

Agenda for the Judiciary
2008-2011
Independent and committed

Introduction

Since 1 January 2002, the nineteen District Courts, the five Courts of Appeal, the Central Appeals Tribunal, the Trade and Industry Tribunal and the Council for the Judiciary constitute together an organization which is referred to as ‘the Judiciary’.

The judicial system as a whole and its individual units use a planning system based on annual plans. These annual plans are in turn based on a vision of the future extending over a number of years and known as the Agenda for the Judiciary. In the present Agenda, the court management boards and the Council for the Judiciary explain their priorities for the years ahead.

The Supreme Court is the highest authority in the Dutch court system, but does not form part of the judicial system for this purpose. However, the Supreme Court has informed the Council for the Judiciary that it too can endorse this scenario.

Summary of the Agenda for the Judiciary 2008-2011

The Judiciary is a professional organization built around independent judges. The quality of all aspects of its service is a matter that receives its constant attention. Special emphasis will be put on achieving the following targets in the years ahead.

Target I

An expert Judiciary

This target involves both increasing the expertise available within the Judiciary and improving the deployment of experts from outside the system in proceedings. Willingness to learn from mistakes is also an important instrument in maintaining the level of expertise. In a learning organization asking one another awkward questions is normal and constructive. The Judiciary wishes to be just such a learning organization.

The specific activities needed to achieve this target are of a diverse nature. At the level of the judges and legal staff, for example, it is about providing better reasoning for judgments, sitting more often as a full bench rather than singly (three judges rather than one), second-reading of judgments given by a single judge, devoting more time to preliminary inquiries and examination of the facts, continuous education and peer review. When incidents do occur, steps must be taken to investigate what has gone wrong in the process of administering justice. Structural consultations must also be held between appellate and district courts in order to help enhance quality. Specialization within and between courts will help to raise the level of expertise. And the judicial system as a whole must be and remain an attractive place of work for high calibre lawyers.

Target II

A reliable Judiciary

For reliability, the integrity of the system is essential, but above all it is important for members of the public to be able to rely on the law being applied uniformly. Differences in procedure and/or result must be explicable by reference to the assessment framework and the individual characteristics of the case and not by reference to the individuality of the judge or the court. Predictability can spare unnecessary recourse to the courts.

Naturally, uniform application of the law does not preclude the possibility of departing from precedent in particular cases, partly in the interests of developing the law. The aim should be to achieve the greatest possible legal unity in procedural matters in all areas of the law. And unity must be increased in the area of substantive law in the years ahead.

To promote unity of procedural law further steps are being taken to ensure that procedural rules and work processes are the same in all district courts and appellate courts. Certain differences will continue to exist between the district and appellate courts, mainly due to procedural law. Where necessary, the same handbooks will be used. To increase unity in matters of substantive law, provision will be made above all for dealing with large numbers of cases in which no appeal or appeal in cassation is possible and large numbers of cases that are instituted before the courts in a short space of time and need to be disposed of not only on an equal footing but also quickly. In addition, many more judgments will be published online in the years ahead.

Target III

An effective Judiciary

To be socially relevant and effective, the Judiciary must ensure that disputes are resolved in a manner that contributes as far as possible to the solution of the underlying problems of the parties and society. The possibilities for this differ from one area of the law to another. To be effective, judgments must also be given promptly. Long delayed judgments lose their significance. In this day and age, the digital accessibility of the judicial system must also be increased.

The lead times for the different types of cases will be standardized and measures taken to ensure they are achieved in all branches of the law. In addition, priority will be given to certain types of case where time is of the essence (e.g. care orders for children). More generally, the treatment will be geared to the type of case and a distinction made between simple, normal and complex cases. Logistical coordination with the partners in the chain, for example the Public Prosecution Service, will be improved. Electronic messaging and the possibility for parties to institute proceedings online and monitor the progress of their cases should help to make the judicial system more accessible and reachable.

Target IV

A Judiciary anchored in society

If it is to be anchored in society, the Judiciary must engage in dialogue with the community, be visible in the media, be receptive to criticism and pursue a policy of openness. In addition, the various groups of the population must be reflected in the composition of the staff, and knowledge of the social and cultural background of the population groups must be increased.

To achieve this target the Council for the Judiciary and the boards of the courts will consult more intensively with civic organizations and government authorities in the coming years. Citizens will be involved in specific projects involving the judicial system. There will also be investment in involvement in education, recruitment of personnel from specific target groups and improvement of the provision of information to litigants and the public in general. Moreover, an active media policy will be pursued.

Mission and vision

The vision elaborates the mission statement of the Judiciary. As such it sets out the aims for the medium term. Only certain aspects of the vision set out in the Agenda for the Judiciary for 2005-2008 have been adjusted. Most of the changes relate to the vision of the organization. Greater emphasis has been placed in this connection on leadership and organizational culture and on being a learning organization.

The vision consists of five main elements:

1. Constitutional position
2. Domain
3. Values
4. Task perception
5. Organization

1. Constitutional position

- The Judiciary has its own position within the constitutional structure, and this position is fleshed out in the light of changes in society.
- The judicial system has a special responsibility for upholding the rule of law and safeguarding legal protection, as recorded in international treaties and conventions.
- The evolving European legal order has growing influence on both the administration of justice itself and the organization of the Judiciary. It follows that the European orientation of the judges and the judicial system must evolve at the same pace.
- The Council will call upon the other branches of government if the functioning of the Judiciary is jeopardized. This applies in particular to cases in which it is impossible to enforce judicial decisions.
- The judicial system's funding must be adequate to enable it to discharge its tasks properly and to do so according to its own quality standards. Funding must be provided on the basis of objective criteria.

- To ensure the effectiveness of the Judiciary, it is necessary to ensure good logistical coordination with those persons and bodies with which the courts are in intensive contact, such as the Public Prosecution Service, the Bar and administrative bodies
- As society becomes ever more heterogeneous, the Judiciary must attempt to translate these changes into its staff recruitment programme, so that the judicial system remains a body with which every group in society can identify.
- The judicial system must raise its profile by providing information and contributing to education.

2. Domain

- The legislator has charged the courts with responsibility for dispensing civil and criminal justice across a broad field. This role must be maintained to ensure that citizens continue to be afforded legal protection. Hearing simple cases is also a function of the judicial system, especially as it is well-equipped to handle simple matters quickly and efficiently.
- The relationship between the judicial system and alternative, extrajudicial forms of dispute resolution should be based on the principle that litigants choose alternatives not because the judicial system is failing to perform (for example because of the length of court actions), but because these alternatives offer better solutions for certain disputes. The parties must be at liberty to choose without having to follow compulsory preliminary procedures.
- Where the judge deems appropriate, the parties are informed that mediation may be a suitable way of resolving their dispute. If they agree, the dispute is referred to a mediator.

3. Values

- When performing their duties, judges are guided by the requirements for a fair trial as set out in national and international law, in particular article 6 of the European Convention on Human Rights.
- Independence, impartiality and integrity are the essential preconditions for the fair adjudication of disputes and trial of criminal offences. There should be no room for doubt about this, especially within the judicial system.
- The Judiciary must strive for a high degree of transparency, both in individual cases (for example, when explaining the grounds for a judgment) and within the judicial organization as a whole (for example, in relation to performance, appointment procedures and the use of resources).

4. Task perception

- The Judiciary must arrange for disputes to be resolved in a way that helps as far as possible to solve the underlying problems of both the parties and society at large.
- The judicial system has high quality standards for the way it performs its tasks, in particular as regards expertise, promptness and accessibility.
- In view of the broad area covered by the Judiciary and the variation in the complexity of cases, how a case is treated and the attention it receives must be proportionate to this complexity. This involves factors such as the social significance of a case, how it affects other cases (and the development of law through case law) and the parties' interests, financial and otherwise. This point of departure means it is essential to differentiate between and within case types. The spectrum of case types ranges from straightforward but numerous (such as the collection of uncontested debts) which can be disposed of quickly and efficiently using ICT, via legally straightforward disputes in which the parties desire, above all, a satisfactory oral hearing of their case and not a detailed written motivation of the grounds for the judgment, to highly complex disputes which require an extensive written procedure followed by an appropriate written judgment.
- Judgments must be substantiated in a manner that is clear and unequivocal for the public. The Judiciary must strive to achieve full unity of procedural law and a high degree of unity of substantive law, leaving a sufficient margin for development of law.

- Efforts to expedite proceedings must not be at the expense of the quality of the administration of justice or how the parties are treated during the hearing. This requires judges to assume a strong management role. Administrative processes can be streamlined by using more ICT (for example digital files and the possibility for instituting cases online).

5. Organization

- The courts and the Council form a single organization that has its own position in relation to the courts and the individual judges. The strength of this organization is largely determined by strong managers, good communication between managers and staff, collaboration between the various organizational tiers within a court, collaboration between the various courts and collaboration between the courts and the Council. Management boards consist mainly of judges (managing professionals). Good leadership of the Council and court management boards requires such qualities as vision, daring and a willingness to innovate.
- The Judiciary is a professional organization of committed professionals (judges and court officials) who are expected to meet high standards. As such, they are aware of their responsibility for the quality of the administration of justice and their contribution to it. The Judiciary has a culture in which it is normal to provide feedback to and share knowledge with colleagues. As a good employer, the Judiciary provides career prospects and continuous professional education. This ensures it can attract expert and highly-motivated staff and has a strong position on the labour market.
- The organization itself is responsible for the quality of its service and determines the criterion to be applied for this purpose. In doing so, it takes account wherever possible of the justified expectations of litigants and professional partners. The judicial system wishes to be a learning organization, in touch with the social environment in which it operates.
- Innovation is necessary to keep the organization up-to-date. This applies both to the administration of justice and to the operation of the system. The ongoing development, implementation and assurance of innovation is aided by surveys of the social setting in which the Judiciary operates, and by surveys on how it is expected to change. Continuous attention is focused on research & development with a view to the application of new technologies. The Council has the role of initiating, supervising and facilitating this process.
- The judicial system must use the public funds at its disposal efficiently and effectively and provide transparency about how these funds are spent and about the effectiveness and aims of this expenditure.

Colofon

Council for the Judiciary
P.O. Box 90613
2509 LP The Hague
The Netherlands

Kneuterdijk 1
2514 EM The Hague
The Netherlands
T 31 70 3619723
F 31 70 3619715

voorlichting@rechtspraak.nl
www.rechtspraak.nl

Date of publication
July 2007