict court judges, this safeguard embodied a guarantee that the subdistrict court division could occupy a position within the district court. The Committee found that the subdistrict courts have managed to secure a firm position within the district courts within a short period of time. The Committee sees no reason to continue the legal obligation to have a separate subdistrict court division. Such an obligation does not exist in other fields of law. If the board of a court wishes to install a criminal-law, subdistrict court or civil-law division, it can do so, and the Committee believes that a legal obligation to that effect is no longer necessary. However, the availability of subdistrict court justice in every district court should be safeguarded under procedural law.

The Committee has taken note of ideas concerning the expansion of the scope of competence of subdistrict courts, and the possibility, for example, to add consumer purchases to the exclusive jurisdiction of subdistrict courts. The Committee is in favour of expanding the scope of competence. Given the high degree of expertise that subdistrict courts have compiled in consumer-related matters, the Committee believes there are grounds to allocate all matters that can be characterised as consumer purchases to subdistrict courts. With respect to the amounts involved in consumer purchases, the Committee believes that the scope of competence of subdistrict courts should be increased to EUR 25,000. The Committee

⁸² Parliamentary documents II 1999-2000, 27 181, no. 3, p. 32

⁸³ Among other works, see Boone M. et al. op. cit. p. 79.

⁸⁴ NVvR, Position of subdistrict court sectors, response following the letter from the Council of the Judiciary dated 24 October, letter dated 16 November 2006.

believes that the working methods of subdistrict courts are well suited to this kind of cases. Partly in view of the experiences in administrative law and abroad, the Committee does not anticipate major problems.⁸⁵

The Committee is of the opinion that handling subdistrict courts cases quickly must remain an important priority. It should remain possible to refer complicated cases to a three judge civil-law panel at the initiative of the subdistrict court judge.⁸⁶ The purpose of this is to prevent undue delays in the handling and resolution of those cases. The Committee learned that a limited number of cases can currently be resolved in three judge subdistrict court panels. The Committee is of the opinion that the essence of justice administered in subdistrict courts is that it is administered faster, at a high standard, by a single judge. The Committee recommends that all subdistrict court cases to be handled on a single-judge basis. Through a referral possibility, complex cases can be submitted for a three judge review.

For citizens seeking justice, increasing the scope of competence of subdistrict courts and allocating issues concerning consumer purchases to subdistrict courts will strengthen the idea that people seeking justice do have access to the courts. Such people may seek justice for different cases, without representation, from a judge who handles cases quickly at a high standard. The Committee believes that this development, in combination with the possibility that the subdistrict court judge can refer complicated cases to a three judge panel review, is a highly desirable one.

The Committee would like to emphasize its view that broadening the field of work of subdistrict court judges and abolishing the legal obligation for each district court to install a subdistrict court division (Article 47 of the judiciary Organisation act) are part of one and the same package. The Committee recommends including both amendments in the same bill. To ensure that this broadening of the scope of competence proceeds correctly, the Committee would advise that the abolishment of Article 47 of the Judiciary Organisation Act should take place a few years after the broadening of the scope of competence. As the number of cases increases, it is desirable to create the possibility that cases that appear to be too complicated for fast-track handling by subdistrict courts may be referred to a three judge panel of a district court.

Recommendation

All cases involving consumer purchases can be handled by subdistrict courts. The scope of competence of subdistrict courts needs to be increased to EUR 25,000. The Committee is of the opinion that the legal obligation for each district court to have a subdistrict court division cannot be abolished until three years after the scope of competence of the subdistrict courts has been broadened.

Rotation policy and subdistrict courts

The Committee noticed that, for a considerable time now, district courts have primarily administered justice on a single-judge basis. Subdistrict court judges have a great deal of expertise in single-judge adjudication. The Committee deems it advisable to create a facility within district courts by which judges who sit alone can gain practical experience in the way subdistrict court judges resolve cases. This could be done by having certain subdistrict cases handled by judges from the civil-law sector. Because court experience is necessary to handle subdistrict court cases, only experienced judges will be eligible. The Committee's idea is not to use subdistrict court justice as a training room for the entire court, but to make better use of the knowledge and experience of subdistrict court judges. This has the advantage for subdistrict courts that more judges can gain experience in the way subdistrict court judges work, and that an investment can be made in the succession of the current generation of subdistrict court judges. The achievements of subdistrict courts are thus safeguarded for the future. The funding model should allow for financial room so that subdistrict court judges are able to share their experience more widely within the district courts. There should also be financial room to counsel experienced judges who are new to working in subdistrict courts.

⁸⁵ In 1997, the Van Delden committee proposed increasing the scope of competence to NLG 25,000. Corrected for inflation, that would be EUR 15,000 at present. Partly given the average length of the legislative track and a relative scaling to prosperity levels, the Committee would suggest EUR 25,000.

⁸⁶ Article 98 of the Dutch code of Civil Procedure already provides for this possibility for what are known as *aardvorderingen*, claims arising from rent, employment, etc.

Recommendation

The Committee deems it advisable to have experienced distinct court judges gain experience in the working methods of subdistrict court judges. That way, the skills of subdistrict court judges will benefit all judges of a district court.

Pay classification of subdistrict court judges

With the increase in the scope of competence, the addition of experienced judges from the civil-law sector within subdistrict court adjudication and the possible allocation of consumer purchases to subdistrict courts, the issue of the pay classification of those judges comes under discussion. The Committee has already noticed that in the case of deputy judges, some district courts are already employing judges who do not have the rank of vice-president. The Committee notes that adjudication by judges sitting alone is no longer reserved to subdistrict judges. The argument for automatic classification of subdistrict judges as vice-president has thus become irrelevant. The Committee deems it advisable to make an assessment – throughout the district court – as to which judges are eligible for classification at the vice-president level. The Committee no longer sees any reason for appointing all judges vice-president once they are involved in subdistrict court adjudication. Since this obligatory classification is not provided by law, no legislative change is needed. It goes without saying that subdistrict court judges who have already been appointed vice-president should keep that rank. The Committee has issued this recommendation specifically for new appointments.

Recommendation

The Committee sees no reason for all subdistrict court judges to be classified as vice-president. The Committee would advise making a selection in the cases intended for subdistrict court adjudication. Simpler cases should be handled by judges who do not have the rank of vice-president.

Location policy

The place where subdistrict court cases justice is administered is still largely based on the traditional location of the subdistrict courts. The Committee noticed a lack of vision on the question of where the judiciary wishes to offer subdistrict court justice. Because subdistrict court justice is part of the district courts, the Committee deems it advisable that the Council for the Judiciary, the Ministry of Justice and the relevant district courts develop such a vision.

Recommendation

It does occur that small cities or towns have subdistrict court justice while larger cities, such as the city of Almere, do not have this facility. The Committee recommends not to regulate the location of branches by law, but to include a fundamental principle in the law that accessible justice should be available.

Chapter 5 Council for the Judiciary

5.1 Introduction

The organisational reinforcement of the courts brought with it a need for reinforcement of the mutual coherence in areas that require a national approach. The Council for the Judiciary contributed to that reinforcement of coherence by representing the judiciary externally and by seeing to internal adjustments and coordination. The Council also has the general duty to ensure that courts are able to exercise their judicial tasks properly.

The Council for the Judiciary is responsible for the allocation of budgets to the courts at the expense of the national budget, and for the supervision of the way that courts spend their budgets as well as the way that they conduct their operations. To carry out that responsibility, the Council is primarily concerned with the quality of the courts' working methods with regard to governance and organisation.⁸⁷ The Council also has the duty to support those activities of courts that are aimed at uniform application of the law and promotion of legal quality,⁸⁸ and it advises the government and the houses of Parliament on universally binding requirements and national government policies to be pursued with respect to the dispensation of justice.⁸⁹ The Council carries out and gives substance to that duty in accordance with the principle of seeking consultations, dialogue and collaboration with the courts. This type of working method is of primary importance in contributing to the reinforcement of the organisation as a whole. Nonetheless, the Council has formal authorities at its disposal to support its work, such as giving general instructions regarding the conduct of operations.⁹⁰

As a new body *sui generis* in the public law system, the Council for the Judiciary was faced with major challenges. These were due, on the one hand, to its being positioned within the organisation of the judiciary and, in a wider sense, within the public law system and, on the other hand, to its role in the development phase of the judiciary as we currently know it. Despite the lack of definition that is inherent to an organisation under development, the Council delivered a sound performance. Considering everything that the Council for the Judiciary has achieved over the past period, the Committee concludes that the creation of the Council for the Judiciary has been a success. This does not mean that the fulfilment of its duties and its internal organisation cannot be improved. In that light, the Committee examined those aspects more closely.

5.2 Fulfilment of duties by the Council for the Judiciary

The general view is that the Council for the Judiciary has a high level of ambition. Much has been achieved, for example the creation and implementation of a Planning and Accountability Cycle, the introduction of the accrual accounting system and the introduction of a quality system. The Council for the Judiciary has thus far focused on activities that are related to the development of the organisation, its financial management and production. These priorities make sense given the development stage of the judiciary. In other fields too, numerous activities were undertaken. The Committee deems it important that those activities are expanded in the future and are given a qualitative impulse. With regard to new projects and activities, the Committee deems it wise to mark time.

Sounds of criticism were heard during working visits and in survey reports regarding the interaction between the Council for the Judiciary and the courts. There were complaints about the way appointments were made, duties were fulfilled on either side and decisions were taken. Attention was drawn in particular to the fact that much (too much) is demanded from the courts, that regulations are excessive and that the number of consultations had risen sharply.

Evidently, the more complex relationships within the judiciary do not regulate themselves. Consultations and decision-making are indispensable. Innumerable consultations have been held in recent years at a national and a court level, some on a statutory basis, including meetings of district court presidents,

⁸⁷ Article 91 of the Judiciary Organisation Act

⁸⁸ Article 94 of the Judiciary Organisation Act

⁸⁹ Article 95 of the Judiciary Organisation Act

⁹⁰ Article 92 of the Judiciary Organisation Act

meetings of directors, national sector consultations, works councils, the Dutch Association for the Judiciary, and the Board of representatives. In addition, all kinds of project groups and working groups were created. As a result, the consultative circuit is flourishing, and judges and managers are called away from the local courts to take part in them. The coordination between the Council for the Judiciary and courts is conducted through various forums, the most important of which are the meetings of district court presidents and the meeting of directors. Much is discussed and a support base for proposals is sought at these meetings. The pursuit of consensus and the sometimes less than clear decisions – according to surveys, managers do not always seem to fully back the joint decisions⁹¹ – lead to decision-making processes that require quite some time.

Activity at the Council for the Judiciary generates work for courts. The Council for the Judiciary initiated or facilitated a range of working and project groups, partly at the request of courts, partly because they were needed for projects such as the accrual accounting system or the adoption of a common ICT policy. The courts indicated that the creation of the Council has led to an increase in their total administrative burden. The courts also stated that there is a link between the development of the Council's bureau, the number of activities that are initiated and the workload of the courts.⁹² The Committee does not have the impression that the Council generally makes excessive demands of the courts. In surveys, the judiciary itself indicated not to have the impression that the current planning and accountability cycle is characterised by excessive demands on courts.⁹³ Courts basically seemed to have a need for temporisation, setting priorities for their activities and for better communication. It was also noted that the increased staff count of the bureau went hand-in-hand with bureaucratisation (less than ideal coordination between the various parts of the bureau's organisation).⁹⁴

Surveys by the judiciary itself confirm that the Council is faced with the dilemma between supporting and facilitating and guiding and giving directions. The Council chooses to exercise restraint, while more guidance is considered desirable by the field.⁹⁵ Each time, it remains to be seen what role will be played by the Council and by the courts.⁹⁶ The starting principle in this division of roles is that the Council for the Judiciary decides after consulting with the courts. This has created the practice that the Council submits all important proposals to an informal forum, the meeting of district court presidents, which now basically acts as the judiciary's parliament. This has led to an obscure decision-making process and lengthy consultations. The Committee is of the opinion that more clarity should be created on the role of the Council, its bureau, the meeting of district court presidents and the national sectorheads consultations. In addition, the mutual expectations should be clearly communicated. The report on review of the Council's bureau of 2006 repeatedly emphasized the relevance of clarity about the roles and the nature of its contribution. Thus, it commented, with regard to legislative recommendations, that advice that has an effect on substantive legal aspects in addition to the dispensation of justice could lead to an unnecessary duplication of activities by other advisory bodies. Reference was made to the Dutch Association for the Judiciary and the Council of State, which both provide substantive professional advice.⁹⁷ These parties must clarify their roles and contributions in respect of these activities. For this purpose, the Committee recommends that a distinction should be made between advice given from the perspective of operations and that given from the viewpoint of professional practice, and that the advisory duties of the Council and of the Dutch Association for the Judiciary should be organised accordingly. With respect to strategy and policy, the investigators suspected a flaw in the coordination between the Ministry of Justice and the Council for the Judiciary.⁹⁸ The Committee has heard similar sounds in relation to the research agenda.

⁹¹ Boone M. et al. op. cit. p. 102

⁹² Wilms P., Hauten M. van den; *Raad voor de rechtspraak, taken, activiteiten, budget en formatie; Diepteonderzoek voor de commissie Evaluatie Modernisering Rechterlijke Organisatie*; Aarts de Jong Wilms Goudriaan, Public Economics bv (APE) by order of the Ministry of Justice, The Hague 2006, p. 12.

⁹³ Review committee, report of review into the bureau of the Council for the Judiciary; 2006; by order of the Council for the Judiciary, The Hague, 2006, p. 18

⁹⁴ Wilms P. et al. op. cit. p. 12.

⁹⁵ Review committee of the Council's bureau, op. cit. p.11.

⁹⁶ Boone M. et al. op. cit p. 99

⁹⁷ Review committee of the Council's bureau; op. cit. pp. 37 – 38

⁹⁸ Wilms P. et al. op. cit. p. 13

In order to reduce unnecessary bureaucracy, the Committee would draw attention to the position of the Board of Representatives in relation to that of the Group's Works Council of the Judiciary. The Committee learned that the Board of Representatives functions well as the Council's advisory body. It learned that the Group's Works Council cannot fully exercise its role as umbrella employee participation body due to an overlap with the Board with regard to the substantiation of the advisory function. The Committee would like the Council to consider making a clear distinction between the roles and contributions of the two forums, taking into account the statutory context, and to make clear working arrangements about them. Should it nonetheless appear that duplication is inherent in the statutory system, which has expressly created a place for the Board of Representatives, the Committee proposes that the system be reconsidered.

Recommendations

- *In the coming years, the focus should be shifted from management to governance. The existing activities should be expanded further and be given a qualitative impulse.*
- *With the help of an inventory of all consultative bodies, projects and committees, the national consultation circuits and central operational processes should be streamlined. A clean sweep should be made with a view to clarifying responsibilities and preventing work duplication.*
- *The activities, representation and contribution from the Board of Representatives and the Groups Work Council for the Judiciary should be streamlined and clear working arrangements should be made for that purpose. If duplication is inherent in the system, the Committee suggests reconsidering the system.*
- *The division of roles should be clarified, with respect to the roles of the Council for the Judiciary, the meeting of district court presidents and the national consultations of sector chairpersons. The starting principle in the division of duties should be that the Council for Judiciary must decide after consulting the courts. The meeting of district court presidents should play a role in this as the joint informal consultative forum of board chairpersons. The national sectorhead consultations should focus on legal quality, the primary process and the supporting systems. By analogy, the same applies to the meeting of district court presidents in relation to the various aspects of managing the operations. The advice that is issued at those forums should be passed on to the board meeting of the court, so that the considerations of the sectors can be integrated into the overall considerations of the court.*

5.3 Staffing and budget of the Council for the Judiciary

The Council for the Judiciary consists of five members. Three of those five members are judges and two are non-judges, which emphasises the orientation towards society. This composition has ensured that other experiences from society and other backgrounds were introduced, as well as special knowledge, which has certainly been important in the start-up phase of organisational development, for example in the field of finance and economy. Given the fact that the organisation has now completed its development phase and the systems have outgrown their development phase, the Committee is of the opinion that it now suffices for the Council to have three members. A smaller Council will undoubtedly reflect favourably on the workload of the courts.

Recommendation

Given the fact that the organisation has now completed its development phase, it can reduce the number of Council members from five to three.

The Council for the Judiciary is supported by a multidisciplinary bureau. During its working visits, the Committee heard various sounds of criticism on the part of the courts regarding the expansion of the bureau's workforce. The Parliament posed questions during the budget review in the past two years about the development in the workforce and the bureau's budget. The Council for the Judiciary's bureau has grown significantly since 2001. In the staff count report of 2001, it had a staff of 94 FTEs.⁹⁹ Its current workforce exceeds 148 FTEs.

The starting principle on establishing the Council was to create a compact, service-oriented organisation aimed at supporting the courts. By the time of its actual start in 2002, its workforce had grown by 21 FTEs to slightly over 115 FTEs, as some centrally executed duties were transferred to the Council.¹⁰⁰ In the

⁹⁹ Wilms P. op. cit. p. 8

¹⁰⁰ Wilms P. op. cit. annotation 14

period from the end of 2002-2003, it was found that the workforce did not provide for a number of activities that were logically expected to be undertaken by the Council, often at the request of or after consultations with the courts. After 2003, the workforce was also expanded for an intensification of certain activities, temporary projects, such as the accrual accounting system, the improvement of forecast models, the creation of a joint ICT policy, the provision of advice regarding legislative proposals, the receipt of foreign delegations and the support of exchange projects, etc. which resulted in a 29% growth of the workforce compared with the start on 1 January 2002. The strongest growth in absolute and relative terms took place within the development division. The greater part of the increase was the result of new activities of the Council (39.5 FTE's, 73% compared to the first staff count report of 2001). Part of that growth can be explained by shifts in the workforce from existing institutions or commissions to the Council (40% of the 73%). The end of that growth is not yet in sight. Further growth is expected to give a qualitative impulse to IT management.¹⁰¹

It was expected that the modernisation would lead to a growth in the number of operational staff. After all a bureau had been created for the Council for the Judiciary. A growth in staff numbers was also likely in connection with the operational duties that followed from reinforcing the integral management. The expected growth materialised at a national level. At a local level, however, the number of operational staff was not expanded. The local operational staff increased in number in particular when these still fell under the direct responsibility of the Ministry of Justice. Between 1995 and 2002, their number increased from 1120 to 1481 FTEs. Since the introduction of the Council and the integral management in 2002, however, the number of FTEs in the operational staff has remained the same. By contrast, the number of judges and the number of legal support staff (registrars, in-house lawyers, court secretaries) each rose by 10%.

The proportion of judges to legal support staff and other staff was approximately 1: 2.5: 0.6 in 2005 (WODC, 2006, p. 49). Whether that proportion is ideal is difficult to say. A comparison between courts demonstrated that courts with relatively less support seemed to be slightly more productive.¹⁰² In the Netherlands, the proportion of clerical staff to legal staff is 1 to 6, which is not exceptionally high compared to foreign courts.¹⁰³ On the other hand, the verification processes on a national level grew noticeably. The national organisations, which work for both the Public Prosecution Department and the judiciary, continued to grow after 2002 from 1325 FTEs in 2002 to 1546 FTEs in 2005.¹⁰⁴

The Committee is of the opinion that further growth in the Council's workforce should be avoided in order to limit the bureaucratic burden on the judiciary. As it is, courts can hardly keep abreast of the policy rate, the internal coordination with Council's bureau is more difficult and the expanding workforce absorbs funds from the primary process.

One consequence of the increase in the workforce has been an increase in the budget of the Council's bureau of 85% between 2002 and 2006. In the period from 2002 to 2006, the bureau's budget increased much faster than its workforce (85% growth in budget against 29% growth of the workforce). This can be explained by the growth in the workforce, housing expenses, general office expenses and indexation of wages and salaries. Between 2002 and 2006, the costs per FTE increased by approximately 25% from EUR 86,000 to EUR 110,000,¹⁰⁵ which is quite significant.

Recommendations

- *Now that the organisation's development stage has been completed, the initial staff count of the Council's bureau (115 FTEs) should be taken as a standard again.*
- *An audit into the way the bureau fulfils its duties should be performed every four years. The audit will be more transparent if audit experts from outside the judiciary are involved. The Council will be accountable to the courts for the results of the audits.*

¹⁰¹ Wilms P. op cit. p. 11

¹⁰² Sociaal-Cultureel Planbureau/Raad voor de rechtspraak op. cit.

¹⁰³ CEPEJ, European Judicial Systems. Edition 2006 (2004 data), Council of Europe, Strasbourg, 2006, p. 82-83

¹⁰⁴ 104 J. van Erp. et al. op. cit. table 5.3

¹⁰⁵ Wilms P. op. cit. p. 7

Chapter 6 System in operation

6.1 Introduction

In the Council of State's annual report, a case was made for a reevaluation of professionals. Politicians burden professional organisations with overly ambitious programmes without providing them with the necessary resources, systematically underestimate the overhead involved in management, supervision and control and develop operational protocols from a political and bureaucratic logic that prove to be unworkable in professional practice.¹⁰⁶ This annual report articulates precisely how the judiciary seems to have experienced the developments of recent years, in a general sense. The view that arises from the interviews conducted by the Committee during its working visits is that the judiciary believes that its workload has become heavier in recent years.

Guided by these and other opinions from working visits and survey results, the Committee believed that a more profound survey into the operation of the system was desirable with respect to collaboration of courts, ICT and funding. To achieve that purpose, it initiated a number of symposiums. With respect to this approach, the following methodological explanation should be given. The findings and recommendations of the previous chapters were organised in accordance with the requirements of a classical ex post evaluation. Typically, the conclusion is accounted for with the help of a fixed assessment framework, by reviewing it with the help of objective and often multiple measurements. Given the vast survey burden on courts and the relatively short effective term of application of the system in the above-mentioned areas, the Committee tried an additional, less 'hard' evaluation method. The Committee asked three consultancy agencies that were well acquainted with the subject matter to conduct a quick scan.¹⁰⁷ The results were discussed at a symposium chaired by one or more Committee members and attended by a large number of experts from within, as well as outside, the judiciary. The bureaus subsequently reported their findings to the Committee. This more qualitative research design generates information and conclusions that are strongly focussed on improving the collaboration between - and the learning ability of - the parties involved. The findings of this approach are described below.

6.2 Collaboration between courts

During the parliamentary debate on the Judiciary Organisation and Management Act, the question was raised, with regard to the new structure, as to whether the scale of the courts was well-balanced.¹⁰⁸ The Minister of Justice promised to answer that question at the time of the evaluation.¹⁰⁹ After the new structure was implemented, it soon appeared that some specific problems exceeded the scope of capability of individual courts. This is particularly relevant if a court, whether or not due to political decisions, is confronted with a variable offer of cases – one example were the drug mules – or if the court is confronted with a large number of criminal cases in a certain period. Those situations are referred to as peak loads. The smaller or medium-sized courts in particular are of insufficient size to cope with such peaks without seriously disrupting their regular operations.

That was the reason why in 2004 an amendment was made to the Subsidiary Places of Session (Courts) Decree (*Besluit Nevenvestigings- en nevenzittingsplaatsen*) (decree on better use of session capacity). On the basis of that amendment, the Council for the Judiciary may, at the request of the board of a court, temporarily designate another court as an additional place of session to spread peak loads. This possibility has been used a number of times since then.¹¹⁰ However, this instrument is only suitable to resolve

¹⁰⁶ Council of State, annual report 2005, the Hague, 2006, p. 34.

¹⁰⁷ Collaboration Keijzer C.L.; Radder D; Geus T.J. de; *Rapport Expertmeeting Gerechtelijke samenwerking in de praktijk*; Prisma, Amersfoort, 2006, 31 p.

ICT; *Het expertisecentrum, consultants voor ICT en bestuur in de publieke sector, IC-beleid voor de rechtspraak, symposium en onderzoek t.b.v. evaluatiecommissie modernisering rechterlijke organisatie*, The Hague, 2006, 10p

Funding, Andersson Elffers Felix, *Bekostiging, doelmatigheid, kwaliteit en rechtspraak*, Utrecht, 2006, 15 p.

¹⁰⁸ TK 2000-2001, 27181, no 26

¹⁰⁹ Ditto

¹¹⁰ In its annual report, the Council for the Judiciary reported on the application of that authority. The Council's instructions were published in the *Netherlands Government Gazette*. Recently, the judicial organisation has had

foreseeable constraints over a limited time. The adoption of a structural division of the judiciary and of rules of relative competence is reserved to the legislature.¹¹¹

In addition to the specific problem of peak loads, it was readily felt that quality and responsiveness could be improved by increases of scale. In 2004, the Minister of Justice wrote to the Parliament that collaboration between the courts could be a solution. The Minister envisaged a collaboration between courts on the scale of the resorts with regard to both handling cases and operational duties. That could be given a legal basis in the form of a collaboration article in the Judicial Organisation Act.¹¹² At present, some courts are already experimenting on a limited scale with more or less structural collaboration.¹¹³

To investigate the degree to which and the form in which collaboration could be an answer to the problems identified within the judiciary, the Council and the meeting of the district court president installed the Van der Winkel committee.¹¹⁴ In 2006, this committee issued a report, concluding that not all the district courts were big enough to provide the necessary in-depth knowledge in all fields of law as part of their primary process (in relation to sufficient volume). The constraints included the diversity combined with the limited size of the administrative law case packages and, more in general, the increasing demand for specialisation. Moreover, smaller courts are vulnerable when staff are absent and there is a need for greater flexibility, for example to cope with peak loads. The required quality cannot always be delivered at a reasonable price in all fields of the organisation. According to the Van der Winkel committee, these problems can be solved by a compulsory regional collaboration between the courts.¹¹⁵ The Van der Winkel committee proposed that courts within the same region should be obliged to collaborate once the offer (volume) of a specific type of cases drops below the level that is needed to maintain the quality required to handle the case.¹¹⁶ Those minimum standards should be developed nationally within the judiciary. The Council for the Judiciary endorses this fundamental idea in the report by the Van der Winkel committee.¹¹⁷

In the past one-and-a-half years, the Committee had talks with the boards of courts, members of the Council, key partners in the judicial chain and repeat players. Those talks also addressed the issue of the scale and the collaboration between courts. In consequence and in response to the evaluation reports about the national coordination centre for mega cases ('LCM'), the collaboration between the courts in the Noord-Holland province and the report by the Van der Winkel committee, the committee organised an expert meeting.¹¹⁸

Structural collaboration between courts

The Committee sees no need to change the borders or the number of the judicial districts. The current division is still adequate to cope with regular, frequently occurring cases. However, a larger scale will be needed to address cases involving specialised adjudication, to absorb peaks, to increase quality and continuity of adjudication in the smaller legal disciplines and to maintain the quality of specialist operational functions. The Committee believes that this can be achieved by structural collaborative relationships between courts.

two evaluations conducted into the operation of it in two concrete situation. See J.J.C. Eversdijk, J.P. Visser: *Evaluatie Landelijk Coördinatiecentrum Megazaken* and R. Kroes: *Simpelweg samenwerken, een onderzoek naar de samenwerking tussen de rechtbanken Alkmaar, Haarlem, Amsterdam en Arnhem in de periode 2002-2005*.

¹¹¹ This was again confirmed in recent written consultations between the lower house of Parliament and the Minister of Justice, EK 2005-2006, 30300 VI, C and E.

¹¹² TK 2003-2004, 29 279, no. 10 p. 5

¹¹³ Examples are the district courts of Assen, Groningen en Leeuwarden, which have a joined fraud division (the Northern Fraud Division) and mutually divided their administrative law case packages. The district courts of Alkmaar, Haarlem and Amsterdam have also divided their staff capacity for administrative law case packages. The district courts of Assen and Groningen share a financial accounts department.

¹¹⁴ Van der Winkel Committee: *Goede rechtspraak door sterke regio's, Eindrapport*; by order of the Council for the Judiciary, The Hague, 2006

¹¹⁵ Van der Winkel committee op. cit. p. 5.

¹¹⁶ The Van der Winkel committee has divided the Netherlands into eight fixed judicial collaboration regions.

¹¹⁷ Letter to our Committee from the Council for the Judiciary dated 4 October 2006.

¹¹⁸ Keijzer C.L. et al. op. cit.

The judiciary in the Netherlands will need to operate more like a corporation. The autonomy of individual courts should be no impediment to employing people and resources on a larger scale if needed, i.e. to organise a collaboration of courts. The Committee endorses the Van der Winkel committee's arguments in favour of developing standards to determine when compulsory collaboration is required. The Committee believes that the collaboration should be modelled without any loss to the interests of parties seeking justice, chain partners and repeat players. It is, therefore, advisable that justice continues to be offered at a local level as a matter of course and, that the normal provisions of relative competence continue to apply to decide which court is to hear a certain case. It could be desirable to concentrate the staffing capacity for a specific type of case in one court and the organisation of part of the work from a larger unit (back office, concentration of capacity and expertise). The judges and clerks of court will then need to travel to another court for a hearing in some cases. For cases of a specific, business nature, certainly if those cases are limited in number, it should be recommended concentrating the entire review (including the hearing) in a single court.

The Committee is in favour of a further opinion being given about the proposal of the Van der Winkel committee regarding the scale on which collaboration should take place. This proposal provides for eight collaboration regions. The scale of the region that arises as a result offers sufficient future stability on the one hand and, on the other hand, is small enough for the collaboration to be manageable. The Committee would emphasise that regions should be formed with due regard for aspects such as the structure of the regional Public Prosecutor's Office and the administrative division of the Netherlands. The Committee advises the Minister of Justice to promote a legislative proposal to include a collaboration clause in the Judiciary Organisation Act.

The Committee believes that it is necessary to promote flexibility of the organisation. In that light, the Committee believes that the appointment of judicial officers to the judiciary (so with the joint courts - and not with a specific court) would be a more contemporary system. In actually employing them, personal interests and preferences should of course also be taken into account.

On a more general note, the Committee believes that the mobility of employees of the judiciary should be promoted, not least because career opportunities of these employees (judicial officers and court officials) will also go hand in hand with a more nationally-oriented rotation policy. This development should be matched by legislation, based on which judicial officers are appointed by the joint courts of the judiciary. In working out this proposal, the independence of the courts needs to be safeguarded.

Recommendation

Structural collaborative relationships should be created within the judiciary. The collaboration should lead to a division of duties that enables the efficient handling specific types of cases. The Committee would like to be given a further opinion on the Van der Winkel proposal. The Committee shares the Van der Winkel committee's view that national criteria should be developed to organise the collaboration transparently. The Committee believes that creating a legal basis for collaboration within the judiciary in the Judiciary Organisation Act is desirable.

6.3 ICT for the judiciary

It is evident from working visits and research that the judiciary's ICT policies are lagging behind the norm. The Committee was repeatedly confronted with complaints about the slowness of ICT development, the communication about the projects and about high expectations that were not fulfilled.¹¹⁹ One quote from a court is illustrative:

'The Council for the Judiciary has strongly centralised the entire ICT infrastructure and development (centrally unless), which has nonetheless not led to a contemporary ICT infrastructure. The national policy is exclusively technology driven, and the communicative effect that implementing obsolete software (Office 97 in 2003) with great fuss has on the employees of the judiciary is not acknowledged.'¹²⁰

¹¹⁹ Boone M. et al. op. cit p. 97.

¹²⁰ Boone M. et al. op. cit. p. 98.

The foregoing gave rise to a further survey and to a symposium on the subject.¹²¹

Status of affairs

Looking back, many within the judiciary found that a great deal has been achieved in the field of ICT in recent years and a foundation has been laid in terms of management, governance and applications. The basic principles of the ICT policy until 2008 are set forth in an ICT plan. However the pace at which development takes place is not in accordance with the planning, in particular for the judiciary's process support systems and the exchange of information with partners within the judicial information chains. The technical ICT infrastructure was renovated and its management improved. In addition to the innovation and basic facilities that were initiated for the sector and in the field of management information (pilot house), Web applications were developed to grant access to case law (among other information) and www.rechtspraak.nl was launched, which was a firm step towards greater transparency of the judiciary in the Netherlands. This development has gradually continued. At present, there is a widely shared belief that ICT developments should not be about computerising existing work processes, but that the ICT facilities in the next phase should primarily be established by approaching the judiciary's performance from a strategic perspective. ICT should play a facilitating role in that respect.

Challenges

Standardisation of work processes appears to be receiving increasing attention. Redesigning processes along this line is the condition and the basis for further ICT development. That is primarily a matter of organisational development. It does not suffice to computerise what already exists, taking into account efficient and effective logistics, and desired interfaces, internally and externally. The primacy for greater uniformity in work processes lies with the judiciary itself (including environment) and no longer with ICT. The process of unifying and standardising the work processes is one of the factors that forms the basis of controllable and manageable ICT applications and that calls into question the use of and need for local deviations.

It may be concluded that there is an increasing awareness that the initiative for designing and organising those processes lies with the organisation itself. This responsibility has meanwhile been assumed by the national consultations of sectors. One gap, however, is that no administrative provision has been made for the role of the party responsible for the process. It is important that the sector managers are given adequate official support and that the tempo and substantive coherence are kept under tight control.

At the next stage, a strategic approach should be developed that will be decisive for the further development. This involves the judiciary itself, its social environment and its partners (in the chain). The issues involved include legal certainty, unity of justice as well as publicity: what information does society ask from the judiciary? Do citizens wish to consult information online from www.rechtspraak.nl or is a settlement a better option than bringing the case to court? By analogy, the issue of accessibility also applies to partners (in the chain): what results are desirable and can be achieved by improving or changing the way in which information is exchanged (bailiffs, lawyers, Public Prosecution Department and execution partners). The next question is how ICT can help to achieve this. Concurrently with the development of process systems and information chains, the security of information and the processing of information are important conditions. The security primarily involves the privacy and uninterrupted course of justice, but also requires attention in view of other developments in society such as the increasing number of people who work from home.

Control

The Council for the Judiciary has central control over ICT, in consultation with the Regieraad ICT, in which the management staff of the courts play the leading role. The national sector meetings are expected to make substantive contributions to determine how ICT is to be developed. This applies in particular to harmonising the work processes of the various sectors.

¹²¹ Het Expertise Centrum, op. cit.

The scope and the responsibilities of the Regieraad ICT have recently been redefined in order to accelerate the provision of advice and adoption of decisions on behalf of the courts. There is an increasing need for and acceptance of this centralised, joint control. It is generally considered to be an important step towards increasing the pace. Although control remains a complex issue, it is important to exercise centralised control with the necessary acuteness and, with the help of the currently defined frameworks and duties, to exercise tight control on coherence and planning, both from within the sectors (the 'business') as from the central authority of the Regieraad ICT. If necessary, the management should be supported by IT experts. The Committee would also point to the relevance of appointing a director for each chain to oversee and secure control over pivotal points of the chain. The Committee would also advise defining the chairpersons of the national sector consultations as parties responsible for the various primary process systems.

The many consultative bodies (steering groups, etc) reflect the consultative and consensus culture within the judiciary. If the Council is the party with overall control over the judiciary, a director is responsible for each chain, the Regieraad ICT provides advice and decides on substantive issues and the parties responsible for processes act with authority, lines will be short and clear. An important change in culture is that there now is support for centralised control, and it is generally indicated by the judiciary that the Council should exercise its role of director more vigorously.

Recommendation

Take the work processes of the courts and their design or redesign as the starting point for further computerisation and ICT development, both of the own primary process systems and of the exchange of information with chain partners. Appoint a director for each chain, define the chairpersons of the national sector consultations as the party responsible for the process, and now that tighter control of ICT is accepted at a high level, reduce the number of consultative bodies at other levels and start from the demand side when designing ICT systems.

6.4 Funding system

In 2002, the first version of the funding model for courts was introduced. Shortly after that, a development-oriented survey led to changes and resulted in a revised funding decree, i.e. the Judiciary Funding Decree 2005 (*Besluit financiering rechtspraak 2005*).¹²² Although the new decree has in fact been in operation for too short a time to be thoroughly evaluated, the Committee nonetheless believes that a reflection on it does make sense.¹²³

Funding system

With the new decree, a performance-oriented governance model was introduced for the judiciary. An important element of the system was that judiciary's budget would be prepared on the basis of prices that are adopted with the help of objective criteria for a term of three years. The system has a number of safeguards, for example that courts will be able to operate with the same degree of effectiveness as before. The funding system with incentives for effectiveness and possibilities to set off variations in production is widely supported. A broadly based survey to assess whether the objectives of the legislative operations had been achieved, also endorsed the conclusion that the current system is adequate.¹²⁴ The Committee found that it is widely agreed that the current funding system should not be changed for the time being. The Committee should note that the courts in particular have not yet made full use of the possibilities that the system offers.

Recommendation

The funding system works well in practice and should remain intact. More experience should be gained with the system so as to make better and full use of its possibilities.

¹²² Bulletins of Acts and Decrees 2005, 55

¹²³ Andersson Elffers Felix, op. cit.

¹²⁴ Boone M. et al. op. cit p. 96

As described above, the judiciary funding system can be called adequate. The funding system offers courts the possibility to set off unexpected developments in the influx of cases via an equalisation account. A court can thus temporarily have more resources at its disposal than the Council for the Judiciary allocated to it for the specific year of implementation. With its equity, the court also has a buffer to absorb financial setbacks or create necessary reservations for the long term. It should be noted that regardless which funding system is applied, courts should always be funded in such a manner that they can comply with the obligations that Article 6 of the European Convention on Human Rights imposes on the Netherlands; for example, that cases must be handled within a reasonable term.

Recommendation

The funding system offers courts the opportunity to handle the supply of cases even in times of scarcity. The funding must always be provided in such a way that the standards of Article 6 of the European Convention on Human Rights can be satisfied.

Administrative relationships

The funding system is not a uniform system from Minister to judge. The principles of control between the Minister of Justice and the Council for the Judiciary are different from those in the relationship between the Council and courts, in the relationship between the board of the court and a sector and in the relationship between the sector and the judge. Areas of attention – some of which are rather technical – could therefore be identified for each level with regard to the operation of the system.

In the relationship between the Minister of Justice and the Council for the Judiciary, the system was developed further, and in 2005 a choice was made for a change from pricing based on a workload system to tri-annual pricing in consultations based on the historic prices of ten product groups. The funding decree itself no longer sets absolute workload levels per category. Changes to the composition of the assortment per product group and the measured workload have become parameters in those consultations. In practice, there are various views on this change, in which the financier uses a historic adjustment and the financed party is more oriented towards the former workload standards

In the relationship between the Council and courts, annually adopted prices are used, based on differences in the composition of the assortment per court. This has involved quite some debate on what is referred to as the 'correction of imbalances'. This is a temporary and technical issue that will not be addressed in this context.

In the relationship between the boards of courts and professionals, it is necessary to prevent a situation where parties other than those boards interfere directly with control, money and the organisation of quality care. For the professionals on the work floor of the court, those aspects should be integrated and safeguarded within their work in a logical, flexible and uniform fashion.

At the sector management level, the administrative link between quality and money should be made and organised explicitly. That should preferably not be done by adopting the same proportions of the national model within the budget of individual courts. In translating the budget for the sectors, the boards of courts should not hesitate to exercise their own discretion by reference to 'local conditions' and 'a local tailormade approach'.

Quality: a prerequisite for funding

The symposium organised by the Committee on the funding problem already addressed the issue of whether quality should be included as a variable in the funding system. This could be done by setting quality standards for the handling times of court cases of a certain type.¹²⁵ This met with wide disapproval and – in all likelihood – is not really possible at this stage. The Committee shares this view. Quality should be seen as a condition for funding. Being sensitive to the development of quality in relation to the pursuit of effectiveness is a precondition for an adequate funding system.

¹²⁵ The judicial performance measuring system basically offers the possibility to integrate standards of quality into the funding system. See the report *Kwaliteit kost tijd*; Council for the Judiciary, August 2006

Another issue that was highlighted at the symposium was that quality development as part of the operations requires more attention. With the introduction of performance-oriented funding, there has been too much emphasis on production in recent years. The comparative figures collected by the Council for the Judiciary were also focused too strongly on production and finance. Although understandable and explainable in view of the recent development of the Council for the Judiciary, this strategy is too one-sided and limited for the future. With the creation of the judiciary performance measuring system and, more recently, the key figures (*'kengetallen'*) report, the judiciary has sufficient instruments to monitor the development of quality, in the Committee's view, and to propose target figures as it did for the finance and production element.¹²⁶ Given the always scarce resources, boards of courts may be expected to set priorities, to communicate those priorities to the staff and to hold them accountable for the implementation of those priorities in the execution of their duties. The Committee would advise approaching matters more systematically with the help of the currently available measuring systems and key figures. It is more important to measure the development of quality with general key figures than to refine or differentiate the key figures.¹²⁷

Recommendation

The Committee is of the opinion that quality is a condition for funding the judiciary. It should not become a variable of the funding system. The space needed for quality in the budgetary process (time/money) should be safeguarded by the administration. Court boards may be expected to set targets for quality in the same way they do for production and effectiveness of the operations. To monitor the results, quality should be reviewed systematically and consistently over time with the help of key figures. This is a role for the Council for the Judiciary.

Accountability

The judiciary has made great strides forward with respect to accountability. The results of courts can increasingly be compared and, as a result, more can be learned about the strengths and weaknesses of courts. In addition, the Council for the Judiciary drafted an interim publicity guideline. The guideline describes what information of the judiciary is publicly available. Until recently, most of the available information was on operations and the production of the judiciary at an aggregate level. The Council for the Judiciary indicated that the 2006 annual report will also include data at the court level. Relevant data on the quality of the judiciary will also be included. The Committee welcomes this development towards greater transparency.

6.5 In conclusion

The judiciary has had to deal with a strong growth in the demand for justice. Justice is becoming increasingly complex. The inter-dependency of courts has steadily increased as has the dependence on various technologies, including information technology. The general perception of the Committee is that the Council for the Judiciary, and also the boards of the courts, run the risk of lagging behind these fast developments in society. The unclear application of the existing division of duties, authorities and responsibilities has led to an extensive, noncommittal consultative circuit that carries with it a heavy administrative burden, given the relatively small organisation that the judiciary is. This lack of clarity is, in the Committee's view, the principal engine that drives the expansion of operational processes and staff at the national level, and is the reason why the courts could find no possibilities for deregulation in their review by the Council's bureau. At present, the Council for the Judiciary is not a bureaucracy run out of control as was described at the start of the introduction to this report. However, the Committee is of the opinion that greater clarity in the relationships between the Council, national consultations and the courts will lead to the realisation that less verification - and less administrative burden - is necessary, and that the formulated plans can be implemented in an efficient and effective manner. The bureaucracy and work

¹²⁶ Also see Zuurmond A. et al. On p. 33 of the report, a recommendation is given for courts to also set quality targets using a Plan-Do-Check-Act cycle.

¹²⁷ A number of key figures relating to the quality area of attention can be measured with the help of time registration surveys. It may be called less than satisfying that those surveys from the judiciary have not led to any hard information on developments in the time spent by the judiciary on those aspects. This was among the reasons why the Adviescommissie Werklastmeting en Bekostiging advises revising the time registration method and the use of the data (H 10, *advies behandelzeiten* 2008 – 2010, ACWB September 2006).

pressure perceived by employees of the judiciary will, as a result, be reduced. With this approach, courts will succeed in averting a in timely manner 'the biggest threat to the courts of the future'.¹²⁸

The governance model of the judiciary should be more of a combination of central control by the Council for the Judiciary and operational independence of the courts, i.e. the professionals, and should encourage qualitative innovation. The above recommendations are relevant to the way in which the Committee believes this could best be put into effect. The transition from management to governance will be crucial for the courts. The existing instruments of quality and staffing policies will need to be effectively applied by the courts in the coming years. The Council can keep some distance in exercising financial and economic governance in the coming years and will have its hands full with the implementation of new ICT systems and the promotion of structural collaboration between courts. In five years' time, it will be clear how the organisation has developed further. The Committee recommends evaluating the organisation again at that time.

Recommendation

Five years are too short to give an opinion on the effects of such a monumental system change. It should be recommended that a new external evaluation be conducted in five years' time to evaluate the more structural effects. Given the preparatory activities that were undertaken to compile this evaluation, that future evaluation could be much more limited in scope, and could focus on specific aspects of the judiciary's performance. In that regard, it is important that an independent evaluation committee is installed well in time.

¹²⁸ Lampe P. op. cit. p. 109.

Annex 1

Dispensation of Justice Strategy Department
Ref: 5289950/804

THE MINISTER OF JUSTICE,

DECISION:

Article 1

There is a Committee for the Evaluation of the Modernisation of the Judicial Organisation, referred to below as the 'Committee'.

Article 2

The duties of the Committee are:

1. to monitor the cohesion between and the quality of the various partial surveys of the evaluation program for modernisation of the judicial organisation;
2. to submit proposals to the Minister of Justice to supplement the survey program as necessary;
3. to report annually on the status of the work being performed for the purpose of the evaluation program;
4. upon request, to delegate or designate members for participation in the guidance committees of the various partial surveys;
5. to compile an integral final report, based on the results of the various partial surveys that were conducted for the purpose of the evaluation programme.

Article 3

The Committee will be composed and supported as follows:

- a. Chairman
W.J. Deetman (Mayor of the municipality of The Hague);
- b. Members:
J.W. van den Berge (Justice of the Supreme Court of the Netherlands)
M. Herweijer (Professor of Public Administration at the university of Groningen)
- c. Advisory members:
H. Andersson (Andersson Elffers Felix);
H.N.J. Smits (Arthur D. Little);
- d. Secretariat:
F.C.J. van der Doelen (Secretary, Sectorhead of the Administration of Justice Strategy Department of the Ministry of Justice),
M. Abelman (Deputy Secretary, legislation lawyer with the Administration of Justice Strategy Department of the Ministry of Justice).

Article 4

1. The Committee will see to it that the evaluation program is conducted so that the final report can be made available to the Minister of Justice on 31 December 2006 at the latest.
2. Upon the final report being issued, the evaluation committee will cease to exist.

Article 5

This decision enters into force with effect from the day after the date of publication in the Dutch Bulletin of Acts and Decrees in which it is published.

The Hague, 20 August 2004

The aforementioned Minister

Explanatory notes

The modernisation of the judiciary evaluation programme was initiated in 2004. The evaluation program (for the modernisation as a whole) was divided into four partial surveys:

1. Evaluation of the Organisation of the Judiciary and Management Act and of the Council for the Judiciary Act;
2. Development of Performance Indicators for the Judiciary's Performance. This partial survey was conducted by the Council for the Judiciary.
3. Evaluation of the Application of New Instruments by the Council for the Judiciary. This partial survey was also conducted by the Council for the Judiciary.
4. Trend Report on the Judiciary within the framework of the Minister of Justice's System of Responsibility. This trend report was developed the WODC by order of the Dispensation of Justice Strategy Department

This evaluation is in compliance with the evaluation provision under the Judiciary Organisation and Management and the Council for the Judiciary Acts, under which a report must be issued on the effectiveness and the effects of both acts in practice five years after they were enacted (i.e. in 2007) (Dutch Bulletin of Orders and Decrees 2001, 582, Article XIX and the Dutch Bulletin of Orders and Decrees 2001, 583, Article VI).

In light of the fundamental nature of the change within the judiciary and therefore within our regime, a Committee will be installed for the duration of the evaluation program, which will provide guidance to the evaluation survey and will report based on the findings of the partial surveys. The Committee for the Evaluation of the Modernisation of the Judiciary will report in the interim on the status of the four partial surveys and will submit an integral final report to the Minister in 2006. The following persons were solicited as members of the Committee: Messrs. W.J. Deetman (Mayor of The Hague, Chairman), J.W. van den Berge (Justice of the Supreme Court of the Netherlands) and M. Herweijer (Professor of Public Administration at the university of Groningen), in view of their political, administrative, subject matter and scientific expertise and experience. Messrs. H. Andersson and H.N.J. Smits were solicited to advise the Committee in view of their knowledge and experience in the field of complex change trajectories in the public and private sectors. The secretariat was entrusted to two employees of the Ministry of Justice.

Annex 2

Working visits by the Committee for the Evaluation of the Modernisation of the Judiciary In 2005 and 2006, a delegation of the Committee paid working visits to the following organisations (or delegations of them)

25 March 2005 Council for the Judiciary	12 May 2005 Conference of the Meeting of District Court Presidents and the Council for the Judiciary
1 June 2005 The Royal Dutch Organisation of Court Bailiffs	15 July 2005 The Dutch Bar Association
18 August 2005 The Dutch Association For The Judiciary	24 August 2005 The National Ombudsman
14 September 2005 The Association of Dutch Municipalities	22 September 2005 The District Court of Rotterdam
24 October 2005 The Council of State	4 November 2005 The Association of Insurance Companies
4 November 2005 The Supreme Court of the Netherlands	11 November 2005 The Court of Appeal of Arnhem
23 November 2005 The District Court of Zwolle-Lelystad	25 November 2005 The District Court of Roermond
1 December 2005 BARI	12 December 2005 The Board of Procurators General
3 March 2006 The District Court of Rotterdam	10 March 2006 Conference of the Council for the Judiciary and the Meeting of District Court Presidents on subdistricts
29 March 2006 The District Court of The Hague	12 April 2006 Council for the Judiciary
26 April 2006 The National Consultative Forum of Subdistrict Court Chairpersons and the Associated Subdistrict Court Judges	17 May 2006 The Board of Representatives
15 June 2006 the Dutch Association for the Judiciary	16 June 2006 The District Court of Rotterdam
26 June 2006 The District Court of Zutphen	26 June 2006 The Judiciary's Group Works Council
28 June 2006 A delegation of Chief Public Prosecutors	3 July 2006 The Meeting of District Court Presidents
5 July 2006 The Director-General of Justice and Law Enforcement (Ministry of Justice)	21 September 2006 The National Consultative Forum of Subdistrict Court Chairpersons and the Associated Subdistrict Courts
19 October 2006 The Court of Appeal of Amsterdam	2 November 2006 The Ministry of Finance

Annex 3

Survey reports issued for the purpose of the survey program on behalf of the Committee for the Evaluation of the Modernisation of the Judiciary

1. Boone M; Kramer P, Langbroek P., Olthof S., Ravesteyn J. van: *Het functioneren van de rechterlijke organisatie in beeld, Breedstestudie evaluatie Wet organisatie en bestuur gerechten en Wet Raad voor de rechtspraak*; KPMG Business Advisory Services B.V. in collaboration with the faculty of law of Utrecht university by order of the Wetenschappelijk Onderzoek- en Documentatiecentrum, Utrecht/Den Haag/Amstelveen, 2006, 182 pages.¹
2. Erp van J.G., in collaboration with Hendriks A, (editor) *Kwantitatieve ontwikkelingen rechtspraak 2000-2005. Informatie ten behoeve van de evaluatiecommissie modernisering rechterlijke organisatie*, Wetenschappelijk Onderzoek- en Documentatiecentrum, The Hague 2006, 100 pages.
3. Fransen J. Mijne A, Verbeek S, *Gerechtsbesturen, Integraal management en MD-beleid, Eindrapport, beleidsonderzoek & -advies bv (B&A Groep)*, The Hague 2006, 110 pages.
4. Wilms P., Hauten M. van den; *Raad voor de rechtspraak, taken, activiteiten, budget en formatie, Diepteonderzoek voor de Commissie Evaluatie Modernisering Rechterlijke Organisatie*; Aarts de Jong Wilms Goudriaan, Public Economics bv (APE) by order of the Ministry of Justice, The Hague 2006, 39 pages.
5. Andersson Elffers Fleix, *Bekostiging, doelmatigheid, kwaliteit rechtspraak; Verslag symposium bekostiging commissie Deetman*; Utrecht 2006, 15 pages.
6. Keijzer, C.I. Radder D., Geus T.J. de, *Rapport Expertmeeting Gerechtelijke samenwerking in de praktijk*; 6 October 2006, Prisma, Amersfoort, 2006, 31 pages.
7. Het Expertise Centrum, *ICT-beleid voor de Rechtspraak, Symposium en onderzoek t.b.v. Evaluatiecommissie Modernisering Rechterlijke Organisatie, Eindrapport*; The Hague 2006, 10 pages.
8. Zuurmond A., Castenmiller P, Jörg P., *Rechtspraak beoordeeld. Over het kwaliteitssysteem van de gerechten*; Zenc by order of the Council for the Judiciary, 2006, 39 pages.
9. Vermaas J., Nieuwland, L, *Recht doen aan benchmarken, Onderzoek naar het gebruik van de benchmark door de Rechtspraak*; IVA by order of the Council for the Judiciary, Tilburg, 2006, 51 pages.
10. Council for the Judiciary, *Project Kengetallen, Projectoplevering (projecteindrapport)*, , July 2006, 18 pages.

Other relevant survey reports offered to the Judiciary Modernisation Evaluation Committee

11. Court Review Committee, *Rapport Visitatie Gerechten 2006*, Council for the Judiciary, The Hague, 2006, 67 pages.
12. Werkgroep Bestuurlijke Onderbrenging Kantongerechten, *Kantonrechtspraak in de 21e eeuw. Naar afdoening "op maat", Een bijdrage aan de evaluatie van de bestuurlijke onderbrenging van de kantongerechten*; 2006, 78 pages.
13. Prisma, *Evaluatie Bestuurlijke Onderbrenging Kanton*; 2005, 63 pages.
14. Prisma, *Iets duidelijker a.u.b. Klantwaarderingsonderzoeken onder gerechten in de periode 2003-2005*; Amersfoort 2006, 24 pages.

15. Prisma, *Stemmingwisselingen. Medewerke rs waarderingsonderzoeken van de gerechten in de jaren 2003-2005*; Amersfoort, 2006, 24 pages.
16. Commissie Van der Winkel, *Goede rechtspraak door sterke regio's, Eindrapport*, by order of the Council for the Judiciary and the meeting of district court presidents, 2006, 55 pages.
17. Court review committee, *Rapport Visitatie Bureau van de Raad voor de rechtspraak 2006*; by order of the Council for the Judiciary, 2006, 64 pages.
18. Council for the Judiciary, *Kwaliteit kost tijd*, The Hague, 35 pages.

You may consult the digital version of this survey report on the attached CD ROM and the Committee's website www.evaluatiero.nl

Colophon

Composition of the Committee for the Evaluation of the Modernisation of the Judiciary

W.J. Deetman (Chairman)
H. Andersson
J.W. van den Berge
M. Herweijer
H.N.J. Smits
E.C.J. van der Doelen (Secretary)
M. Abelman (Deputy Secretary)
Ms E.A. Coolman (Assigned Secretary)

Published: The Hague, 11 December 2006

For more information:
Ministry of Justice
The Netherlands
Telephone number: 070 – 370 6005
www.evaluatiero.nl
Edition: 2000 copies