

**EUROPEAN NETWORK OF**  
**COUNCILS FOR THE JUDICIARY**

**WORKING GROUP**  
*“MISSION AND VISION – DEVELOPING  
A STRATEGY FOR THE COUNCIL”*

**Report**

**May 5, 2006**

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# 1. Introduction

In June 2005, the General Assembly of the European Network of Councils for the Judiciary (ENCJ) established four new working groups, including the working group “Mission and Vision – developing a strategy for the council” (coordination by Belgium) <sup>1</sup>.

This working group<sup>2</sup> met four times before the General Meeting of 24-26 May 2006 in Wroclaw (Poland): December 5, 2005, January 27, April 28, and May 5, 2006.

At its first meeting on December 5, 2005, the working group defined its objective as follows<sup>3</sup>. “The major aim of this working group is the development of an instrument that can be used by the different members and observers within ENCJ for their own reflection concerning the definition of a mission and vision for their organisation and choices for the future. To this end, the working group will apply a theoretical framework of strategic management, and complete this with working group members’ experiences about the process and the outcome of their reflections concerning mission and vision. The working group will also continue its work in completing information concerning the specific competences of the actual members and observers of the working group. This information can become one of the additional sources for detecting actual common and different ways of functioning on the part of members and observers, thus contributing to their future development.”

In this report, the working group presents a simple but helpful framework for members and observers to assist in introducing and developing strategic management<sup>4</sup>. It represents a positive choice to take responsibility for the future of the organisation. At the same time, strategic management is something that must be learned step by step. The working group stresses the need for taking the first step! The framework can be used as a guideline. It is in no way meant to be compulsory. More information can be obtained from the cited literature, members of the working group or local consultants.

For a good understanding of the report, the central concepts are explained here with the relevant question being addressed:

Mission	What is the organisation’s raison d’être?
Vision	What will the organisation look like, for example, in five years?
Values	Which corporate values need to be served or strengthened?
Strategic plan	What are we going to do?

The report of the working group consists of four chapters. First, the usefulness of developing a strategy by a council or organisation is stressed. It is made clear that a strategic approach can also have an impact on stakeholders’ trust<sup>5</sup> (chapter 2). Subsequently, a theoretical framework is proposed that constitutes a recipe for strategy development by a member or

<sup>1</sup> Report of the ENCJ General Assembly, Barcelona, June 2-3, 2005.

<sup>2</sup> Members and observers who are a part of the working group are listed in appendix 1.

<sup>3</sup> Except for Germany, which stressed its observer’s position within the working group

<sup>4</sup> Suggestions for further reading on strategic management: Johnson G., Scholes K. and Whittington R. (2005) *Exploring corporate strategy (7<sup>th</sup> ed.)*. Financial Times Prentice-Hall; Minzberg H., Lampbel E. and Ahlstrand B. (1998) *Strategy safari: A guided tour through the wilds of strategic management*. Free Press; David F. (2005) *Strategic management (10<sup>th</sup> ed.)*. Pearson Prentice Hall; Faulkner D. and Campbell A., eds., (2006) *The Oxford handbook of strategy*. Oxford University Press.

<sup>5</sup> Stakeholders are the persons, groups and institutions directly affected by an organisation’s performance, e.g. managers, employees, clients, suppliers, government, pressure groups, society...

observer (chapter 3). With this, a description is given of how five countries participating in the working group have dealt with strategy development, especially with defining their mission, vision and strategic objectives in a long-term plan. In this regard, the lessons learned per country are indicated (chapter 4). Finally, based on these various lessons, the usefulness of strategic management in the field of the judiciary is emphasised in the conclusion (chapter 5).

## 2. Aims of strategic management

Every modern organisation (public or private) that wants to perform well needs some kind of management and a long-term plan. Strategic management is a tool designed to upgrade or maintain the organisation's performance. No activity is more essential to an organisation than setting the course for the future. Organisations that have little or no time for strategy, become bogged down in performing operational activities (tasks) dictated by previous practice, and lose touch with the society in which they have a role (mission) to fulfil.

The use of strategic management offers ENCJ members and observers the opportunity to determine, clarify, revise and implement their fundamental mission in society. Does a member or observer, for example, carry out its mission comprehensively? Does its mission still meet society's expectations? What role can a member or observer assume in the judicial environment? What role is it best placed to play in this environment? What value can it add to judicial authorities and other stakeholders? Can it be instrumental in increasing public confidence in the judiciary and in the justice system in general?

By adopting a strategic approach to its mission, an organisation can answer these fundamental questions. It can evaluate its place and role in the judicial landscape, thus calling itself into question and taking the necessary steps to fulfil its mission more satisfactorily or, if necessary, engaging in reorientation. An open, self-critical and self-confident attitude and culture are indispensable to this process.

The use of a strategy also fits with managing the confidence the public has in the judiciary.<sup>6</sup> Trust<sup>7</sup> is important to the sound operation of an organisation, not only within the organisation itself, but also in the relationship with the various stakeholders. It is impossible for people to have comprehensive knowledge and full mastery of the processes employed within a complex organisation such as the judiciary. In a modern society, trust in an institution is essentially active. It is no longer based on faith, belief, norm or habit. In active trust, the trust is mainly reflexive in nature: it is an option open to the trustee. To make trust possible, the organisation also has a role to fulfil, namely opening out. Active trust is an important means of developing relationships between people and an organisation.

In order for the public to have trust in the judiciary, today it is no longer enough only to believe in its independence. There are also other aspects of the organisation that the public must be able to trust: competence for example, but also intention, performance, etc. For such aspects, people will evaluate the information received and conclude whether or not – or to what degree – trust in the institution is warranted. In this respect trust in a council, or in the judiciary, can be earned by good performance and making use of strategic tools such as mission and vision for communicating the organisation's intention.

Trust, strategy, performance and transparency are interconnected.

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<sup>6</sup> In this regard, see also the decision of the Steering Committee, London 2006, to generally frame the Wroclaw Assembly within the theme of "Public confidence in an independent judiciary in Europe."

<sup>7</sup> In the text, no distinction is made between "confidence" and "trust." For further reading: Giddens A. (1991) *Modern society and self-identity. Self and society in the late modern age*. Cambridge: polity Press; Luhmann N. (1979) *Trust and power*. John Wiley and Sons.

### 3. Action Framework for strategic management

The Framework provides the ENCJ members and observers with a means to focus their activities on the achievement of strategic objectives and clear communication with the public, government and other stakeholders.

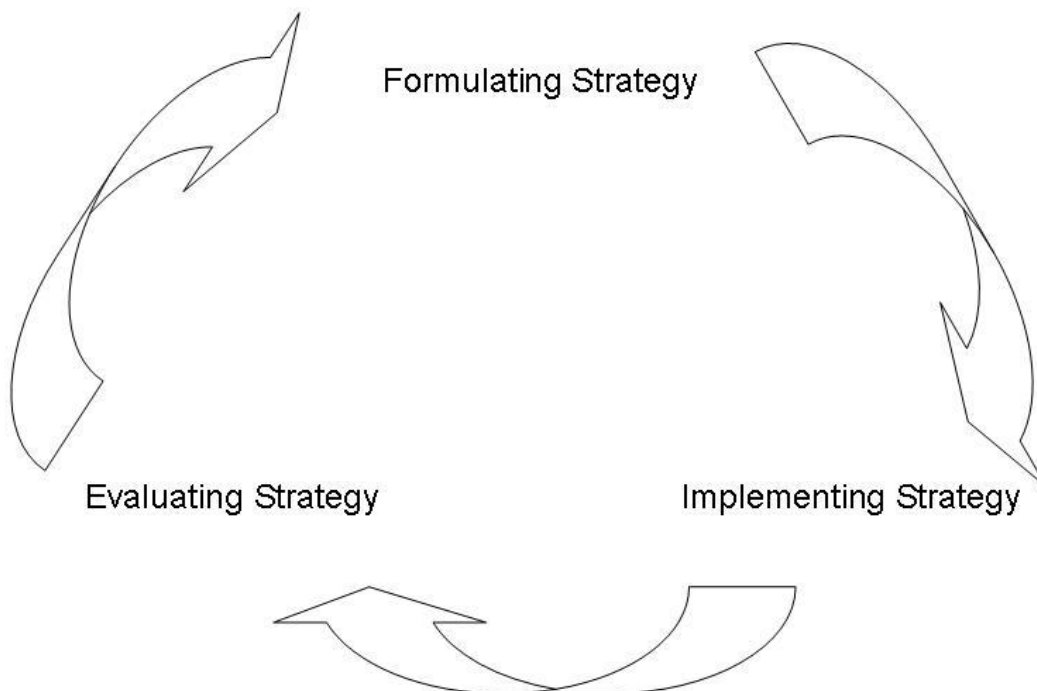
To help ENCJ members and observers present the Framework to their staff in preparation for a strategic approach, the Framework comes with a supporting PowerPoint document in appendix 2.

#### 3.1. Components

The Action Framework consists of three basic processes: (A) formulating, (B) implementing and (C) evaluating a strategy. Together they form the ABCs of strategic management.



These steps are often presented in a circle, to underline the fact that strategic management is an ongoing process that never stops.



A spiral is an even better symbol of the process an organisation goes through when it is observed for a longer period. This is because the organisation learns with every cycle. Experience and quality come with the years. The first cycle is an experiment; each successive cycle is an improvement. The upward spiral continues!

## ***A. Formulating the strategy***

Formulating the strategy consists of three sub-processes: (A1) strategic analysis, (A2) strategic direction and (A3) strategic planning.

### ***A.1. Strategic analysis***

The aim is to identify the extent to which the organisation's current strengths and weaknesses are relevant to threats, and are capable of dealing with the opportunities in the environment<sup>8</sup>.

#### **Environmental analysis (external analysis)**

Environmental analysis concerns the evaluation of key societal variables and forces in an attempt to judge their potential future impact on the organisation.

What factors in the environment affect the organisation? Which of these are presently the most important? In the coming years? Etc...

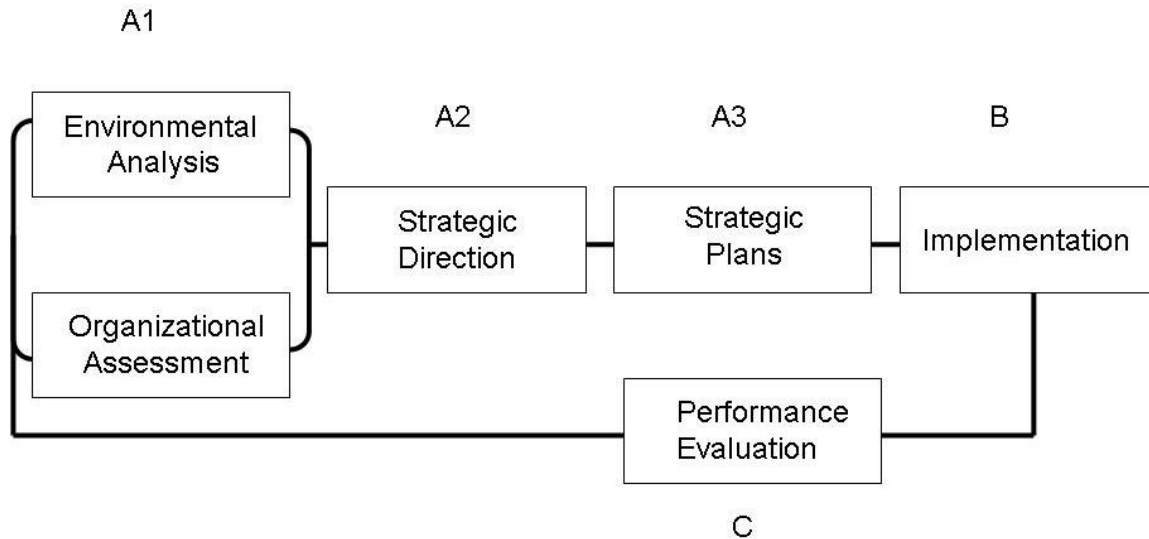
The main areas requiring analyses are<sup>9</sup>:

- Political aspects that affect social trends in society
- Legal factors (affecting the judiciary...)
- Economic factors
- Societal factors (lifestyle changes, education, demography...)
- Technological influences (new developments...)
- Trends in the judiciary sector
- The needs and expectations of external stakeholders (clients, citizens, interest groups...)
- The attitude of strategic groups (the bar...)
- Changes in ethical and environmental values
- Possibilities of future events and circumstances.

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<sup>8</sup> Opportunities are external factors that substantially assist organisations in their effort to achieve their strategic objectives. Threats are external factors that may result in organisations failing to achieve their strategic objectives. Strengths are internal, positive attributes of organisations helping them to gain advantage in order to achieve their strategic objectives. Weaknesses are internal negative attributes of organisations that may result in failing to achieve their strategic objectives.

<sup>9</sup> Different frameworks for environmental analysis exist, e.g. the PESTEL framework categorises environmental influences into six main types: political, economic, social, technological, environmental (ethical) and legal.



### **Organisational assessment (internal analysis)**

Strategy can only succeed if it is largely based upon the real strengths of the organisation. Organisational assessment is a comprehensive process through which organisations can assess their competencies and capabilities, the efficacy of services and supports delivered and the extent to which programmes are managed effectively.

This can be done for example by:

- Analysing the use and quality of information technology
- Verifying accounting expertise: is the data the organisation collects accurate?
- Internal stakeholder analysis: assessing and prioritising the needs and expectations of internal stakeholders (staff...)
- Analysing resources.
- Exploring competencies: reputation, innovation, strategic assets (e.g. structure), processes, communication (vertical and lateral), leader's ability, quality of management, leadership skills of managers, quality of staff...
- Analysing the processes an organisation must be able to execute efficiently and effectively in order to provide good service: work organisation, staff development ...
- Developing and evaluating performance indicators
- Cost efficiency: does the organisation make the most effective use of resources and capabilities?



- Analysing the organisation's culture: the strategy must fit the culture and values of an organisation, unless there is a drive to change these.

## ***A.2. Strategic direction***

Mission, vision and corporate values are brought into play in order to give direction to the organisation's activities.

It is important that the three elements – mission, vision and corporate values – actually co-exist. Together they provide strategic direction.

### **Mission**

Mission describes the organisation's *raison d'être*. Why is the organisation actually needed?

A mission statement has an internal and external function.

Externally, the mission statement offers added value to interested parties:

- To the outside world, the mission statement makes clear what the organisation stands for, i.e. it spells out its *raison d'être*.
- It makes clear which needs will be catered to.
- It provides insight into the organisation's significance (its services) for society.
- It contributes to the organisation's image (the picture that the outside world has of the organisation).

Internally, the mission statement is:

- A source of motivation in seeking to achieve a common goal;
- A means of providing a lasting sense of direction, by focusing attention on what is central to an organisation;
- A source of continuous tension, an incentive to come to grips with the changes that every organisation faces;
- A means of providing direction to the reflection and action of management and to all members of staff;
- Something that highlights the organisation's identity.

The mission statement is thus a strategic communication tool that enables an organisation to profile itself both internally and externally.

### **Vision**

Vision refers to the organisation's future. Spelling out an organisation's vision gives an indication of the objectives that the organisation wishes to achieve within a well-defined period (5 years, for example). However, effective implementation of the strategy requires that the time-scale not to be too long, in order to avoid vaguely formulated objectives and not to undermine the organisation's intention of achieving them.

A vision can of course also include longer-term aims (in which case a time-scale of 5 years for their attainment would be unrealistic). In connection with these aims, as clear as possible

an indication should be given of the extent to which they will be achieved during the specified period.

By implementing the vision (repeatedly), the mission continues to be fulfilled in (a continuously changing) environment.

### **Corporate values**

A third element giving direction to the behaviour of members of staff is the organisation's values.

Values are also objectives that must be continuously strived for and sustained by members of staff in order for them to succeed in implementing the vision and mission.

Examples of corporate values are:

- customer care
- employee commitment / satisfaction
- quality and services issues
- ethics and social responsibility
- willingness to learn, embrace change, innovate and accept responsibility
- team work

It is primarily the core values that are linked with mission and vision. They are fundamental to the development of a mission, vision and strategy.

Once corporate values, mission and vision are clear, the organisation knows which way it wants to head. At that point, it must determine how it can achieve this aim.

### ***A.3. Strategic plans***

The aim here is to define clear long-term objectives and determine which strategy is most appropriate for achieving these. The existence of a strategic plan makes the creation of specialised plans (financial plans, human resources plans, etc.) much easier. A strategic plan is useful for managers since it, for example, makes meaningful delegation possible. Such a plan is also basic information for people (for example key stakeholders) who are uninvolved with the day-to-day operations of the organisation.

### **Objectives**

The strategic objectives contained in the vision then have to be made operational. Otherwise, action, evaluation of the result, and adjustment of the strategy is impossible.

### **Strategies**

Alternative strategies for implementing the vision are drawn up<sup>10</sup>. This is an important creative and explorative phase in the drawing up of strategic plans. Alternative strategies are

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<sup>10</sup> There are an infinite number of possible actions to realise the objectives. Therefore a set of the most attractive alternative strategies must be developed.

derived from the organisation's mission, vision, objectives, external analysis and internal assessment. Matching techniques (e.g. SWOT analysis) reveal feasible alternative strategies.

### **Choice of strategy**

The strategy/strategies that will be adopted is/are chosen from amongst these alternative strategies. Cost-benefit analyses<sup>11</sup> and intuition provide a basis for making strategy-formulating decisions.

Four questions are fundamental to the success of any strategic choice: Is the strategy responsive to opportunities and threats? Is the strategy feasible, i.e. does the organisation have the necessary competencies and capabilities? Does the organisation have the requisite financial resources? Is the risk inherent in the strategy "reasonable"?

## ***B. Implementing the strategy***

This concerns the concrete implementation of the chosen strategic plans and the resulting operational plans. As the plan is being developed, it is essential to ensure that steps have been built into the plan for ongoing assessment and progress, charting both milestones and the final objectives.

### **Operations**

The strategic objectives are converted into operations. These actions also need to be associated with results, so that the difference between results obtained and the initial situation can clearly be 'gauged'. The assumption is that if these results are achieved, the strategic objective will also be attained.

Projects<sup>12</sup> and action plans<sup>13</sup> are common forms of implementation.

The operational results should be monitored on an ongoing basis. A gap may be found between the operational objectives and the current operational results, influenced mainly by changes in the environment. There also could be a gap – which must be bridged – between the intended operational activity and the present operation. This gap is influenced by internal and external environment factors.

## ***C. Evaluating the strategy***

Following evaluation of results (performance evaluation), four findings can be made:

- The strategic objectives have been attained.

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<sup>11</sup> To use the technique, simply add up the value of the benefits of each course of action and subtract the costs associated with it. Try to put a financial value on intangible costs and benefits.

<sup>12</sup> Projects are a means of organising activities that cannot be addressed within the organisation's normal operational limits. Projects are temporary and unique.

<sup>13</sup> An action plan describes what is to be deployed where.

- The implementation process is faulty (for example, it is not on schedule). If possible, it can/must be adjusted at the level of operations. This does not mean that the chosen strategy is being called into question.
- The results are not being achieved despite the fact that implementation has proceeded properly. It emerges from analysis that the strategy devised was not a good one. The strategy must be adjusted or developed again from scratch.
- The results have not been achieved because the environment has changed in the meantime. The strategy formulated is not appropriate and a new strategy must be developed.

Evaluation cannot always be carried out during the implementation phase. For evaluation of specific objectives, implementation must first be completed. The effects (outcome) are also not always felt immediately.

The working group focused on mission and vision. Essential elements of strategic management, implementation and evaluation were discussed but not investigated thoroughly. Both elements are as important as mission and vision (indeed the proof of the pudding) and have their own specific questions and obstacles that need to be addressed. Problems during implementation normally have a negative influence on the strategic planning process. Of course, the strategy can be wrong, but it may be worthwhile investigating problems in implementation.

### **3.2. Features of strategic management**

Strategic management, which includes understanding the strategic position of an organisation, making strategic choices for the future and turning strategy into action, is the starting point of the Framework. Its features are the following:

- The external environment and changes in this environment are crucial elements. Strategy determines how the organisation responds to its environment.
- The organisation focuses on target groups for which it seeks to create added value.
- Internally, the organisation focuses on its competencies.
- Before entering the planning phases, time is spent understanding the environment and organisational capabilities (i.e. strategic thinking prevails in sub-processes A1 and A2 of the Framework).
- It is important not just to devise a strategy but also to implement it.
- To evaluate results, completion of implementation, or for example an annual evaluation point in a planning and management cycle, is not awaited. In strategic management, emphasis is placed on maximising the continuous management of results.

- The actual results are compared with the results anticipated in the plan. Problems identified are systematically related to facts in the internal or external environment.
- Managers are directly involved in drawing up plans. The strategy, as it were, is incorporated into management.
- Line managers play a crucial role in a plan's successful implementation.
- The tools used are of such a nature as to allow the strategy to be communicated throughout the entire organisation, so that it appeals to members of staff – as many as possible of whom subscribe to it – and so that everyone continues to pay attention to the direction taken during the implementation phase.
- Strategic tools are fundamental to communication with the external environment.

### **3.3. Advantages of the Framework**

The Framework offers the following advantages:

- It can be used by both members and observers: it is independent of the political context in which an organisation happens to find itself.
- It is independent of the mission and the responsibilities that the organisation discharges in the judicial landscape. It allows members or observers with a very wide range of responsibilities to develop a strategy on the basis of their own nationally regulated situation. The Framework does not impose the content of a strategy.
- In mission and vision development, ENCJ members and observers can agree on common points of emphasis. Irrespective of differences in context and responsibilities, they are thus able to pursue similar aims.

## 4. Experiences and lessons learned

### 4.1. Belgium: *High Council of Justice (HCJ)*

#### DRAWING UP AND EXECUTING THE MANAGEMENT PLAN

##### *4.1.1 The HCJ's organisation and competencies*

###### **The High Council has a triple mission**

- To play a decisive role in the selection and appointment of members of the judiciary, acting objectively and in a non-party political way;
- To exercise external supervision of the operation of the judiciary;
- To submit opinions designed to improve the operation of the law, to government and parliament

###### **The High Council of Justice is a body designed to be at the service of citizens**

In performing its mission, which involves the appointment and training of members of the judiciary, handling complaints from citizens, supervision of the operation of the judiciary and submission of advice and opinions to the political authorities regarding their plans for the judicial system, the HCJ has only one objective, namely to increase citizens' confidence in the Judicial System.

###### **The High Council does not belong to any of the three branches**

The HCJ is an institution *sui generis* that cannot be subordinated to one of the three branches of the State. Its constitutional foundation places the HCJ beyond the reach of the ordinary legislator, which is intended to enable it to execute the assigned tasks in complete independence. The independence of the HCJ is also manifested in its financial statute – it is funded via the grant budget.

###### **Composition and double parity**

The HCJ has 44 members: 22 magistrates (11 Dutch speaking and 11 French speaking) and 22 non-magistrates (11 Dutch speaking and 11 French speaking). The magistrates are elected by their colleagues. The non-magistrates are appointed by the Senate.

Each language group of eleven non-magistrates must be composed of at least four attorneys, three professors (from a university or other institution of higher education) and four persons with a university degree, all with 10 years of professional experience. The last category is composed of people from the media, the welfare sector, the governmental sector, the consumer sector, the business world, the management sector or specific professional groups such as court clerks, secretaries of public prosecution services, judicial officers, notaries, and so on.

The term of the mandate is set at four years, which can be renewed once.

## **Structure and competencies**

### ***\* Nomination and appointment commissions***

There are two Nomination and Appointment commissions: a Dutch and a French speaking commission of 14 members. Together they constitute the Joint Nomination and Appointment Commission of 28 members.

- The NACs nominate the candidates for appointment as magistrate or corps chief. Only one candidate is nominated per opening. A report with the reasons for the nomination is sent to the Minister of Justice. The formal appointment is made by the King.
- The Joint NAC prepares the guidelines and the programmes for the ongoing training of the magistrates and judicial internship. The execution of the programmes (organisation of courses, recruitment of the teachers, etc.) and the logistical support (classrooms, course materials, and the like) are handled by the Ministry of Justice.
- The NACs organise the examinations for prosecution jurists and referendaries (jurists who assist the judges)
- The NACs prepare the programmes for the examination of professional proficiency and the comparative entrance examination for judicial internship. The NACs organise the examinations. The Joint NAC formulates the programme proposals.

### ***\* Advisory and investigation commissions***

There are two Advisory and Investigation Commissions: a Dutch and French speaking commission of 8 members. Together they form the Joint Advisory and Investigation Commission of 16 members.

The AICs are mainly responsible for the external supervision of the functioning of the judiciary:

- Investigation into the functioning of the judiciary. This is the most far-reaching power that the constitutional legislator has entrusted to the High Council regarding external supervision. The initiative for such investigations can be taken directly by the Joint AIC by majority vote – for example as a result of an individual complaint submitted to it. The competent judicial authority executes the investigational duties and submits a written report thereon. The Joint AIC itself may lead this investigation if this authority bears responsibility for the matter.
- Supervision of the internal supervision of the operations of the judiciary (e.g. supervision of the public prosecution service by the prosecutors-general, general meetings of the higher courts, disciplinary measures, withdrawal of the case from a judge, challenging a judge, etc.).
- Handling of complaints: this AIC task may in no way prejudice the independence of the judicial branch. For this reason, the AIC may not concern itself with complaints related to the content of a judicial decision. Follow-up of complaints implies that the handling by the AIC must be done subsidiarily and that the AIC is informed of the action taken by the authority to

which the complaint was referred. The complainant is informed by the AIC concerning the course of the complaint handling.

The AICs may audit the judiciary with respect to the execution of its competencies. In addition, the Joint AIC prepares opinions on draft legislation and can formulate proposals concerning the functioning of the judiciary.

**\* *General Meeting***

The General Meeting has 44 members. It does the following:

- Approves the opinions on draft legislation prepared by the Joint AIC
- Approves the recommendations prepared by the Joint AIC
- Approves the annual training programme for magistrates prepared by the Joint NAC
- Approves the annual examination programme for magistrates prepared by the Joint NAC
- Approves the annual report on the internal supervision of the judiciary prepared by the Joint AIC
- Compiles the annual report on the general functioning of the judiciary
- Approves the council's annual report.

The chairperson of the HCJ, of course, chairs the General Meeting. No special powers or attributes are granted to the chairperson, who is expected to represent the institution.

**\* *The Bureau***

The Bureau is composed of four members with observance of double parity. The Bureau of the HCJ is the permanent organ of the institution. It ensures continuity in operations and organisation for the institution without, however, possessing any autonomous power of decision in the framework of the tasks of the HCJ. The four members of the HCJ that are assigned to the Bureau are the only people who exercise their office full time. The chairmanship of each commission is performed by a member of the Bureau.

**\* *Two Colleges***

The HCJ is composed of a Dutch and a French-language college of 22 members each. The French-language college must have at least one member (magistrate or not) who must provide proof of knowledge of German. The colleges have no special powers except in the election of the members of the Bureau who are nominated by the respective colleges and appointed by the general meeting. Each college also appoints its two commissions.

#### ***4.1.2. Experiences with mission, vision and strategy***

##### **I. Drawing up of the strategic plan (which finally, in May 2003, was named 'management plan')**

The drawing up of the strategic plan involved two stages:

###### ***Stage prior to guidance by a consultant***

This stage lasted from June 2001 to December 2002. The starting point was the conviction on the part of some members that the HCJ needed a charter that explained its mission, vision and actions. Following approval of the charter by the General Meeting of the High Council, a symposium on the actual functioning of the HCJ would be held.



For that purpose, in the spring of 2001, a ‘reflection seminar’ working group was set up, comprising interested members of the High Council. The working group’s task was to prepare a reflection seminar, i.e. to design a programme for a reflection seminar with the 44 members of the HCJ on the HCJ’s mission and operation.

At its meetings in July/August 2001, in preparation for the reflection seminar, the working group decided the following:

- 1) To request two members of the High Council to produce a memorandum on how to approach the issue;
- 2) To ask external experts (journalists, university professors) for their vision of the mission and operation of the High Council. The following questions were put to them:
  - What impact does the High Council have on recruitment policy, political-judicial policy, the judicial system’s clients?
  - What position should the High Council adopt within the political-judicial system?
  - How do we come across to our various stakeholders?
  - What do you expect from the High Council of Justice?

In early March 2002, the meeting with these external experts was held. The following main topics were considered:

1. Building up the HCJ as a properly structured place to debate and meet.
2. Profiling the HCJ as an engine for changes within the judicial system.
3. The HCJ is first and foremost for the judicial system’s clients.
4. Methodically producing annual reports on the judicial system’s operation.
5. Developing HRM within the judicial system’s organisation (e.g. reviewing the evaluation system, making the function of judge more attractive, decentralising the management of courts) and ensuring efficient organisation of the HCJ.

In late March 2002, the two-day reflection seminar was held:

The basic premise was that the mission statement must express the following main objective:

- The HCJ should contribute to better operation of the judicial system;
- Consequently, the HCJ must stop responding on an ad hoc basis and set about its work systematically;
- The HCJ must plan long-term projects.

At the seminar, it was concluded that the mission statement must touch on the following points:

1. Admission to the judiciary and nomination/selection (magistrates)
2. Operation of the judicial system and more particularly the question of the backlog of cases to be dealt with
3. Relations with civil society and especially the question of handling and following up complaints
4. Cooperation with the Minister of Justice at all levels.

After the seminar, a decision was made to set out the vision of the HCJ’s operation

- in a clear agenda for the last two years of the mandate
- in a future-oriented way.

To this end:

- The mission should be determined and the existing operation evaluated by October 2002, for submission to the General Meeting.
- An action programme should be devised by December 15, 2002, for submission to the General Meeting.

Should it not be possible to carry out this task alone, outside support should be requested from the General Meeting.

On October 28, 2002, the working group drew up the following parts of a first strategic plan:

1. Mission statement (mission and vision)
2. Analysis of the strengths and weaknesses of the present situation with a brief overview of opportunities and threats
3. Three strategic objectives
  - Better rules
  - Better judicial service provision
  - Better operation of the judicial system.

Afterwards (December 2002), these were refined into 4 objectives:

- Developing the advisory function at the level of legislative initiatives
- Developing various forms of external control
- Developing a human resources policy
- Developing the forum function and an external communication policy to ensure more transparent administration of justice.

The general meeting wanted to make sure that the working group's outcome corresponded to a professional standard concerning the achievable results, the logical structure for presenting those results and the assurance that they are capable of being implemented. Time pressure also required hiring a consultant.

### **Stage after the appointment of an external consultant**

This stage lasted from January 7 to May 21, 2003. On January 7, 2003, the working group handed over its draft strategic plan to the consultant. The consultant had agreed with the High Council a clear process to be followed in producing the definitive strategic plan (see the scheme below).

TOP-DOWN	SWOT Analysis	Strengths/weaknesses (internal) Opportunities/ Threats (external)	
	Environmental analysis	Target groups, clients, sponsors and their expectations	
	<b>Strategic Plan:</b> Mission	Raison d'être Why are we here?	
	Vision	Ambitious image of the future (over 5 to 10 years)	
	Strategy	Strategic priorities, choices to realize Mission/Vision with performance indicators	
	Success factors	Management elements that influence the successful realisation of the strategic vision	
	Matrices Strategies/success factors	Determining strategies and objectives/ projects/ actions	
	<b>Operational plan:</b> Objectives/ Projects	Partial results to achieve in the future	
	Actions plans (operationalisation of an objective/ project	Implementing strategy: actions/ resources / conditions	
	Performance indicators	Measurement criteria/ scale/ procedure	
	Balanced scorecard	Follow-up 4 perspectives	

The working group was converted into a 12-member core team. Other members of the High Council who wished to work on the strategic plan were also consulted: for that purpose, a meeting with them was convened, at which they were able to set out their vision and provide information.

The consultant held a seminar with the working group on January 24 and 25, 2003, the aim of which was to make preparatory analyses for the strategic plan (the 7 strategic objectives were defined). On February 17, the operational part was completed (the operational objectives were added).

The definitive management plan was approved by the High Council on May 21, 2003.

### **A management plan with four components**

Appendix 3A gives a complete overview.

### **Mission**

The HCJ, a constitutional body consisting of members of the judiciary and non-members of the judiciary, is committed to creating the conditions that will optimise the functioning of a

justice system, which is at the service of citizens. In this, it supports the work of the parliament, the government and the judiciary.

### **Vision**

The HCJ seeks to become a reference body that, through its recognised expertise, intends to contribute decisively to improving the functioning of the justice system, making it an effective, quality public service that enjoys the confidence of citizens.

### **Strategic goals**

1. To optimise the selection and promotion of members of the judiciary
2. To create the conditions for better management within the judicial system
3. To optimise the supervisory competence of the HCJ
4. To optimise the “opinions” function
5. To promote an external cooperation culture
6. To develop a communication policy
7. To optimise the internal functioning of the HCJ

### **Operational objectives:**

25 objectives were defined (see appendix 3 A)

## **II. Execution of the management plan**

During the first mandate, the following operational projects were started/executed:

- Organisation of two forums (“Backlog of cases” and “The image of Justice”)
- Optimisation of the current organisational structure of the High Council
- Development of the concept of a selection procedure for the magistracy
- Development of the concept of a federal training institute for the members of the judiciary.

During the second mandate (09/2004 – 08/2008), a pluriannual plan was set up that consists of 24 projects spread across 3 activity domains (see appendix 3B). These projects are divided among 13 project teams as some projects are to be executed by the same team for consistency and coherence of action. The projects’ concrete outcome and approach are defined by the project teams.

## **III. Evaluation of the management plan**

The plan has not been evaluated until now. This has to do with the fact that sufficient objectives must be realised first. The implementation really only started with the development of a pluriannual plan. Since no system of evaluation was elaborated when developing the management plan, evaluation will be difficult. Creating so-called suitable criteria afterwards can lead to a weakening of that which was implicitly expected when the strategy was established.

#### **IV. Lessons learned**

1. The HCJ does not have a traditional management structure. After all, there is no hierarchy and the council both makes and implements policy. Therefore, it is important that the strategic vision is shared within the whole HCJ. Without a shared intention, the organisation cannot properly execute the tasks it has been assigned. Regardless of the structure of the organisation, it is important to understand this intention and communicate it to personnel and stakeholders. Strategic management is the right tool to make these things happen.
2. Before developing a strategy, it is important to have good insight into the structure of the organ that intends to act strategically, in order to properly assess its impact on the strategy process. Councils with many members, who are unable to delegate their strategy process, find it more difficult to reach a consensus. They are also less able to take a distance because they must formally approve the strategy they themselves have designed.
3. Formulating a mission, vision and objectives remained an open debate until the services of a coach were introduced.
4. A thorough analysis of the needs of the clients and other stakeholders is required before all else. Members were too interested in the Council's internal operation. Start with the mission. In so doing, start from the external environment. Try to establish the added value for one or more target groups that the institution intends to realise with its services.
5. Expertise with a strategic approach must be available.
6. The HCJ's management plan is an open-ended document. Operational objectives can be freely added. Try to plan all the operational objectives for a predetermined time frame.
7. The plan does not contain concrete strategic and operational objectives. Thus, translate the vision into clear objectives.
8. Prioritise operational objectives in function of the strategic impact they could have on the users of the services. Try to give priority to realising the objectives with the greatest impact.
9. No deadline was fixed for the execution of the planned goals. In this, try to stick to a time frame of more or less 5 years.
10. Due to a lack of evaluation criteria (with respect to the results to be achieved), it is difficult to evaluate the plan. When formulating the strategy, the evaluation criteria should be designed at the same time.
11. No alternative strategies were developed. It is not clear what should or can be done when action does not produce the desired result.
12. If realisable and appropriate to all the objectives of the organ, one could consider changing its structures. An amendment to the law could be required for this.

13. Attach much importance to the implementation of the strategy, and evaluate it. Conceive a plan that can really be implemented. Give attention to these issues during the strategic thinking phases (A1 and A2).
14. The strategic process is a loop. The strategic direction can be fundamentally revised in function of the analysis of the environment.
15. Take the decision to act, and enter the strategy process.

## **4.2. Finland: *Department of Judicial Administration***

### **DEFINING A JUDICIAL POLICY STRATEGY FOR THE COURTS AND LEGAL AID OFFICES IN FINLAND**

#### ***4.2.1. Use of Strategies in Management in the Purview of the Ministry of Justice***

Over the past few years, the management structures in the Ministry of Justice have been adjusted towards a more strategy-oriented direction. In 2002, the Ministry published its Legal Policy Strategy for 2003—2012 (<http://www.om.fi/23270.htm>). This is the first publication of its kind, albeit linked to a broader reform trend in the management structures in State central administration.

According to the modern view, the Ministries are strategy-level operators (Valtion keskushallinnon uudistaminen, Ministerityöryhmän loppuraportti 28.6.2002 [*Reform of State Central Administration. Final Report of Ministerial Working Group 28 June 2002; not available in English*]). With their own strategies, they provide more detail and concreteness to the Government Programme and the Government Strategy Document. The role of strategy work is increasing also in the management of the purview of the Ministry.

The Ministry of Justice has continued its strategy work through the designation of Strategy Teams, with representatives from the major stakeholder groups and networks in the purview of the Ministry. Over the winter, the various Strategy Teams developed Action Plans in the fields of judicial policy, criminal policy, insolvency policy and international affairs. The leading principle is that the Action Plans would cover all of the major functions in the Ministry purview. In a nutshell, the judicial policy strategy concerns the development work relating to the courts and the legal aid service in Finland.

Unlike many other countries Finland does not have any special state authority ( e.g. Sweden, Norway, Denmark), that takes care of the administration of the judicial system. In Finland these duties belong primarily to the Department of Judicial Administration within the Ministry of Justice.

One of the duties of this department is to ensure that the courts have sufficient financial resources, sufficient staff, proper premises and telecommunications, and that sufficient further education is provided to maintain the professionalism of the staff at a high level. The ministry also has to take care of the development of the judicial system. The civil servant staff of the Department of Judicial Administration take part in the drafting of new legislation and the follow-up that takes place after legislative reform has been implemented. About a year ago (1.4.2005 ->) a new unit in department, Legislation and strategy unit, was established for composing a judicial policy strategy for judiciary and legal aid offices.

In theory the role of the ministry as an influencing agent may cause conflict with respect to the independence and autonomy of the judicial system. In practice, however, there has not been problems worth mentioning.

A strategy can be described as a long-term plan for the operations of the organisation. The idea is that the main values and objectives of the organisation are defined so clearly, that all of the functions of the organisation will promote the achievement of these objectives. On the interpersonal level, strategic management proceeds e.g. through performance negotiations and development discussions. First and foremost, strategic management is a management method, a model for the management of an organisation.

The setting of goals is an essential element of strategy work. In business management, this concept is known as the Vision, that is, the view of the management of the organisation as to what they want the organisation to look like at the end of the planning period. The difference of the setting of goals in the public sector from that in the private sector is that the operations must be planned on the basis of the statutory duties of the organisation and the expected demand for its services.

Foresight of changes in the operating environment requires the ability to make calculations and to extrapolate from the changes that are already known. Owing to the ever increasing complexity and the ever faster change of the operating environment, all planning for the future requires also a vision of the underlying trends of development. For purposes of judicial policy, such visions can be found e.g. in the Report of the Commission of Inquiry into the Development Trends of the Court System (Commission report KM 2003:2; contains an English summary).

In the summer of 2005, the Judicial Policy Strategy Team drafted an Action Plan; a number of working groups and research projects have already been launched on the basis of the same. That being said, it is already necessary to revise the Action Plan on the basis of the Government Productivity Programme and the Foresight Network (VN:n ennakointiverkoston raportti 1/2005 [*Report of the Government Foresight Network 1/2005, not available in English*]). Calls for better planning have been heard also from the purview of the Ministry and from employee associations.

The Strategy Teams have been reappointed for 2006. The strategy work in the sphere of judicial policy will be supported by the resources of the Department of Judicial Administration at the Ministry, with the strategy being drafted in close co-operation and interaction with the courts and other agencies. The first stage will involve goal-setting, where we assess the changes of the operating environment and try to define what services will be expected from the judicial system some ten to twenty years into the future. Thereafter, we will lay down more detailed Action Plans and procedures for the evaluation of the impact of the same.

#### ***4.2.2. Stages of the Strategy Process***

1. Compilation and analysis of strategic information
2. Definition of the strategy
3. Planning of strategic projects
4. Implementation of the strategy
5. Follow-up, evaluation and updating of the strategy





## ***2.1 Compilation and analysis of strategic information (forecasting the demand for services)***

### A) Forecast of caseloads in 2011, 2016

- i. General (civil & criminal) courts
- ii. Administrative courts
- iii. Special courts
- iv. Supreme Court and Supreme Administrative Court
- v. Legal aid service

The objective is to forecast the caseloads in 2011 and 2016 at the national and regional levels. At first, the intention is to select the case types to be forecast and then make predictions on the numbers of cases in those types in 2011 and 2016, extrapolating from the statistics from recent years.

### B) Assessment of the changes in the operating environment

The caseload trends will be predicted on the basis of known changes in the operating environment. Such changes include the known or foreseeable *legislative amendments* with an impact on caseloads, as well as the other predictable changes, such as the ageing of the population, migration and crime statistics, where these may have an impact on caseloads. No ready templates exist for this work; the professional staff working in the various sectors will be the best experts available in their sectors.

### C) Scenarios

Scenarios are alternative changes in the operating environment, requiring variable operational planning. One example from the general courts is the summary debt collection case: The direction of operative planning will depend heavily on whether these are transferred from the courts to some other agency or not. The strategy should be flexible enough to take such alternative futures into account.

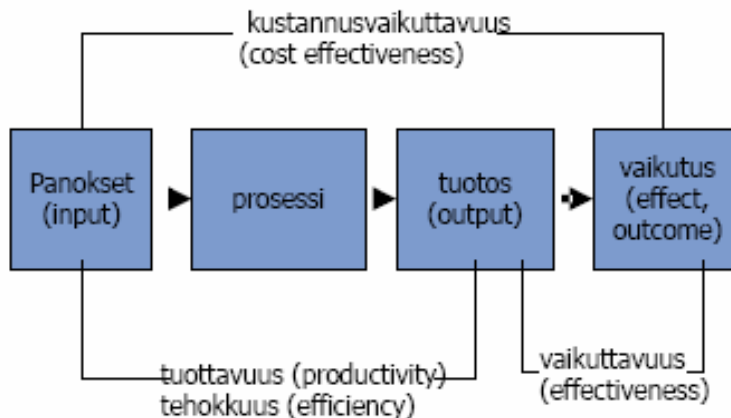
This stage, the development of a vision for judicial policy, has as its objective the forecasting of the *demand for services* from the courts and the legal aid service in 2011 and 2016. Five years is a relatively normal time span for strategic planning. The forecast for 2016 relates to the *Outlook to the Future* that the Ministry of Justice will produce at the request of the Cabinet Office, especially to be used as material in the setting of the next Government Programme after the 2007 general election. The same foresight work is intended to be used both in the strategy work and in the preparation of the Outlook to the Future. The deadline for the latter is June 2006.

## 2.2 Definition of the Judicial Policy Strategy

a)

The main task of the judicial system is to provide statutory services; this means that the services, the processes and the resources must be planned so that they correspond to the foreseeable demand for services. In public administration, the Vision has a particular significance; it may of course be the enunciation of a common goal, but the decisive factor is not what kind of judicial system we would prefer, but rather what kind of judicial system we must have.

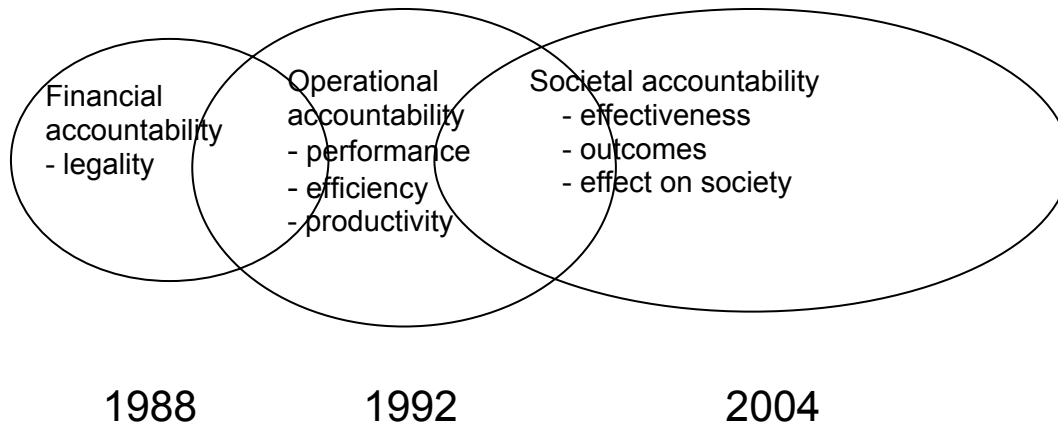
The viewpoint of effectiveness, introduced by the recent reform of Finnish *legislation on State finances and the budget*, is a new one when it comes to the operational planning of the judicial system:



Under section 63(1)(1) of the State Budget Decree, all state agencies must draw up annual final accounts, containing also a report describing “the operational effectiveness of the agency, the development of the same and the effects that it has had on the development of societal effectiveness”.

The reform of the budget legislation means a change in the *accountability* of the agencies. In the past, accountability was seen primarily as financial accountability, that is, the use of public funds into legitimate purposes through lawful procedures. The next step of accountability was taken with the introduction of performance management, which emphasised the performance of the agency, more precisely the cost-effective use of public funds in its operations. With the latest step, the consideration of effectiveness, the earlier narrow concept of accountability has been expanded to mean societal accountability, that is, the added value that the public agency is providing to those customers and stakeholders who need or use public services.

## Accountability Shift



The budget legislation places effectiveness targets squarely in the midst of strategic planning and hence makes them the responsibility of the Ministries. That being said, the many special characteristics of the judicial system, not least the independence of the judiciary and the large number of geographically dispersed agencies, make it probable that the goal-setting will be easier if we co-operate and interact to that end. This, in short, is the point of the present exercise.

### Effectiveness

”Achievement of effects that meet the needs of the society”:

- What is the value for the money that the taxpayers and the society get from the judicial system?
- Who needs the services of the judicial system?
- What would happen, if there were no judicial system?
- What is the value added by the judicial system to the customers and the society?

Effectiveness can be approached from at least four viewpoints:

1. The judicial system has an effect on the society through the *services* it provides. For the courts, the mechanism is the fair trial, where the effects of the service correspond to the law and the expectations of the society. The point here is *the supply of services in accordance with the demand*, constituting one major aspect of effectiveness, that of “direct outcomes”.
2. The judicial system is also a significant provider of welfare services. The judicial system safeguards the interests of the citizens, so that the *risk* of their rights being violated is low and their *welfare as rightsholders* remains high. Effectiveness of this kind can be assessed by asking what would happen if there were no judicial system

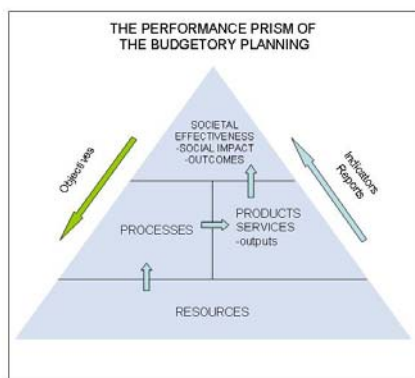
and by comparing Finland to other countries where people's welfare as rightsholders is not at the same high standard as it is in Finland. Effectiveness of this kind does not depend on the productivity numbers of the judicial system, but rather from it having a functioning network of services and a viable organisation.

3. In addition, there are certain "non-judicial" expectations of the judicial system. Trials are being followed and reported on, the courts are seen as providers of entertainment and thrills and as disclosers of social wrongs. Responding to these expectations is also a form of influence and may improve effectiveness. These latter two points are a special kind of effect on society, one that has so far been hardly discussed at all within the judicial system.

To comprehend the new accountability with its emphasis on effectiveness, to concretise of the effects of the operations and their effectiveness, and to design appropriate benchmarks for the evaluation of the same, are a very important stage in the strategy process, one that may require also a new form of "customer-centeredness" also in the judicial system: Who needs the services of the judicial system, what are the needs and expectations of the customers, what sorts of customer segments the judicial system may have, what is the use/value added to them, what are the expectations of the customers in respect of operational development.

b)

Following the assessment of the demand for services and the effectiveness targets, the services (the product), the processes and the resources should be adjusted so that they correspond to the demand and to the requirements of effective operations.



The services/products of the judicial system are largely statutory in nature, which means that they must be supplied in line with the demand; that being said, the novel definition of effectiveness may make it possible to provide services also with a degree of discretion. And of course, the law can be amended as well. The leading principle of performance management is that those who work at the customer interface also plan their operations themselves. Initiative, at least, is not something denied for the courts.

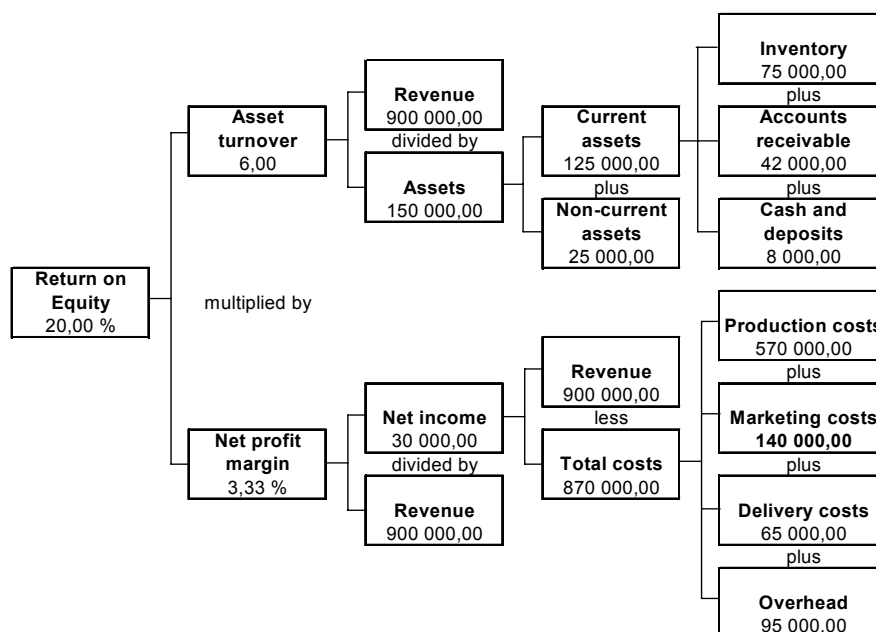
Also the processes are by and large organised on a statutory basis, but there is a degree of flexibility to them e.g. in view of lawful court compositions.

A major factor in respect of resources is the Government *Productivity Programme*, which is known to lead to personnel downsizing in the judicial system. There may be scope for resource increases for the provision of electronic services and the development of IT systems. Owing to the foreseeable cuts in staffing levels, we can pose e.g. the following questions:

1. Will there be enough resources for operations that meet the demand for service and reach the effectiveness targets?
2. How should the processes and products be changed so that the available resources are enough for operations that meet the demand for service and reach the effectiveness targets?
3. How can we utilise the available resources so that the operations are as effective as possible?

c)

As a part of the definition of the strategy, we should be able to lay down a set of *benchmarks* for the evaluation of the operations. No such benchmarks exist at the moment. It is possible to conceive of effectiveness benchmarks as some kind of indices, describing the effects on society and direct outcomes, as well as their relationship to costs. The effectiveness indices should be based on the existing methods for measuring the performance of the agency, so that the measurement of services, processes and resources would provide content also for the measurement of the effectiveness of the operations. One possible solution could be the Du Pont model, where the effectiveness benchmark is derived from a number of more detailed benchmarks covering various aspects of operational performance. (Pekka Etelälähti, Presentation of the Performance Prism).



There is not a **judicial policy strategy beyond this point, yet**. The strategy definitions outlined in this paper should be finished by the autumn of 2006. Thereafter, the strategic projects that form a part of the strategy work consist of quite regular working groups and other projects for the development of processes and services in accordance with the adopted strategy. The implementation of the strategy means that the purview of the Ministry is managed according to the strategy. Strategic management is likewise a framework for the management of the courts and the public legal aid offices, albeit one that leaves a lot of

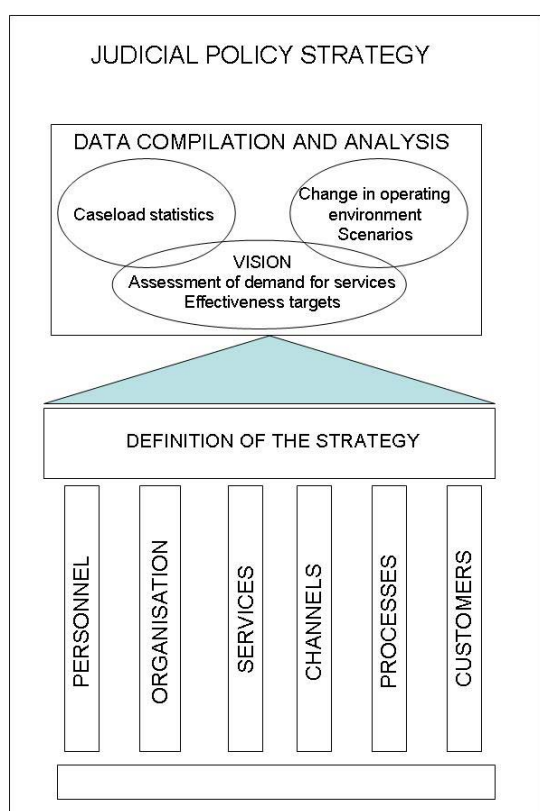
responsibility to the chief of the agency for making sure that every member of his or her staff understands the work in the light of the strategic goals.

#### ***4.2.3. Plan for the implementation and scheduling of the strategy work***

Our intention is to organise the work so that the basic preparation takes place in the Planning Group under the supervision of the Legislation and Strategy Unit of the Department of Judicial Administration. The draft texts will be discussed by the Strategy Team. Two seminars will be arranged with the contact persons in the Ministry purview before the autumn of 2006. The work began with a seminar for Strategy Team and contact persons in the Ministry purview. In the seminar there were some lectures about the changes in public management, the change of the accountability of public organisations and about the experiences of strategic planning in an other field of state administration (Finnish Maritime Administration). Also the plan of the project for judicial policy strategy (above) was presented and discussed with participants.

After the seminar the first stage of the project began. Workload statistics and information about the change in operating environment have been collected by the Planning Group and now the analyses is going on. The needed statistics of workload are found in the electronic databank of courts. The changes in the operation environment are evaluated in some minutes produced for the Planning Group. In these minutes also the planned amendments in legislation are investigated. About the societal changes much information is found in the Statistics Finland. The first vision is to be presented to the Strategy Team in the beginning of May. The analysis and the vision should be ready in the end of June. Before that the draft shall be circulated among the contact persons in the Ministry purview and also some sectional workshops shall be arranged.

After the accomplishment of this stage the work for the definition of the strategy shall continue. There shall be several strategic working groups that plan the needed strategies at least for the personnel, organisation and procedures/products.



## **Stage I**

*Compilation and analysis of information.* Objective: Assessment of the demand for services in 2011 and 2016.

The Planning Group will compile statistics on caseload trends and draft texts on the changes in the operating environment and on scenarios on the national and regional levels:  
March/April 2006

Drafts presented to the Strategy Team: May 2006

Meetings with contact persons in the Ministry purview on the basis of the drafts: Tour of the regions in May/June. The chapter on demand for services will be completed in June 2006.

## **Stage II**

*Definition of the strategy*

Drafts presented to the Strategy Team: August 2006

Second meeting with the contact persons in the Ministry purview on the basis of the drafts for effectiveness targets, benchmarking, the development of services and processes, and possibly the surveying of customer needs. The definition of the strategy to be completed during the autumn of 2006.

## **4.3. Hungary: National Council of Justice**

### **THE MISSION OF THE NATIONAL COUNCIL OF JUSTICE**

#### ***4.3.1 Introduction***

##### **THE HISTORY OF THE COURT REFORM**

The Hungarian society has always required the independent and impartial justice system. The demand for being independent of the executive power has been especially strong among judges.

Thus, the reform of the justice system was initiated mainly by the judges themselves. The course of reform started in the 1980s. Fortunately, even before the change of regime Hungary had a scholar Minister of Justice in the person of Mr Kálmán Kulcsár who was aware of the necessity of the reform.

The civil organisation taking a role in the preparation of the judicial reform was the Hungarian Association of Judges which is one of the first associations established on the basis of the law about the right of uniting made in 1989. This union soon became a member of the International Union of Judges. It publishes the Journal of Judges publication. In this publication a lot of studies were published by judges about the necessity of the judicial reform. The first legislative step happened in 1989, when the Government lost its right of the general supervision of the courts, but the administrative management of the courts – including the budget – remained in the hands of the Minister of Justice, i.e. the Government.

There were several further steps taken on behalf of the reform at the beginning of the 1990s. Several elements of the judicial organisation were changed.

The Minister of Justice of the civil government established after the political, social change of regime, appointed new presidents at most of the county courts for a definite time.

The National Council of Judges was established, in which each county court was represented by a judge – not a president - elected by the judges of the county. This council had mainly the right of expression of opinion.

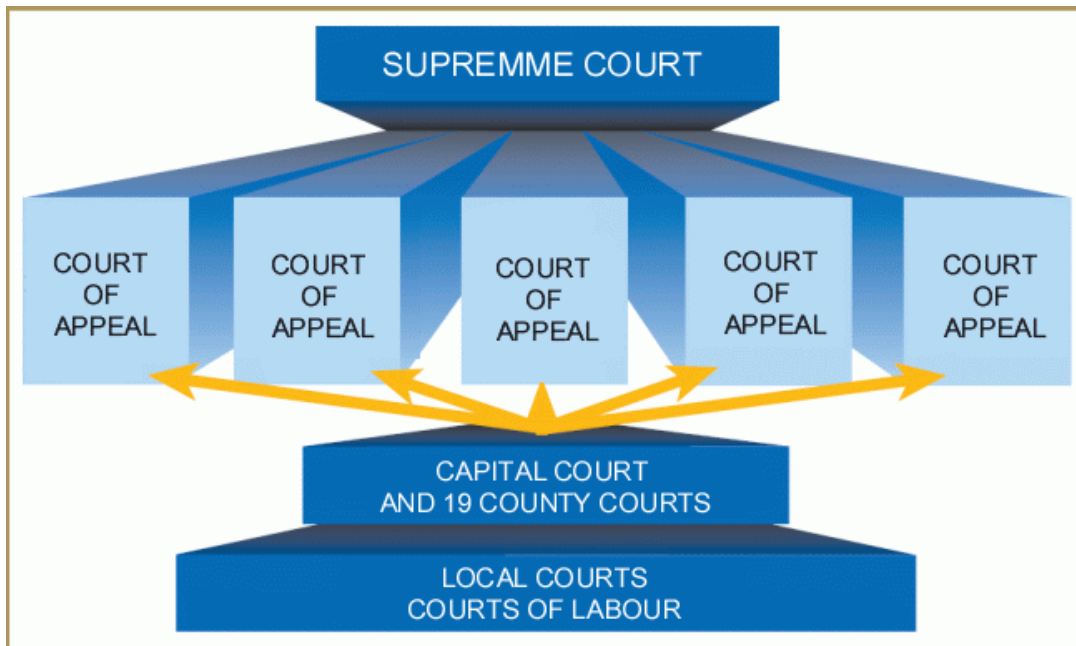
##### **FINISHING THE COURT REFORM**

The most fundamental elements of the judicial reform fell in place in 1997.

It was this year that the Parliament adopted Act 66 of 1997 on the organisation and administration of the courts and Act 67 of 1997 on the legal status and the salary of the judges, Act 68 of 1997 on the service relation of the members of the judiciary, finally Act 69 of 1997 on the seat of the newly established appeal courts and their territorial jurisdiction.



On the basis of all these, the Hungarian system of courts can be seen in the following picture:



On the basis of the Constitution and Act 66 of 1997 on the organisation and administration of the courts, the following bodies are functioning in the jurisdiction in the Hungarian Republic:

- 105 Town and 6 District Courts (hereinafter together called: Local Courts)
- 20 Courts of Labour
- the Capital Court and 19 County Courts (hereinafter together called: County Courts)
- 5 Courts of Appeal (Regional Courts)
- and the Supreme Court.

### **THE NATIONAL COUNCIL OF JUSTICE**

In order to reinforce the independence of the judiciary, the National Council of Justice is a fully independent legal entity, with its own, by the Parliament approved budget, the proposal which is submitted directly to the Parliament by its President, without the consent of the Government. The Council has been established with regard to the basic principle of independence of the judiciary, and therefore holding in the centre the clear separation of the legislative, judicial and executive powers. Consequently, the National Council of Justice is not – and must not be – in any kind of subordinate position to the executive, i.e. the Government. According to the law, neither the Government, nor the Ministry of Justice has any competence or responsibility toward the judiciary.

According to Act 66 of 1997 the National Council of Justice is responsible only to the Parliament, which elects with 2/3 majority the President of the Supreme Court, who at the same time is the President of the National Council of Justice as well.

The President at the moment is dr. Zoltán LOMNICI (he was elected by the Parliament of the Hungarian Republic on 25 June, 2002, with 99% proportional number of votes, for six years).

The judiciary also takes part in the management of the courts. These are the Boards of Judges created at the county courts, the courts of appeal and the Supreme Court.

Their sphere of authority is expression of opinion, recommendation.

### **THE STRUCTURE OF THE NATIONAL COUNCIL OF JUSTICE**

The National Council of Justice has 15 members; the President of the Supreme Court is ex officio its president; the Council has 9 judge members who are elected by the judiciary through delegates; another three members, the Minister of Justice, the Chief Public Prosecutor, the President of the National Bar Association and two additional members of the Parliament, appointed by the Constitutional and Judicial Committee, as well as the Budget and Financial Committee respectively, are ex officio members of the Council.

Any judge with at least 5 years of judicial practice is eligible to be a member of the National Council of Justice.

The elector delegates are elected at the full meeting of the Supreme Court, the plenary session of judges of the courts of appeal and the county courts, by the majority of the votes of the judges attending. The 9 judge members of the National Council of Justice are elected secretly by the meeting of the delegates of the judges from among the delegates, by a majority of the votes. Simultaneously with the election of the 9 judge members, the meeting of the delegates shall also elect 9 alternate members.

The first nine judge members of the National Council of Justice were secretly elected by the elector delegates at a General Meeting held on 30 October, 1997 in Budapest. The National Council of Justice began its functioning on 1 December, 1997.

### **SCOPE AND FUNCTIONS OF THE NATIONAL COUNCIL OF JUSTICE**

Without going into details, the most important functions of the Council are:

- to appoint and relieve the presidents and vice-presidents of the courts of appeal, the county courts, as well as the heads of judicial colleges and the head and the deputy head of its Office;
- to make recommendations to the President of the Republic on the nomination or relieve of judges;
- to prepare and submit to the Parliament its proposal for the next annual budget in respect of the Chapter of the Justice;
- to be responsible for the implementation of the separate chapter of the National Budget as adopted by the Parliament (includes salaries, costs of functioning and maintaining the courts and their administration, as well as investments in buildings and technology);
- to guide and oversee the administrative activities of the presidents of courts;

- to exercise the duties of management of the separate chapter of the national budget in respect of the courts;
- to exercise its employer's and personal authority as stipulated in the law;
- to specify the basic principles underlying the organisational and operating rules and regulations of the courts;
- to perform and organise the central duties related to the collection and processing of judicial statistical data;
- to arrange the legal representation of the courts;
- to manage the activities of the Office of the National Council of Justice.

The National Council of Justice exercises its activities and adopts its resolutions in meetings convened at least once a month. The meetings are convened and chaired by the President who signs the documents released and the resolutions adopted by the Council. A meeting of the Council shall be convened and the proposed topics shall be put on the agenda, if recommended by at least one third of the members of the Council.

The President of the National Council of Justice shall submit a yearly report to the Parliament on the general situation of the judiciary and the activities of the Council.

#### **THE OFFICE OF THE NATIONAL COUNCIL OF JUSTICE**

On the one hand, the National Council of Justice with its one or two meetings a month does not function continuously; on the other hand the realisation of its tasks requires permanent presence and attention. To satisfy this need, a unit had to be created to assist and support the Council in its work.

Within the National Council of Justice and under its administration an Office has been established, whose task is basically to prepare the meetings of the Council, to implement its decisions, as well as to control the execution thereof.

The Office, which is practically the executive organ of the Council, is an economically independent budgetary unit, falling under the scope of the Treasury.

The Office of the National Council of Justice commenced its operation on 1<sup>st</sup> February, 1998. The Head of the Office is a professional judge appointed for indefinite time.

Beside the above listed executive and supportive duties, the prime concern of the Office is to contribute to the establishment of the necessary conditions for a reliable, effective and independent judiciary system. With view to this objective, there are numerous fields where the activities of the Office supports and assists the day to day work of the judiciary. Among others, it belongs to the duties of the Office to provide and assist:

- the preparation of the Hungarian judiciary for the application and enforcement of the Community Law through regularly organised courses with the assistance of the Phare Program;
- a good and reliable knowledge of the structure and decision-making process of the EU and its institutions, make them acquainted with the key concepts behind developments and application of the EU law;
- proper general judicial education and training;

- the courts with the means and methods of the latest information-technology. The already operational nation-wide Court Information System is one of the best results of these efforts;
- the courts with the latest methods and techniques in the organisation and administration of the courts;
- establish and maintain a functional co-operation with the various international judiciary organisations and the international legal bodies.

The organisation of the Office is based on the traditional administrative structure: it is managed by the Head of the Office; its organisational units are departments and sections within the latter.

An indication of the weight of the work is that the Office belongs to the organisations where judges can be posted to. In fact, about a quarter of the staff is presently judges posted to the Office.

The Office consists of the following units, supervised by the Head of the Office:

- Department of General Administration
- Department of Court Administration
- Department of Human Resources
- Department of Education and Training
- Department of Legal Representation and Methodology
- Department of Information Technology
- Department of Budgetary Matters
- Department of Finances
- Department of Internal Control
- Department of Press and Public Relations
- Department of International Relations
- Department of Engineering and Construction

The Head of the Office is a supreme court judge dr. Janos ZANATHY.

### ***4.3.2 Mission***

According to Article 34 of Act 66 of 1977 the “National Council of Justice shall fulfil the central duties of administration of courts with the observation of the constitutional principle of judicial independence and exercise supervision of the administrative activities of the presidents of the courts of appeal and the county courts”.

### ***4.3.3. Strategy***

#### **CHALLENGES OF THE NATIONAL COUNCIL OF JUSTICE ELECTED FOR THE FIRST AND SECOND CYCLE**

The task of the first NCJ was to give adequate answers to the emerging administrative questions. It shaped up the organisation of the Office, its own scope of operation. It created several new regulations – for example about the administration of the courts, evaluation of the

judges. All in all, it laid down the foundations of the standardised administrative and control system of the different level judicial organisations.

Owing to this, the judicial administration in Hungary operates effectively. This was stated by the annual report of the European Commission and the audit material of the National Audit Office.

The NCJ functioning at present is expected to operate on a methodical basis, to express its ideas about the tasks for the future. This is the reason why it created its programme of action for its operational period on 4 May, 2004.

The programme was created by a committee established by the second NCJ from its former and new members. The committee handed in a draft of the programme to the NCJ which adopted it on 4 May 2004.

The starting point of the program of action is the dual task of the NCJ, which is partly administrative, partly promoting interests. On the one hand, it completes all the tasks referred to its sphere of authority by the law about administering the courts; on the other hand, it represents the rightful budget claims of the judiciary embodying the Hungarian jurisdiction and those of the judicial employees, too.

The definition of the basic aims was the following:

The functioning of the judicial organisation at European standards is not only the internal affair of the NCJ and the courts, but it is of public interest, a basic political question as well.

Because of this, it is a task of great importance:

- to restore and strengthen the importance of the judicial power branch matching its significance given by the Constitution, the confidence in the courts and jurisdiction, and the prestige of judges
- to further improve the standard, timeliness and efficiency of the administration of justice, including promoting the principal governing activity of the Supreme Court. (It must be known that before establishing the Regional Courts the Supreme Court acted on second instance in a lot of cases and the proceedings were protracted in the period before the Supreme Court.)
- to further improve the operational conditions of the courts, vindicating the just budget requirements of the judiciary
- to inform the public about the work of the NCJ

#### ***4.3.4. Results***

##### **THE MAIN OBJECTIVES OF THE 2003 – 2009 PERIOD**

1. Raising the standard of judicature:
  - a) improving the timeliness in order to ensure the reasonable length of time of the proceedings
  - b) analysing the situation of the counties in which there is significant backlog of cases; finding out the reasons, elaborating a plan of measures

- c) reviewing the system of proceedings promoting the quickening of the administration, and supporting the better utilisation of the existing opportunities
2. Tasks needed in order to increase the respect for jurisdiction and the judiciary and recognition by the society:
- a) Finishing the elaboration of the career model the preparation of which was started in the previous cycle. Within this, the pension of judges must be of high priority. Legal regulation of all these questions.  
(The budget conditions of this are not ensured at the moment. We must go on working on the social acceptance of this effort of ours.)

- b) Elaborating the behavioural and ethic rules of the attitude of judges.  
The reason of this is that the constitution of the judiciary has significantly changed since the change of regime. Almost 60% of the judges working at the local courts have less than 10 years of experience. By means of an ethic codex it can make people more aware of the fact that it is not enough for judges to know the provisions of law. Setting a good example in their work and private life combined with a sense of vocation and self-restraint is of the same importance, since the behavioural standards and requirements stipulated for judges are stricter than the rules applied to citizens.

Creating this system of rules can also be a means of protecting the judges from unfair attacks.

The Ethic Codex of Judges was put into force in 2005. Similarly to the practice of several other countries, it was the Hungarian Association of Judges that approved this codex.

It is characteristic of the creation of the codex that the Board of Editors sent the text of the draft to all the judges and the Hungarian Association of Judges accepted the final text on the basis of the several hundred reflections.

The text of the codex was published in the journal of the association and in the official paper of the NCJ. We met the claim of the majority of the judges by establishing an Ethical Council which does not decide about a given judge but about a given behaviour of judges in an anonymous way. Two decisions have been made so far and these were published in the official paper of the NCJ.

3. Tasks in connection with improving the conditions of operation of the courts:
- a) Elaborating an overall personnel program by way of analysing the personal constitution of the courts and determining the proportion of judges and employees helping their work.
  - b) Further decreasing the secretarial tasks of the judges, initiating the modification of laws in order to widen the sphere of authority and tasks of the colleagues (secretaries, junior assistant clerks, court-room administrators with an upper-level education) helping the work of the judges.
  - c) Eliminating the disproportionate workload between courts.
  - d) Improving the material conditions of the court-room work, especially the buildings of courts, technical equipment, safety devices.

It must be mentioned that a lot of court buildings are neglected, they are in very bad state of repair. Handling this situation is important because the citizens getting into contact with the court get their first impression of the Hungarian courts and form an opinion on the basis of this. Arranging a civilised environment for the court is important not only for the sake of the citizens but it is also closely connected to increasing the respect for the courts and the judicial branch. It is indispensable to create an up-to-date, high-standard and safe environment for the effective judicial work.

#### 4. Hungarian Judge Training Academy

(Magyar Bíróképző Akadémia):

According to the expectations of the European Union drafted several times, it is essential to institutionalise the training of judges in Hungary.

Our starting point: preparedness of judges, continuous increase of their knowledge.

This serves:

- finishing the cases more quickly
- the guarantees of the independence of judges
- the consolidation of the common European judicial culture and identity
- the citizens' faith in jurisdiction

In the light of this, the training and further training of judges and employees of justice is of great importance in the life of a democratic society.

It will be possible to select the junior assistant clerks of courts centrally and to train junior assistant clerks and secretaries.

The principles of the reform:

- The reform of judge supply
- Institutionalised training
- Educational concepts for target groups
- General methodological renewal
- Supporting training and self-education by establishing an information and documentary centre
- Creating judicial scientific workshop
- New dimensions of international relations (Eastern-Central-European Regional Union Training, language training of Hungarian judges over the frontier)

Aim:

The Hungarian Judge Training Academy opening on 1<sup>st</sup> September, 2006 should be the symbol of the third power branch, that is, we should establish a modern, open, European standard training and research workshop, and documentation centre taking advantage of the opportunities provided by the institutionalised frames.

#### 5. The communication strategy of the NCJ:

The NCJ is aware of the fact that the mass media plays a very important role in forming the opinion of the society about the jurisdiction. Thus, it is very important to pay attention to being in touch with the press. It is important that the general public should get exact, professionally correct information about the work and results of the courts, to get to know

the highly responsible work of the judges. For all these, the elaboration of a complex communication strategy is needed. As a part of this, with the help of an external company, the NCJ conducted a public-opinion poll among the people of the society and with the participation of the people in daily work relation with the judges (lawyers, attorneys, police investigators), in order to get to know the picture formed of the judiciary activities of the courts and of the central administrative role of the NCJ. In order to inform the citizens, it published a leaflet with the title of "Explaining the court system". A lot of information about the courts and their central administrative body is available at the [www.birosag.hu](http://www.birosag.hu) home page edited by the employees of the NCJ Office.

6. The administrative tasks of the NCJ:  
The elaboration of the unified administrative, financial administrative and control system inside the judicial organisation must be accelerated.
7. Tasks in connection with the functioning of the NCJ:  
The Rules of Organisation and Function of the NCJ must be improved in the field of decision preparation, decision making and functioning.

The aim of last two modifications is to promote the competence, comprehensiveness of the work of the NCJ and the effectiveness of control.

Its means can be to involve the Courts of Appeals as independent corporate bodies and the Presidents of the County Courts in the process of decision preparation if it is a strategic question or in case the judges and court-room employees are closely concerned.

The forum of this is the so-called consultative discussion held twice a year. The participants of this are the presidents of the courts of appeals and those of the county courts, and the members of the NCJ.

In the recent past the NCJ formed a four-member committee the task of which is to supervise the time-proportional implementation of the outlined program and give an account of its findings to the NCJ. This report will take place in May 2006



## **4.4. Lithuania: National Courts Administration**

### **STRATEGIC ACTIVITY PLAN FOR 2006–2008**

<b>Code of Appropriation Manager 90.48.1981</b>
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#### **Situation and Resource Analysis**

##### ***External factors (situation analysis):***

##### **Political and legal factors:**

With the view of implementing the universally recognised principle of independence of judges and courts enshrined in the Constitution of the Republic of Lithuania and eliminating contradictions between the then Law on Courts and the Constitution of the Republic of Lithuania, a new version of the Law of the Republic of Lithuania on Courts was passed by the Seimas on 24 January 2002. It has laid down the principles of independence of courts from the influence of other state government institutions or persons upon courts and judges, as well as established bodies of judicial autonomy. Furthermore, the National Courts Administration (hereinafter – the Administration) providing services to bodies of judicial autonomy was founded by a special law, the Law on the National Courts Administration.

On 8 April 2004, the Seimas of the Republic of Lithuania passed Law No IX-2109 Supplementing Article 2 of the Law on the National Courts Administration (Official Gazette No 60-2119, 2004) whereby the National Courts Administration was assigned the following new important functions:

1. The Administration shall “take part in designing and implementing information systems in courts, carry out their administration and development”. The Administration is already engaged in these activities; however, following the design and implementation of the court information system, the Ministry of Justice, in breach of the said provision of the Law, still has not transferred the designed software and purchased computer and communication hardware to the Administration and courts. This causes organisational and legal confusion. The uncertain ownership of the court information system is one of the determinants that could affect the implementation of the strategic objectives of the Administration.
2. The Administration shall “conduct internal audit in district, regional and regional administrative courts, as well as the National Courts Administration”.

Four years after the clarification by the Constitutional Court that judges cannot be paid salaries pursuant to the Law on Remuneration for Work of State Politicians, Judges and State Officials and some resolutions of the Government of the Republic of Lithuania, remuneration for work of judges has not been legally regulated yet, salaries are still computed under virtually inoperative legal acts. This factor complicates the work of the Administration when the Administration, having collected budget requests from courts, prepares proposals for the distribution of budgetary expenditure.

In May 2004, the Administration was accepted in the European Network of Councils for the Judiciary (ENCJ) as a full-fledged member. Representatives of the Administration are involved in the activities of working groups set up by this network and various events.

**Economic factors:**

The rapid pace of economic development has a positive impact on the revenues of the State budget, thereby on the financing of courts and the Administration. Allocations for the Administration amounted to LTL 2.236 million in 2004, LTL 2.91 million – in 2005, and the amount of LTL 2.64 million is so far forecasted for 2006.

Increasing financing results in better technical and material provision of the Administration and courts, allows creating better working conditions, as well as offers better possibilities for upgrading professional qualifications.

The premises occupied by the Administration at A. Jakšto St. 13-1, Vilnius are not sufficient and only partly adapted to the activities of the Administration. The total area of the administrative premises and basement is 323.47 sq. m, with 12 offices equipped and one open workstation; the total number of workstations is 23. The Administration has 41 positions approved. For lack of space, there are no possibilities to ensure adequate working conditions for employees.

Under the programme on centralised supply to courts, the Administration purchases certain supplies for courts in a centralised manner; however, the current premises do not allow for their adequate storage. Forms purchased in a centralised manner are stored in box-rooms in the basement that are not fitted for storage or just in offices. There is no parking lot near the current premises of the Administration, and stopping in this section of A. Jakšto Street is also prohibited, which causes additional difficulties when unloading supplies or collecting supplies by the court staff. The said problems could be resolved by allocating finances for the acquisition of a new administrative building.

**Social factors:**

The number of residents with higher education has been recently increasing in Lithuania. Employment in the public service becomes attractive due to stability and security (higher than average remuneration, social guarantees, career opportunities), more applicants participate in competitions. This allows selecting highly qualified and well-educated specialists to new positions. However, the recently fast-growing construction industry and migration of the labour force to other EU countries result in the lack of qualified workers with civil engineering education on the labour market. For this reason and due to higher wages paid to such specialists in the private sector, it is difficult to find a suitable specialist to the vacant position of a senior specialist (builder-estimator according to the job description) in the Administration.

**Technological factors:**

Modern IT means reduce the working time consumption for information collection and analysis, provide possibilities for the prompt and effective use of the available information, as well as allow increasing the publicity and transparency of activities. The spread of computers, the rapid development of telecommunication networks throughout Lithuania and their competition create preconditions for reducing prices of computer hardware and communication services. There are better possibilities for providing employees with computers, creating local computer networks at courts and connecting them into a corporate court network with a central database where all information related to activities would be registered, accumulated, stored and used. Fast internet development creates conditions for prompt information of the society about the activities of courts, bodies of judicial autonomy and the Administration, thereby increasing the transparency of the activities.

### ***Internal factors (resource analysis):***

#### **Legal basis:**

In its activities, the Administration follows the Constitution of the Republic of Lithuania, the Law on Courts, the Law on the National Courts Administration, other laws and legal acts passed by the Seimas of the Republic of Lithuania, decrees of the President of the Republic, resolutions of the Government of the Republic of Lithuania, international agreements to which the Republic of Lithuania is a party, resolutions adopted by bodies of judicial autonomy, as well as the Statute of the National Courts Administration. The Internal Rules of Procedure, the regulations of divisions and job descriptions are approved by orders of the Director of the Administration.

#### **Organisational structure:**

On 28 April 2005, the Supreme Court of Lithuania, as the founder of the National Courts Administration, approved the structure of the National Courts Administration with 41 staff positions. The structure of the Administration comprises the management and the following divisions: Internal Audit, Analysis of Judicial Activities, Courts Strategic Development, Law and Personnel, Information and Statistics, Finances and Budget, and General Affairs. In order to ensure efficient work, efforts are made to ensure optimal distribution of the available resources so that the Administration staff could perform their tasks timely and qualitatively.

#### **Human resources:**

The Administration has 41 staff positions approved, of which 33 are public servants and 8 – employees working under employment contracts. At present, 24 positions of public servants and 6 positions of employees working under employment contracts are occupied. 21 public servants have higher university education (1 of which has a doctor's degree), and 2 – higher non-university education. The Director and the Deputy Director have completed the Training Programme OLYMP for Leaders, which is mandatory pursuant to Article 45(1)(2) of the Law on Public Service. 5 newly employed career public servants attend the initial training programme prepared by the Lithuanian Institute of Public Administration; the others are constantly improving their qualifications.

#### **Planning system:**

The activities of the Administration are organised in accordance with the strategic activity plan and plans of divisions. Meetings of heads of all the divisions of the Administration are held at least once a week; they are intended for planning short-term activities, discussing current issues and accounting for the tasks accomplished.

#### **Financial resources:**

The Administration is a budgetary institution financed from the State budget of the Republic of Lithuania. The allocation of LTL 2.64 million to the Administration is foreseen in the draft State budget for 2006; this amount, however, is not sufficient as on 22 June 2005 the Council of Courts adopted Resolution No 13P-371 on the Approval of the Draft Budget and Investment Programmes of the National Courts Administration for 2006-2008 whereby approved the following 4 programmes to be implemented by the Administration in 2006:

1. Programme “**Providing Services to, and Ensuring Activities of Judicial Autonomy**”. The actual need of finances for implementing the functions provided in the Statute of the Administration and ensuring activities, as well as for the activities of bodies of judicial autonomy is LTL 5.352 million, of which: LTL 2.302 million for expenditure, including LTL

- 1.578 million for remuneration and LTL 3.05 million for property acquisition (of which LTL 3 million for the ongoing investment project “Reconstruction of the building at L. Sapiegos St. 15”).
2. Pursuant to Articles 125(5) and 128(1) of the Law on Courts and Point 11.15 of the Statute of the National Courts Administration, the Administration is obliged to organise and ensure the centralised provision of courts with the necessary supplies and services. The need of finances for the programme “**Centralised Supply to Courts**” is LTL 394 000, of which LTL 394 000 for expenditure.
  3. Programme “**Judicial Pensions**”. Pursuant to Article 7(1) of the Law on State Pensions for Judges, the National Courts Administration is obliged to organise the granting and payment of state pensions for judges. It is forecasted that there will be 45 persons entitled to state pensions for judges at the end of 2006; the required finances for these needs amount to LTL 443 000, of which 443 000 for expenditure.
  4. The court information system was designed in 2003–2004 and implemented in courts and the Administration at the beginning of 2005, as well as computer and communication hardware and software purchased enabling to connect national courts into a closed safe network of the judicial system. The network nodes (servers, routers, network security system) should be maintained and supported. Pursuant to Article 2(1)(2) of the Law on the National Courts Administration, these tasks are performed by the Administration. To this end, the programme “**Maintenance of the Court Information System**” was drawn up and approved by the Council of Courts. The actual need of finances for this programme is LTL 610 000. However, for the last two years funds for the implementation of this programme, in gross violation of the said provision of the Law, is allocated to the Ministry of Justice. This is a serious risk factor for the functioning of the court information system.

#### **Suitability of accounting:**

The accounting of the Administration is organised in accordance with the procedure for keeping accounts of budgetary institutions approved by Order No 70 of the Minister of Finance of the Republic of Lithuania of 16 March 2001. It satisfies the needs of the Administration and complies with the requirements of control and statistical institutions.

#### **Communication system:**

The local computer network is installed in the Administration, all workstations are computerised, and all employees use the internet and email. Relevant and archival information about the activities of the Administration and bodies of judicial autonomy as well as summary statistics on activities of courts are promptly placed on the web-site <http://www.teismai.lt>.

The State budget, accounting and payment and other information systems are installed. The Administration has 14 ISDN lines (Lithuanian Telecom) which are distributed to all offices or employees through the telephone switchboard, also giving individual phone numbers. Mobile communication and mobile internet are also used.

#### **Internal control system:**

With the view of ensuring a systematic and thorough assessment of risk management and internal control, as well as facilitating the implementation of objectives, the Internal Audit Division has been established.

An internal control system has been created in the Administration, which is currently well functioning. Divisions hold meetings at least once a week where employees account for their work to heads of divisions. Heads of divisions account to the Deputy Director supervising the activities of the

respective division at least once a week. Quarterly reports on the activities of divisions and the annual report on the activities of the Administration are prepared.

***SWOT analysis:***

*Strengths:*

1. High qualification of the majority of the staff and work experience in the public service.
2. Young, receptive and initiative employees.
3. Good teamwork skills.
4. Good technical provision.
5. Activity planning and performance control.

*Weaknesses:*

1. Lack of staff – some vacant positions.
2. Lack of administrative premises.
3. Lack of storage facilities.
4. Unsecured financing for the programme “Maintenance of the Court Information System”.

*Opportunities:*

1. Recruiting new employees to vacancies.
2. Taking more active participation in the activities of working groups set up by the Council of Courts.
3. Moving the Administration to more spacious premises, equipping storage facilities and meeting rooms.
4. Developing co-operation with European bodies of judicial autonomy through membership in the ENCJ.
5. More active international co-operation of the Administration, participation in seminars and long-term training programmes, as well as internships abroad would provide better conditions for the staff to acquire professional experience.

*Threats:*

1. Insufficient financing of expenditure and property acquisition.
2. Intentions of other institutions to take over certain functions carried by the Administration.
3. Imperfect and changing legal acts.
4. Disregard by other institutions for the provisions of the Law on the National Courts Administration regarding the administration and maintenance of the court information system.
5. Still unallocated funds for the maintenance of the court information system (see programme 4).

**Mission of the Institution**

To aim at ensuring the effective functioning of the Lithuanian judicial system and bodies of judicial autonomy

**Strategic Objectives of the Institution**

Code	Name of the strategic objective of the institution
01	Improve the work of bodies of judicial autonomy, strengthen the national judicial system and improve working conditions in courts

**Description of the objective**

In order to implement the strategic objective, the following programme tasks are foreseen:

- to perform the functions of the Administration established in legal acts in a qualitative and timely manner;
- to provide courts with the necessary supplies and services in a centralised way;
- to ensure timely and correct granting and payment of state judicial pensions for former judges;
- to ensure the functioning of the court information system.

The achievement of the strategic objective will be evaluated on the basis of the following effect criteria:

- ensured smooth work of bodies of judicial autonomy (%);
- reliably functioning court information system (duration of operation %).

**ALLOCATIONS AND FORESEEN SOURCES OF FINANCING**

(in thousand LTL)

Economic classification groups	Allocations for 2005	Allocations for 2006			Draft for 2007	Draft for 2008
		basic budget	amendment/new	total		
1. Total allocations	2910	2640	+4159	6799	4740	2740
for expenditure	2640	2640	+1109	3749	2640	2640
of which for remuneration	1230	1230	+348	1578	1230	1230
for property acquisition	270		+3050	3050	2100	100
2. Sources of financing						
2.1. State budget of the Republic of Lithuania	2910	2640	+4159	6799	4740	2740
including: general funding resources	2910	2640	+4159	6799	4740	2740
EU funds						
other funds of special programmes						
2.2. Other sources						

3. Other relevant information

**Key Indicators**

Institutions	Programmes submitted	Staff (in figures)
1	4	41

(FOR THE 4 PROGRAMMES SEE APPENDIX 3)

## **4.5. The Netherlands: Council for the Judiciary**

### **AGENDA FOR THE JUDICIARY FOR 2005-2008**

#### **4.5.1 Introduction**

Strategic management can be seen as management tool (or toy?), bureaucracy, something you have to do but rather don't. For several reasons this is a dangerous attitude. Judges have a crucial role in modern societies, especially in this turbulent time of history we are living in. The role of the judge cannot be fulfilled properly without public trust. And public trust is not given easily but has to be earned. For this, well functioning courts and a trustworthy court system are essential. An organisation built on and around judges, but still an organisation that has to be managed. If we fail to do so the pressure from outside will eventually force us to take action.

Every organisation grows and evolves in time. Strategic management enables an organisation to structure this partly autonomous process and to give focus to its development. Strategic management gives stability and creates at the same time the circumstances for well-considered change. It has to be done by the judiciary itself, as we are responsible for our own organisation. Consultants may help but the process of strategic management cannot be outsourced nor can it be left to the ministry or the Council on its own. Without this active attitude towards (strategic) management, it can turn into the bureaucratic monster most of us are afraid of in the first place.

This paper focuses on the Dutch experience with strategic management in recent years.

#### **4.5.2 The situation in The Netherlands**

The Minister of Justice is responsible for the judicial system as a whole and the total budget that is available for the judiciary. His main instrument is new legislation.

The Netherlands Council for the Judiciary is by law part of the judiciary itself. The Council started from January 1, 2002 and has five members. Three of them, including the chairman, are judges (former court presidents). A bureau with approximately 140 employees assists the Council.

The main tasks of the Council are:

- Preparing, implementing and accounting for the judicial system's budget
- Operational policy (housing, ICT, human resource management etc.)
- Recruitment, selection and training of judicial and court officials
- Promoting the uniform application of the law and enhancing judicial quality
- General advisory task on new legislation in close co-operation with the courts

A court board chaired by the court president manages the courts. The board is charged with the general management and day-to-day running of the court (judges and staff). There are 19 district courts, five courts of appeal and two specialised courts of appeal. The Supreme Court is totally independent from the Council for the Judiciary.

Up to now, two strategic plans for the judiciary have been published:

- Agenda for the Judiciary 2002-2005
- Agenda for the Judiciary 2005-2008

The bureau of the Council wrote the first strategic plan. This paper will focus on the second strategic plan, which includes a mission and a vision for the judiciary. The senior management of the judiciary (Council and court presidents) had a central role in the drawing up of the second strategic plan. Annual action plans and reports of the Council and the separate courts structure the implementation of the strategic plan. Much of the actual work is done in programs and projects.

#### **4.5.3 Mission and Vision in the Agenda for the Judiciary 2005-2008**

In the appendix you will find the English summary of the Agenda 2005-2008.

##### ***The mission for the judiciary in the Netherlands is:***

*The judiciary system is responsible for the impartial and prompt settlement of disputes and adjudication of offences by independent judges. The judiciary system contributes to maintaining the rule of law and public confidence in the law.*

The vision consists of five principal elements:

- The position within the structure of the state
- The domain
- The values
- The interpretation of tasks
- The professional organisation

For the vision itself you are referred to the text in the appendix.

Five strategic objectives are presented for the period 2005-2008:

- Institutional safeguards for impartiality, independence and integrity
- Differentiating between cases and standards for processing times
- Promoting unity of law
- Concentration as a means to specialisation
- Improving transparency

In addition to these objectives, issues that need more debate are identified. Important questions which could have far-reaching consequences for the judiciary system are:

- Which management concept is most appropriate for the way the judiciary system is organised, in terms of effectiveness?
- What is the ideal scale of the courts in the Netherlands, and should the present organisation be amended accordingly?



- Should the judiciary system continue to be charged with supervisory and non-judicial tasks?
- How can public involvement in the judiciary system be improved?

#### **4.5.5 The method**

In the end of the year 2003, the Councils development department started working on a new strategic agenda. The first meeting with the Council and court presidents was held on March 1, 2004. After several meetings, round tables and a conference the agenda was finalised by the same body (Council and presidents) on June 28, 2004. The final text was published in July 2004. Consultative bodies from within the judiciary wrote important working papers contributing to the agenda. Important elements of the plan of action to formulate a new strategic agenda were:

##### Choice for mission and vision as a base for the strategic plan

At the time that the process for a new strategic plan was initiated there was a strong feeling that more focus was necessary to make all the new activities and initiatives successful in the long run. Choices had to be made. To make this kind of choices a clear mission and vision are indispensable. The chosen objectives are justified by their compliance with the mission of the organisation and the vision for the near future. As you will see in the appendix, the mission and vision for the Dutch judiciary are an integral part of the strategic plan. They are also formulated in the first step of the strategic process. This made it easier for the senior management to participate and to get acquainted with the basic elements of strategic management. It was not an isolated undertaking but a concrete step towards prioritising objectives.

##### Outside - in

The mission of the judiciary is in society. There we have to be successful. Whether we are successful is not a question to be answered by the judiciary itself. That is why we organised round tables with a wide range of participants from outside the judiciary and we made use of assessments. Assessments by clients and repeat-players as well as assessments by judges and staff. Round tables are a useful instrument for in depth discussions as well as a method for generating and checking new ideas. To create the right atmosphere the group were not too big (6 – 8 participants), the setting was informal and there was no supporting staff attending the meeting.

##### Partly based on scientific data and research

Strategic management is not only about taking the right decisions by the right people. The information on which the decisions are based is equally important. Most of the time ideas and opinions are dominant in the discussions. It is important to confront and to challenge those ideas and opinions with solid data from within and outside the judiciary. Especially scientific research and long term comparative research can be useful. The judiciary itself can initiate the research, but this is not always necessary. Universities and institutes already do a lot of research in for instance the fields of behavioural sciences, economics, humanities, social sciences, socio-cultural sciences, technology, education, history of law, psychology and socio-economic development.

### Involvement senior management

The judiciary in the Netherlands is managed on several levels. The Council and the separate court boards have their own responsibility and take their own decisions. A strong hierarchy is lacking. Given this fact, it is necessary that at least the senior management of the courts is involved in the process of strategic planning. It is the only way to create a general focus and to guarantee that the actual strategic agenda resulting of this process is recognisable and feasible. The Council or the bureau of the Council can take a strong lead in organising and controlling the process, but this should not dominate the strategic planning process itself.

### Attention and professional support for the process

Strategy in the making is characterised by creativity, discussion, involvement, confrontation and searching for common ground. An action plan, professional support and capacity from within the organisation help to take the right steps, to introduce the different participants from inside and outside the judiciary at the right moment, and to guarantee the availability of data and papers. The first step indeed is a solid action plan. In the Dutch experience one of the choices was to create time pressure. It took only four months from the first meeting to the publication of the new strategic agenda. This helped to create energy and to keep everybody onboard. Fear was that a longer period would result in a tough and more bureaucratic process.

#### **4.5.6 Method and theory**

In general there is a good compliance with the theory as presented in the framework and the way the strategy process is conceived in the Netherlands. Only the approach towards the vision is slightly different. First of all we used five elements or five aspects to formulate the vision: position, domain, values, tasks and organisation. Secondly, the corporate values are thus presented as part of the vision. Finally the vision not only presents ambitions for the near future but also affirms essential features for the judiciary, which are timeless.

Implementation and evaluation are not part of the strategic agenda.

These activities as mentioned in the framework have their own challenges and their own pitfalls.

Implementation:

- Implementation asks for activities on all levels of the organisation
- Methods like project and program management can be used to manage and control the implementation, although bureaucracy and paper overload should be avoided
- It remains difficult to have an up to date and comprehensive overview of all activities
- Special attention should be paid to the capacity for change in the working units

Evaluation:

- Sounds simple but turns out to be rather difficult
- It is easy to control time and budget used by projects; assessing output and outcome is much more difficult and even more, something new for the organisation
- Performance indicators are a useful instrument
- Special analyses is needed to match performance with underlying activities

- Solid data make the game more serious and dangerous and ask for a change in attitude

#### **4.5.7 Lessons learned**

Looking backwards the following lessons learned will help to do things better when the action plan is designed for the third strategic agenda.

##### Involvement

The Council and the court presidents (senior management) had a central role in formulating the second strategic agenda. For more support and to make implementation easier it is better to involve also the middle management especially the sector heads within the courts (there are criminal law, civil law, administrative law and subdistrict sectors in every district court). In addition a good communication strategy will help to inform and motivate all the other judges and staff personnel within the judiciary to take part in the realisation of the objectives in their own work.

##### Variation

In the process more variation can be created in the possible futures that are taken into account (scenarios) and in the strategies that can be chosen in response to new challenges (alternative strategies). Without this kind of variety in options, the risk is that today's ideas are too easily perceived as the only possible answer to tomorrow's questions. Tunnel vision and jumping to conclusions can be tackled with a creative impulse.

##### Discipline

Where the objectives of the strategic plan normally are translated into action by programs and projects, this is less common with the mission and vision. New policies or activities are presented without any reference to the mission or the vision of the organisation. Partly because they are unknown which can be dealt with in a communication strategy, partly because a lack of discipline. It is the role of the management to guard and to use the mission and vision as guidelines. Without attention it is just paper and soon dust, while these instruments can give strength and are a means for reflection in the day to day business.

#### **4.5.8 Conclusion**

After reading the framework and the experiences in the different countries, the impression can take hold that strategic management is difficult, time consuming and bureaucratic. Once this frightening idea is left alone and the first steps are taken the possible benefits are becoming clearer by every step. The challenge should be accepted without the ambition of perfection. In the Netherlands the first strategic agenda was a policy paper written by the bureau. The second strategic agenda was the first attempt to do it properly by more actively involving members of the judiciary. The action plan for the third strategic agenda will be developed after the summer of 2006. This time we will do even better! Taking the first step and the will to learn along the way will lead to a more professional approach in the coming years.

## 5. Conclusions

- 5.1 There is no single best way to manage for organisational success. The Action Framework for Strategic management is a simple tool that helps ENCJ members and observers to take the first step in developing a strategy for their own organisation or the judiciary as a whole.
- 5.2 Strategic management is seen as an endless series of reiterative processes through which strategy develops. These draw upon the experiences of managers and their sensitivity to changes in society. Thus, strategic management is also fundamentally a permanent learning process.
- 5.3 The experience of the working group shows that ENCJ members and observers, however different their structures and tasks may be, can learn from each other and can help each other to develop and use a strategy to realise their objectives. ENCJ members and observers can help each other, both bilaterally and multilaterally, in their concrete practice with respect to strategy.
- 5.4 The working group concentrated its efforts on the processes of formulating a mission and vision, and making strategy choices. Particular attention must also be paid to implementing and evaluating the strategy.
- 5.5 Stakeholders' trust in the judiciary must not be conceived in a fatalistic way. Thus, for example, an attempt must be made to manage various aspects of public trust. Strategy is one of these. Using mission, vision, planning and their implementation, information can be supplied (up to and including results) that makes it possible for citizens to chose to trust in the judiciary.

## APPENDIX 1: Working group participants

### **Chairman (Belgium)**

Mr Geert Vervaeke – *High Council of Justice*

[Geert.vervaeke@hrj.be](mailto:Geert.vervaeke@hrj.be)

Tel.: 0032 (0)2 535 16 11

### **Coordination (Belgium)**

Mr Jean-Marie Siscot – *High Council of Justice*

[Jean-marie.siscot@hrj.be](mailto:Jean-marie.siscot@hrj.be)

Tel.: 0032 (0)2 535 16 58

### **Participants**

- **Belgium**

Mr Xavier de Riemaecker – *High Council of Justice*

[Xavier.deriemaecker@hrj.be](mailto:Xavier.deriemaecker@hrj.be)

Tel.: 0032 (0)2 535 16 10

- **Finland**

Mr Sakari Laukkanen – *Ministry of Justice- Department of Judicial administration*

[Sakari.laukkanen@om.fi](mailto:Sakari.laukkanen@om.fi)

Tel.: +358 50 354 7169

Mr Sami Sarvilinna – *Ministry of Justice*

Senior Officer for Legal Affairs

[Sami.sarvilinna@om.fi](mailto:Sami.sarvilinna@om.fi)

Tel.: +358 9 16067649 – mobile +358 40 7396759

- **France**

Ms Christiane Berkani – *Conseil supérieur de la Magistrature*

[christiane.berkani@justice.fr](mailto:christiane.berkani@justice.fr)

- **Germany**

Mr Martin Petrasch – *Bundesministerium der Justiz*

[Petrasch-ma@bmj.bund.de](mailto:Petrasch-ma@bmj.bund.de)

Tel.: 0049 (30) 2025-9648

- **Hungary**

Mr Arpad Orosz - *National Council of Justice*

[Orosza@bacs.birosag.hu](mailto:Orosza@bacs.birosag.hu)

Tel: + 36 765 19 503

- **Ireland**

Ms Susan Denham - *Courts Service*

[susandenham@courts.ie](mailto:susandenham@courts.ie)

Mr Brendan Ryan – *Courts Service*

[BrendanRyan@courts.ie](mailto:BrendanRyan@courts.ie)

- **Italy**

Mr Guiseppe de Federico – *Superior Council of Judiciary*

[g.difederico@cosmag.it](mailto:g.difederico@cosmag.it)

Tel. : cellular no +39 335 6406111

Office no +39.06.44491248

Office in Bologna +39 051 2756211 or 2756218

- **Lithuania**

Mr Raimondas Baksys - *National Courts Administration*

Mr Vytautas Milius - Vice-chairman of the Council of Courts of Lithuania, chairman of the Appeal Court of Lithuania

[Vmilius@vtr.lt](mailto:Vmilius@vtr.lt)

Tel: + 370 52 66 3433

Mr Romas Laurinavicius – *National Courts Administration*

Tel. +370 5 251 41 28

[romasl@teismai.lt](mailto:romasl@teismai.lt)

Ms Sigute Makaveckiene – *National Courts Administration*

[sigutem@teismai.lt](mailto:sigutem@teismai.lt)

Ms Ieva Karpiene - *National Courts Administration*

[Ievak@teismai.lt](mailto:Ievak@teismai.lt)

Tel: + 370 525 14 117

- **Malta**

Mr Joseph David Camilleri- *Commission for the Administration of Justice*

[Joseph.d.camilleri@gov.mt](mailto:Joseph.d.camilleri@gov.mt)

Tel: + 356 2122 4147

- **The Netherlands**

Ms Marja van Kuijk- *Council for the Judiciary*

[M.van.Kuijk@rechtspraak.nl](mailto:M.van.Kuijk@rechtspraak.nl)

Tel.: 0031 (0) 70 361 98 64

Mr Maurice van de Mortel – *Council for the Judiciary*

[m.van.de.mortel@rechtspraak.nl](mailto:m.van.de.mortel@rechtspraak.nl)

Tel.: 0031 (0)70 361 98 63

- **Spain**

Mr Francisco Puig Blanes – *General Council for the Judiciary*

[Francisco.puig@cgpj.es](mailto:Francisco.puig@cgpj.es)

Tel. : +349 17 00 6378

Mr Javier Laorden Ferrero- *General Council for the Judiciary*

Tel. : +349 17 00 6234

Mr Javier Martinez Lazara – *General Council for the Judiciary*

Tel. : +349 17 00 6240

Ms Pilar Ruiz Carnicero – *General Council for the Judiciary*

[Pruiz@cgpj.es](mailto:Pruiz@cgpj.es)

Tel. : +349 17 00 5942

## APPENDIX 2: PowerPoint presentation

### Action Framework for Strategic management

1

### Strategic management

- *Definition (1):*

Is the process of formulating, implementing and evaluating decisions that enable an organisation to achieve its objectives

- *Definition (2):*

Includes understanding the strategic position of an organisation, making strategic choices for the future and turning strategy into action

2



## Strategic management

- *Definition (3):*

Is the process by which an organisation establishes its objectives, formulates actions (strategies) designed to meet these objectives in the desired timescale, and assesses progress and results.

3

## Strategic management

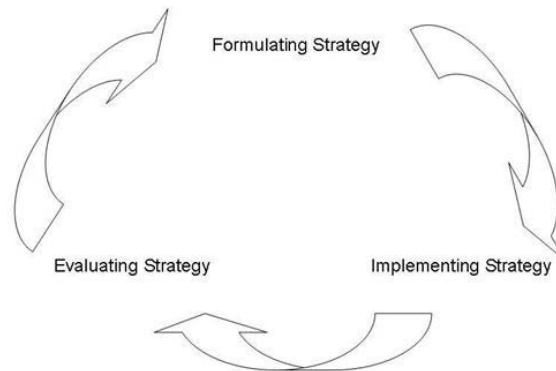
- 3 steps:

- A. Formulating strategy
- B. Implementing strategy
- C. Evaluating strategy

4

## Strategic management

- Is an ongoing process



5

## Strategic management

- Is an upward spiral development process (because the organisation is learning with every cycle)

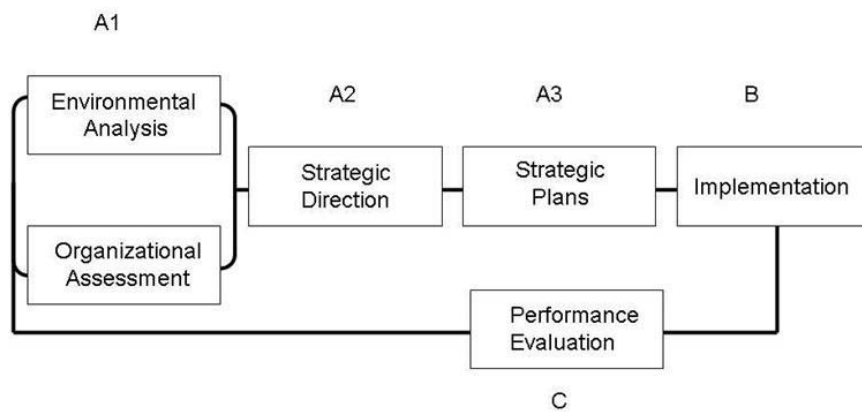


6

## A. Formulating strategy

- A1. Strategic analysis
- A2. Strategic direction
- A3. Strategic plans

7



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## A1. Strategic analysis

- Environmental analysis
  - Threats
  - Opportunities
- Organisational assessment
  - Strengths
  - Weaknesses

9

## A2. Strategic direction

### *Elements:*

- Mission
- Vision
- Corporate values

10

## A2. Strategic direction

### Mission (1)

- Expresses the *raison d'être* of an organisation in a short and forceful way
- Indicates what an organisation stands for and wishes to accomplish

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## A2. Strategic direction

### Mission (2)

- Is a communication instrument to profile an organisation to internal and external audiences
- Assists in giving direction to managers and employees
- Helps in creating and implementing a strategic plan (a plan for change)

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## A2. Strategic direction

### Mission (3)

*Answers the questions:*

- Why are we here?
- Who are we?
- What do we stand for?
- What are our fundamental objectives?
- What is our ideal?

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## A2. Strategic direction

### Mission (4)

*Comprises 3 basic elements:*

- Added value for
- Target group(s)
- Activities to realise the added value

14

## A2. Strategic direction

### Vision (1)

- Is a lively and forceful description of a desired future
- Gives an image of a final result that an organisation wishes to attain in the longer term

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## A2. Strategic direction

### Vision (2)

- Is the starting point for important organisational changes
- Forms the basis for developing strategy
- Mobilises managers and employees

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## A2. Strategic direction

### Corporate values (1)

- Are a frame within which strategies are developed
- Core values are the principles that guide an organisation's action
- Core values should be an expression of the way an organization is

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## A2. Strategic direction

### Corporate values (2)

Examples:

- Customer care
- Employee commitment / satisfaction
- Quality and service issues
- Ethics and social responsibility
- Willingness to learn, embrace change, innovate and accept responsibility
- Team working

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## A3. Strategic plans

- Strategic objectives
- Alternative strategies
- Strategy choice

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## A. Formulating strategy

*Implies strategic thinking (A1 and A2):*

i.e. the ability to

- Synthesize the lessons learned from past experiences and to share the learning
- Be aware of current positions, strengths and competences
- Clarify the way forward for the future

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## B. Implementing strategy

- Is the process through which the organisation's strategies are made happen

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## C. Evaluating strategy

- Evaluation of performance and analysis of the results

### *Possible conclusions:*

- Strategic objectives have been attained
- The chosen strategy is right. The implementation process is faulty
- The strategy must be adjusted or redeveloped
- The strategy is not appropriate. The environment has changed in the meantime

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## APPENDIX 3: Belgium

### High Council of Justice

#### A. Management plan

##### WHAT DOES THIS MANAGEMENT PLAN CONSIST OF?

The main lines of the HCJ Management Plan are as follows:

1. **A strategic strand** comprising:
  - a. The mission  
Why does the HCJ exist? What are its key activities?
  - b. The vision  
How does the HCJ wish to develop? What significance does it wish to have in relation to its external environment? What does it want to achieve eventually?
  - c. The strategic goals  
What must the HCJ do in the future to best perform its mission and to achieve its vision? What specific phases must it undergo in order to do this, and what results must be achieved?
2. **An operational strand** comprising:
  - a. The operational objectives
    - Each strategic goal is reflected in several operational objectives.
    - They determine what the HCJ wants to do and achieve in the short term (approximately one year).
    - They are expressed according to the “SMART” system: specific, measurable, approved, realistic and fixed in time.
  - b. The projects
    - Each operational objective is achieved by means of several projects.
    - Each project aims to achieve a partial result in terms of an operational objective.
    - Each project lasts on average three to twelve months and is carried out in principle by a multidisciplinary team.

##### THE MISSION

The HCJ, a constitutional body consisting of members of the judiciary and non-members of the judiciary, is committed to creating the conditions that will optimise the functioning of a justice system which is at the service of citizens. In this, it supports the work of the parliament, the government and the judiciary.

## **THE VISION**

The HCJ seeks to become a reference body which, through its recognised expertise, wants to contribute decisively to improving the functioning of the justice system, making it an effective, quality public service which enjoys the confidence of citizens.

## **THE STRATEGIC GOALS**

1. To optimise the selection and promotion of members of the judiciary.
2. To create the conditions for better management in the judicial system.
3. To optimise the supervisory competence of the HCJ
4. To optimise the “opinions” function.
5. To promote an external cooperation culture.
6. To develop a communication policy.
7. To optimise the internal functioning of the HCJ

## **OPERATIONAL PROJECTS 2004**

The management plan indicates the key projects to be carried out between September 2003 and June 2004:

1. To organise two forums: one on the backlog of court cases and the other on how the people perceive the justice system.
2. To optimise the current organisational structure of the HCJ.
3. To develop the concept of a selection procedure for members of the judiciary.
4. To develop the concept of a federal training institute for the members of the judiciary.

## **THE SEVEN STRATEGIC GOALS AND THE OPERATIONAL OBJECTIVES**

### **Strategic goal 1 :**

#### **To optimise the selection and promotion of members of the judiciary**

Taking into account the specific needs of the judiciary, to present candidates who are well trained and correspond to the profile for the post following well-defined procedures and carrying out permanent evaluation to help build up an efficient magistracy.

#### **Operational objectives**

- 1.1 To develop a global vision of the career of members of the judiciary with a view to offering motivating prospects to those appointed.
- 1.2 To develop a recruitment procedure that is adapted to every aspect of the profession of magistrate (knowledge, attitudes and skills) so that the most suitable candidate for a vacant post is presented to the minister.

- 1.3 To draw up an objective nomination and appointment procedure to ensure that all the candidates are selected in the same way on the basis of the same criteria.
- 1.4 To develop an initial and continuing training programme based on the principles of skills development, which is capable of responding to developments in the field so that the on-going professionalisation of members of the judiciary is always appropriate and up-to-date.
- 1.5 To assess systematically the candidate presentation policy with a view to learning from it and optimising selection procedures, in order to ensure a greater satisfaction level as regards the candidate concerned and as regards his or her direct working environment.

### **Strategic goal 2 :**

#### **To create the conditions that will ensure better management of the judicial system**

To formulate opinions and proposals concerning the use of the available material and human resources in order to optimise the working conditions of courts and the judiciary and to promote their autonomy in terms of (financial) management.

#### **Operational objectives**

2.1 To enhance the professionalism of the HCJ's supervisory competence so that it can be exercised in full knowledge of the facts and in a competent manner. In cooperation with the Federal public service Justice (formerly called the Ministry of Justice), to define the human and material resources that are essential to ensure optimal functioning of the judicial system and to guarantee that the entire judicial system has the necessary resources.

2.2 To draw up, in cooperation with the FPS Justice, a management model designed to give financial autonomy to courts and to the public prosecution services.

### **Strategic goal 3 :**

#### **To optimise the supervisory competence of the HCJ**

To optimise and develop the supervisory competence of the HCJ in order to formulate well-founded opinions and proposals for parliament, the government and the judiciary with a view to generally improving the quality and functioning of the judicial system.

#### **Operational objectives**

3.1 To enhance the professionalism of the HCJ's supervisory competence so that it can be exercised in full knowledge of the facts and in a competent manner.

- 3.2 To develop quality standards in order to draw up opinions and proposals to improve the functioning of the judicial system.
- 3.3 To develop an internal audit model and an appropriate audit instrument in consultation with the judicial system and for its use.
- 3.4 To develop an external audit instrument to allow the HCJ to evaluate the internal audits, to identify any malfunctioning and to make recommendations.
- 3.5 To optimise the current complaints procedure in order to deal more effectively with complaints from citizens concerning the functioning of the judicial system.
- 3.6 To stagger the processing of complaints and to centralise within the HCJ the reports on complaints concerning the judicial system so that complaints are dealt with in the first instance as close as possible to their origin, and so that the HCJ can obtain a global view of the complaints relating to the functioning of the judicial system.

#### **Strategic goal 4 :**

##### **To optimise the “opinions” function**

To optimise the function of opinions and proposals mindful of the HCJ’s key missions so as to contribute to better regulation and to ensure efficient functioning of the judicial system and effective use of the available resources.

##### **Operational objectives**

To enhance the professionalism of the HCJ’s supervisory competence so that it can be exercised in full knowledge of the facts and in a competent manner.

To evaluate whether it is indicated to issue *ex officio* opinions or of formulating a proposal at the right time in order to ensure maximum influence at political level.

- 4.2 To improve the “opinions” procedure in order to issue more targeted opinions in a more pro-active way.
- 4.3 To clarify the purpose of the “opinions” and “proposals” function so that they can be drafted with a clear target in view.
- 4.4 To check the impact which the opinions have on policy in order to make the “opinions” function more effective.

**Strategic goal 5 :****To develop an external cooperation culture**

To develop external cooperation and consultation links with customers and stakeholders in order to create optimal conditions for ensuring that implementation of the HCJ's proposals is accepted.

**Operational objectives**

- 5.1 To develop permanent partnerships with structural stakeholders (mindful of the responsibilities of each party involved) in order to devise initiatives together that correspond to the HCJ's key missions and contribute to the smooth functioning of the judicial system.
- 5.2 To develop *ad hoc* consultation and cooperation links with certain stakeholders in relation to specific themes that correspond to the HCJ's key missions, the aim being to raise the quality of the HCJ's recommendations and proposals and to ensure increased acceptance of them.

**Strategic goal 6 :****To develop a communication policy**

To develop a coherent internal and external communication policy to strengthen the internal coherence of the HCJ and to enhance its reputation and renown.

**Operational objectives**

- 6.1 To organise interactive and dynamic information and communication between the HCJ and the members of the judiciary to optimise their collaboration.
- 6.2 To organise a dialogue between society and the justice system (forum function) in order to harmonise the respective expectations of both parties with regard to justice and to contribute to a more communicative justice system.
- 6.3 To promote the activities of the HCJ among a wide audience in order to be recognised as the central forum for dialogue between society and the justice system.
- 6.4 To ensure the involvement of the HCJ in every debate concerning justice, mindful of the HCJ's key missions, so that it is recognised and its social base is strengthened.
- 6.5 To guarantee optimal dissemination of information and to facilitate communication between the various HCJ bodies so that each one is properly informed of the respective activities and can react to them.

**Strategic goal 7 :****To optimise the internal functioning of the HCJ**

To clarify the organisational structure, responsibilities and distinct roles of the members, the Bureau, the other bodies and the administration of the HCJ in line with legal provisions and mindful of the available resources in order to improve the functioning of the organisation.

To find and maintain a balance as regards the availability of members and the need to support the administration, so that each person can exercise the responsibilities incumbent on him or her.

**Operational objectives**

- 7.1 To describe clearly and coherently the roles and missions of the members, the Bureau, the other bodies and the administration. To implement this division of tasks so that each person can take charge of the mission assigned to him or her in an optimal manner.



## B. Pluriannual plan 2005 – 2008

### 1. Programme-methodology

The pluriannual plan brings together an aggregate of activities that the HCJ intends to carry out via its programmes during the period 2005 - 2008. These programmes are intended to bring about innovation. In addition, the HCJ continuously performs its activities at the level of hiring, selection, appointment, training, complaint handling, providing advice and investigation.

Regardless of their focus, the final objective of the programmes is to improve the services to the citizens and reinforce their confidence in the judiciary.

Characteristic features of a programme are:

1. It is made up of projects;
2. Projects have common objectives;
3. The projects concern (strategic) change.

### 2. Approving and fine-tuning the pluriannual plan

The pluriannual plan is approved by the General Meeting.

Its components can be amended with the approval by the General Meeting.

### 3. Three programmes

The projects that the HCJ intends to implement in addition to its continuous operational activities are classified into three programmes:

***(1) Programme “Improve the relationship between the citizen/society and the judiciary”***

***(2) Programme “Improve the functioning of the judiciary”***

***(3) Programme “Improve the services of the High Council of Justice”***

Two programmes are external in focus: the citizen-judicature relationship and the judicial system. The third programme has an internal focus and is in fact a function of the two externally focused programmes. Internally, the HCJ will deploy its resources and develop its organisation in such a way that the two externally focused programmes can be realised.

### 4. New as well as existing projects

The plan contains new projects as well as existing projects that will now be brought under the appropriate programme for the sake of coherence.

Each project must:

- 1) Contribute to the realisation of the objectives and sub-objectives;
- 2) Bring about an essential change in the citizen-judicature relationship, in the judicial system or in the organisation of the HCJ;
- 3) Yield actual results in 4 years.

## **5. The programmes and the projects have points of contact and relationships with each other**

Various projects have points of contact or demonstrate a clear relationship in their development or execution, and consequently require strict follow-up.

The relationships are stated in the project dossier.

## **6. Organisation programme-methodology**

(6.1) The Bureau functions as programme manager. As such, it is charged with the execution of the programmes at the request of the HCJ.

The tasks of the Bureau are the following:

- a. Ensuring and coordinating implementation of the pluriannual plan, and handling the communication.
- b. Reporting to the General Meeting concerning the progress of the projects of the pluriannual plan.

The administrators support the Bureau especially by ensuring the realisation and internal coordination of the projects.

(6.2) Each project team is made up of a member of the Bureau who coordinates the project and a number of members of the committee responsible for the project, who are supported by staff members; the team can be supplemented with members of the other committees and external consultants and/or experts. Within the project team, a specialist project manager can be chosen.

(6.3) Each project is developed around 10 points that are formulated in a project dossier. It is the task of the project teams to complete the project dossier and submit it to the Bureau for an assessment of its relationship to and harmonisation with the other projects. The realisation of a project may not hinder the realisation of another project.

The 10 components are:

1. Problem (short description);
2. Objective;
3. Results (= scope of the project = what was realised = what was delivered);
4. Delineation of the project (= what falls outside the scope of the project = what was not realised = what was not delivered);
5. Relationship to other projects (also to projects within other programmes);
6. Risks (the risks must be detailed per project so that attention can be paid during its development to what aspects should be avoided, where and when). General risks are:

- Insufficient support for the initiatives;
- A burden not only for the HCJ but also for the other participants. This depends among others on the time available for realising the projects;
- Financial consequences: recommendations to local judicial authorities will often have a financial impact on implementation. In particular, the costs that can be generated by local change projects must be examined;
- Projects developed outside the High Council and started before August 2008 can interfere with projects in the pluriannual plan (these can be positive but can also constitute a hindrance, for example in the area of priority);
- Lack of information and communication.

7. Methodology and activities to be undertaken (including possible sub-projects);
8. Project organisation (project team, possible advisors and sounding board group);
9. Timetable;
10. Communication within the project and to the Bureau.

(6.4) Decision-making: by the competent joint committee (JNAC or JAIC), the Bureau or the General Meeting.

## 7. Timetable (pluriannual plan) not added

<b>PROGRAMMES 2005 - 2008</b>
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<b>(1) PROGRAMME “<i>IMPROVE THE RELATIONSHIP BETWEEN THE CITIZEN/SOCIETY AND JUSTICE</i>”</b>
--

The programme comprises **three sub-objectives**:

### **(1.1) PROMOTING DIALOGUE BETWEEN THE CITIZEN/SOCIETY AND JUSTICE**

- 01-- Project “*Structuring the (regional) dialogue between justice and civil society*”  
Objective: promote the mutual learning effects by reinforcing the dialogue between the judiciary and society.  
Authority: General Meeting
- 02-- Project “*Study of the results obtained via instruments for measuring the opinion of citizens concerning the functioning of justice*”  
Objective: improve the quality and the use of such measuring instruments.  
Authority: JAIC
- 03-- Project “*Optimisation of communication by the judiciary*”

Objective: optimise the communication by the judicature and in so doing also investigate the usefulness of new channels of communication.

Authority: General Meeting

**(1.2) FAMILIARISE YOUTH WITH THE JUDICATURE**

04-- Project "*Becoming acquainted with justice at school*"

Objective: understand the justice system and its functioning

Authority: JAIC

**(1.3) MAKE THE JUDICATURE MORE ACCESSIBLE**

05-- Project "*Access to justice*"

Objective: provide the citizen with the opportunity to appeal to the judicial system.

Authority: General Meeting at the proposal of JAIC

<b>(2) PROGRAMME "<i>IMPROVE THE FUNCTIONING OF THE JUDICIARY</i>"</b>
--

The programme comprises **three sub-objectives**:

**(2.1) A VISION FOR DEVELOPING THE JUDICIARY**

06-- Project "*Vision of the judiciary*"

Sub-project: "*The judiciary's value system*"

Objective: with a vision of the judicature as point of departure, develop a vision of the judicial system and its actors (magistrates, senior officials, jurists from the public prosecutor's office, court clerks, secretaries from the public prosecutor's office, administrative personnel...). This vision must allow the judiciary to establish where it wishes to be in a number of years.

Authority: JAIC

07-- Project "*Comprehensive reflection on the principle and the modalities of participation by citizens in the practice of law*"

Objective: investigate the advantages and disadvantages for both judiciary and the citizen when the citizen is involved in one way or another with the practice of law.

Authority: JAIC

**(2.2) IMPROVING THE WORKING PROCESSES OF THE JUDICIARY**

**(2.2.1) Monitor and improve the working processes of the judiciary**

08-- Project "*Internal auditing of the judiciary*"

Objective: reinforce the management within the judiciary.

Authority: JAIC

09-- Project "*Internal system of control for the judiciary*"

Objective: improve the management of the operational activities within the judicial system

Authority: JAIC

- 10-- Project “*Internal handling of complaints within the judiciary*” (current project)  
Objective: putting in place a system for the independent and smooth handling of complaints within the judiciary.  
Authority: JAIC
- 11-- Project “*Internal and external reports on the judiciary*”  
Objective: support the judiciary in order to report in a result-oriented, uniform and transparent way.  
Authority: JAIC

### **(2.2.2) Elimination of the backlog of court cases**

- 12-- Project “*Evaluation and follow-up of the implementation of the recommendations of the Backlog of Court Cases Forum*”  
Objective: prepare the state of affairs concerning the implementation of the recommendations of the Forum, and raising awareness.  
Authority: JAIC

### **(2.2.3) Optimise the judicial system's use of resources**

- 13-- Project “*Monitoring the resources for the operation of the judiciary*”  
Objective: monitoring the financial, human and logistical resources deployed, as well as their use.  
Authority: JAIC

## **(2.3) IMPROVING THE PERSONNEL POLICY OF THE JUDICIARY**

### **(2.3.1) Re-design the functions of the public prosecutor's office and improve the procedures for fleshing these out**

- 14-- Project “*Reflection in the long-term regarding the recruitment, appointment, training and career of the magistrates*” (continuation of previous project)  
Objective: reforming access to the public prosecutor's office, the appointment, the training and career of the magistrates. Arrive at the development of a general total concept via constructive proposals.  
Authority: JNAC
- 15-- Project “*Selection of magistrates (before appointment)*” (current project)  
Objective: indicate quality criteria for the screening and establish the resources required to assess these.  
Authority: JNAC
- 16-- Project “*Selection of candidates for vacant positions (nomination and appointment)*”  
Objective: develop standards and criteria that must be used within the various procedures of the selection process.  
Authority: JNAC

**(2.3.2) Bring about the professional development of magistrates (°)**

- 17-- Project “*Training to improve the quality of the management of the judiciary*” (current project)  
Objective: support the management of the judicial system with training and coaching in concrete activities for change.
- 18-- Project “*Training in the use of Phenix*” (current project)  
Objective: learning the Phenix applications (case management, preparation of documents and statistics).
- 19-- Project “*Transforming the training policy into a strategic training policy*” (current project)  
Objective: transform education and training into an important instrument for guiding the evolution of the judicial system.

**(°) projects 17, 18 and 19 are current projects that are part of the totality of projects handled by the Training subcommittee.**

**(3) PROGRAMME “*IMPROVE THE SERVICES OF THE HIGH COUNCIL OF JUSTICE*”**

The programme comprises **three sub-objectives**:

**(3.1) IMPROVING EXTERNAL SERVICES**

- 20-- Project “*Establishing an audit service*”  
Objective: approach the audit function of the judiciary in a professional way.  
Authority: JAIC
- 21-- Project “*Information from Phenix*”  
Objective: ensure that Phenix is able to provide the required information to the HCJ.  
Authority: JAIC

**(3.2) IMPROVING COMMUNICATION**

- 22-- Project “*Transparency*”  
Objective: ensure that the HCJ communicates its activity to the outside world in a transparent way.  
Authority: General Meeting

**(3.3) IMPROVE THE ORGANISATION OF THE HIGH COUNCIL**

- 23-- Project “*Deontological code*” (current project)  
Objective: determine whether a code of conduct needs to be established for the members of the HCJ.  
Authority: General Meeting
- 24-- Project “*Structure and internal operation of the HCJ*” (continuation of previous

project)

Objective: adapt the organisational structure and optimise the internal operation in order to optimally fulfil the tasks, if necessary by also amending the law.

Authority: General Meeting, at the proposal of the Bureau

## **APPENDIX 4: Lithuania**

### **National Courts Administration**

<b>4 Programmes 2006</b>
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**PROVIDING SERVICES TO, AND ENSURING ACTIVITIES OF JUDICIAL AUTONOMY**

(name of the programme)

## DESCRIPTION OF THE PROGRAMME

Budget year	2006		
Appropriation manager	National Courts Administration	Code	90.48.1981

Programme code	01.02
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**Rationale for the preparation of the programme**

The programme is prepared in accordance with the Law on Courts, the Law on the National Courts Administration. This programme is continuous.

Government priority(ies)		Code	
Code	Name of the programme goal		
01	To perform the functions of the National Courts Administration established in legal acts in a qualitative and timely manner		

**Description of the implementation of the goal****Tasks of the programme:**

1. To prepare the materials for the General Meeting of Judges, meetings of the Council of Courts and the Judicial Court of Honour in a timely and qualitative manner, as well as provide technical services to them.
2. To prepare the analysis of workloads of courts and indicators of the legality of decisions, judgements and rulings in a timely and qualitative manner.
3. To draw up an annual overview of the statistics of courts in a timely and qualitative manner.
4. To keep and administer the databases of judges, candidates to judicial office and candidates to judicial vacancies at a district court, as well as the register of persons seeking judicial promotion.
5. To conduct internal audit in district, regional and regional administrative courts, as well as the National Courts Administration.
6. To develop co-operation with foreign and international institutions on judicial autonomy, administration and other matters concerning judicial activities.

**Measures of the programme:**

1. To conduct, upon the request of the Council of Courts, studies, analyses, surveys, draw up draft decisions, resolutions and other acts.
2. To collect and analyse proposals for draft budgets of district, regional and regional administrative courts (except for the Supreme Court of Lithuania, the Court of Appeal of Lithuania and the Supreme Administrative Court of Lithuania), as well as draw up a draft of budgetary appropriations for courts.
3. To draw up a consolidated report on the implementation of the estimates of budgetary expenditures of the National Courts Administration, as well as district, regional and regional administrative courts.
4. To analyse the working conditions in courts and put forward proposals to the Council of Courts regarding the organisation of the work of courts and the optimisation of material and technical conditions.
5. To keep the records of the premises occupied by courts, examine requests by courts for the repairs or reconstruction of the premises, as well as put forward conclusions and proposals to the Council

of Courts regarding the expediency and priorities of the repairs of court premises.

6. To analyse the workload of courts.
7. To analyse the reasons and tendencies of violations of substantive and procedural law leading to the change or reversal of court decisions, judgements and rulings.
8. To draft templates for statistical reports used in courts.
9. To collect, analyse and summarise the statistics of courts.
10. To manage the list of candidates to judicial vacancies at a district court and their personal files.
11. To keep personal files of judges and the register of persons seeking judicial promotion.
12. To conduct internal audit in district, regional and regional administrative courts, as well as the National Courts Administration, drawing up internal audit conclusions and recommendations.
13. To maintain relations with respective foreign institutions and international organisations.

**Criteria of the result:**

1. The functions of the National Courts Administration performed in a timely and qualitative manner (%).

**Criteria of the product:**

1. The materials prepared for, and technical services provided to meetings of the Council of Courts (number of meetings).
2. The ordinary session of the General Meeting of Judges held (number of sessions).
3. The draft of budgetary appropriations for courts drawn up (number of drafts).
4. The consolidated draft of the estimates of budgetary expenditures of district, regional and regional administrative courts (number of consolidated drafts).
5. The consolidated report on the implementation of the estimates of budgetary expenditures of district, regional and regional administrative courts drawn up (number of reports).
6. The analysis of workloads of courts and indicators of the legality of decisions, judgements and rulings prepared (number of analysis).
7. The annual overview of the statistics of courts drawn up (number of overviews).
8. The statistics of courts regularly collected (number of courts).
9. 21 templates of reports prepared for each court (number of reports).
10. The databases of judges, candidates to judicial office and candidates to judicial vacancies at a district court, as well as the register of persons seeking judicial promotion kept and administered (number of databases and registers).
11. The internal audits in district, regional and regional administrative courts, as well as in the National Courts Administration conducted (number of audits).
12. Relations with foreign and international institutions maintained (number of events).

**Expected result of the implementation of the programme**

Qualitative and efficient provision of services to bodies of judicial autonomy, ensuring of the independence of courts and judges, improvement of the quality of services to the public by the judicial system, increased public confidence in courts.

*Allocations and foreseen sources of financing (in thousand LTL)*

Economic classification groups	Allocations for 2005	Allocations for 2006			Draft for 2007	Draft for 2008
		basic budget	amendment/new	total		
1. Total allocations	2073	1803	+3549	5352	3903	1903
for expenditure	1803	1803	+499	2302	1803	1803
of which for remuneration	1230	1230	+348	1578	1230	1230
for property acquisition	270		+3050	3050	2100	100
2. Sources of financing						
2.1. State budget of the Republic of Lithuania	2073	1803	+3549	5352	3903	1903
including: general funding resources	2073	1803	+3549	5352	3903	1903
EU funds						
other funds of special programmes						
2.2. Other sources						
Number of staff for the programme	37	41		41	41	41
<b>Possible options for the implementation and financing of the programme – none</b>						
<b>Related legislation:</b> the Constitution of the Republic of Lithuania, the Law on Courts, and the Law on the National Courts Administration						
<b>Approved measures implementing the programme of the Government related to the given programme</b>						
<b>Other relevant information</b>						

Director

Telephone	+370 5 2514129
Date	2005-07-12

**CENTRALISED SUPPLY TO COURTS**

(name of the programme)

## DESCRIPTION OF THE PROGRAMME

Budget year	2006		
Appropriation manager	National Courts Administration	Code	90.48.1981

Programme code	01.03
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**Rationale for the preparation of the programme**

The programme is prepared in accordance with Articles 125(5) and 128(1) of the Law on Courts and Point 11.15 of the Statute of the National Courts Administration. This programme is continuous.

Government priority(ies)		Code	
Code	Name of the programme goal		
01	To provide courts with the necessary supplies and services purchased in a centralised way		

**Description of the implementation of the goal****Tasks of the programme:**

1. To supply courts with gowns and insignia.
2. To supply courts with blanks.
3. To ensure the rational use of funds for supplies and services purchased in a centralised way.

**Measures of the programme:**

1. To collect, systematise and analyse the needs of courts for supplies and services purchased in a centralised way.
2. To organise public procurements for supplies and services purchased in a centralised way.
3. To purchase, store and provide to courts supplies purchased in a centralised way.
4. To keep the records of the supplies and services purchased in a centralised way.

**Criteria of the result:**

1. Satisfied needs of courts for supplies and services purchased in a centralised way (%).

**Criteria of the product:**

1. Judges supplied with gowns and insignia (%).
2. Courts supplied with blanks purchased in a centralised way (%).
3. The share of supplies and services purchased through public procurement (%).

**Expected result of the implementation of the programme:**

More rational use of State funds in strengthening material and technical facilities of courts, better provision of services to parties to the proceedings.

## Allocations and foreseen sources of financing (in thousand LTL)

Economic classification group	Allocations for 2005	Allocations for 2006			Draft for 2007	Draft for 2008
		basic budget	amendment/ new	total		
1. Total allocations	394	394		394	394	394
for expenditure	394	394		394	394	394
of which for remuneration						
for property acquisition						
2. Sources of financing						
2.1. State budget of the Republic of Lithuania	394	394		394	394	394
including: general funding resources	394	394		394	394	394
EU funds						
other funds of special programmes						
2.2. Other sources						
Number of staff for the programme						
<b>Possible options for the implementation and financing of the programme – none</b>						
<b>Related legislation:</b> the Constitution of the Republic of Lithuania, the Law on Courts, and the Law on the National Courts Administration						
<b>Approved measures implementing the programme of the Government related to the given programme</b>						
<b>Other relevant information</b>						

Director

Telephone	+370 5 2514129
Date	2005-07-12

**JUDICIAL PENSIONS**

(name of the programme)

## DESCRIPTION OF THE PROGRAMME

Budget year	2006		
Appropriation manager	National Courts Administration	Code	90.48.1981

Programme code	01.04
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**Rationale for the preparation of the programme**

The programme is prepared in accordance with the Law of the Republic of Lithuania on State Pensions for Judges. The state judicial pension is one type of state pensions the allocation and payment whereof is regulated by this Law. In granting and paying out state judicial pensions, the National Courts Administration follows the Law of the Republic of Lithuania on State Pensions for Judges, the Law on State Pensions and the Regulations for Granting and Paying out State Pensions for Judges approved by the Government. This programme is continuous.

Government priority(ies)		Code	
Code	Name of the programme goal		
01	To ensure timely and correct allocation and payment of state pensions for former judges		

**Description of the implementation of the goal****Tasks of the programme:**

1. To organise timely allocation of state pensions to judges.
2. To make correct calculations of state pensions for former judges.
3. To make timely payment of granted state judicial pensions.

**Measures of the programme:**

1. To collect the necessary data and documents about the record of service of retired judges, the average salary for the last five years in judicial office, the granted old-age and state judicial pension.
2. To grant state judicial pensions to judges who retired on a pension.
3. To calculate and pay out a state judicial pension for every former judge on a monthly basis.

**Criteria of the result:**

1. Timely and correct allocation and payment of state judicial pensions for former judges (%).

**Criteria of the product:**

1. The number of state judicial pensions granted to former judges.
2. The number of state judicial pensions calculated for former judges.
3. The number of pensioners in receipt of state judicial pensions.

**Expected result of the implementation of the programme**

It is expected that in 2006 the state judicial pension will be granted and calculated for 7 former judges and paid to 45 persons. The goal of this programme will be achieved, provided the pension will be granted and paid to all persons in time. This will allow ensuring the social security of former judges as prescribed by the law.

Allocations and foreseen sources of financing (in thousand LTL)

Economic classification groups	Allocations for 2005	Allocations for 2006			Draft for 2007	Draft for 2008
		basic budget	amendment/new	total		
1. Total allocations	443	443		443	443	443
for expenditure	443	443		443	443	443
of which for remuneration						
for property acquisition						
2. Sources of financing						
2.1. State budget of the Republic of Lithuania	443	443		443	443	443
including: general funding resources	443	443		443	443	443
special funds						
EU funds						
other funds of special programmes						
2.2. Other sources						
Number of staff for the programme						
<b>Possible options for the implementation and financing of the programme – none</b>						
<b>Related legislation:</b> the Constitution of the Republic of Lithuania, the Law on Courts, the Law of the Republic of Lithuania on State Social Insurance Pensions						
<b>Approved measures implementing the programme of the Government related to the given programme</b>						
<b>Other relevant information</b>						

Director

Telephone	+370 5 2514129
Date	2005-07-12



**MAINTENANCE OF THE COURT INFORMATION SYSTEM**

(name of the programme)

## DESCRIPTION OF THE PROGRAMME

Budget year	2006		
Appropriation manager	National Courts Administration	Code	90.48.1981

Programme code	01.05
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**Rationale for the preparation of the programme**

On 8 April 2004, Law No IX-2109 Supplementing Article 2 of the Law of the Republic of Lithuania on the National Courts Administration was passed (Official Gazette No 60-2119, 2004) thereby widening the functions of the National Courts Administration, i.e. the Administration “*takes part in designing and implementing information systems in courts, carries out their administration and development*”. Furthermore, in 2004, the project “Strengthening the Capacities of Lithuania’s Judiciary” was implemented with the funds of the PHARE programme and the budget of the Republic of Lithuania. The funds of the investment component of this project were earmarked for the development of a court information system. Having developed this system, all Lithuanian courts are connected into a closed institutional court network.

The programme is designed to organise and maintain the institutional network of the court information system. Through the PHARE project “Strengthening the Capacities of Lithuania’s Judiciary”, computer and communication hardware and software were purchased enabling to connect national courts into a closed safe network of the judicial system. However, the functioning of this network requires purchasing communication services from communication service providers, as well as paying for the use of electronic legal database registers. The court information system could not function without such services. In addition, the network nodes (servers, routers, network security system) should be maintained and supported. Courts use, in the everyday activities, information which is stored in state registers and databases of other institutions in the electronic format. This information includes various legal acts, data from the real estate register, the register of residents, the register of legal persons, the mortgage register, etc. Since all courts are connected into the national court network, they should be provided with the information from state registers and databases of other law enforcement institutions necessary for their work in a centralised way. Thus, courts will be provided with uniform and reliable information; besides, the centralised purchase of services will be cheaper than individual purchase for each court.

Government priority(ies)		Code	
Code	Name of the programme goal		
01	To ensure the functioning of the court information system		

**Description of the implementation of the goal****Tasks of the programme:**

1. To administer the national court computer network, ensuring its uninterrupted and safe operation.
2. To administer the central database of the court information system.
3. To ensure the steady and uninterrupted operation of the network security equipment.

**Measures of the programme:**

1. To keep a constant watch on the operation of the communication hardware of the network (routers, modems, servers in courts).
2. To upgrade operational systems of routers and servers on a regular basis.
3. In case of troubles, to try restoring the operation of the network by themselves.
4. In case of failure to restore the operation of the network by themselves, to refer to the provider of communication services and the provider of the out-of-order equipment.
5. To register and de-register users of the central database.
6. To supervise the work of the central database.
7. To upgrade the database management system.
8. To archive data stored in this database on a daily basis.
9. In case of troubles with the database, to restore data from the archival copy.
10. To keep a constant watch on the operation of the security equipment.
11. To upgrade the security system on a regular basis.
12. In case of troubles, to try restoring the operation of the security system by themselves.
13. In case of failure to restore the operation of the security system by themselves, to refer to the provider of the out-of-order equipment.
14. To ensure that courts register information necessary for statistical computations on a regular basis and without delay, as well as to have regular control over the registration of information by courts.
15. To ensure the accuracy of the data in statistical reports of all courts at the end of the reporting period, by using possible logical operations for checking the accuracy and correctness of information entered by all courts, as well as to instruct courts to correct mistakes.
16. To prepare and present data in a respective form.
17. To provide consultations on data registration.

**Criteria of the result:**

The court information system functioning in a safe and steady manner (duration of operation, %).

**Criteria of the product:**

1. The number of operating network nodes.
2. The stability of the operation of the central database (time per year, %).
3. The stability of the operation of the security equipment (time per year, %).

**Expected result of the implementation of the programme**

The court information system functioning in a safe and steady manner.

## Allocations and foreseen sources of financing (in thousand LTL)

Economic classification groups	Allocations for 2005	Allocations for 2006			Draft for 2007	Draft for 2008
		basic budget	amendment/new	total		
1. Total allocations			+610	610	610	610
for expenditure			+610	610	610	610
of which for remuneration						
for property acquisition						
2. Sources of financing						
2.1. State budget of the Republic of Lithuania			+610	610	610	610
including: general funding resources						
EU funds						
other funds of special programmes						
2.2. Other sources						
Number of staff for the programme						
<b>Possible options for the implementation and financing of the programme – none</b>						
<b>Related legislation:</b> the Constitutions of the Republic of Lithuania, the Law on Courts, and the Law on the National Courts Administration						
<b>Approved measures implementing the programme of the Government related to the given programme</b>						
<b>Other relevant information</b>						

Director

Telephone	+370 5 2514129
Date	2005-07-12

## APPENDIX 5: The Netherlands

### Agenda for the Judiciary for 2005-2008

This document is a summary of the Dutch text and has been drawn up especially to inform interested parties outside the Netherlands of the ambitions of the Dutch judiciary system in coming years.

This agenda was drafted under the auspices of the *Raad voor de Rechtspraak*, the Netherlands Council for the Judiciary, by that Council's Strategy and Development section.

Contact:

Council for the Judiciary  
 Judiciary Information Service  
 e-mail: [voorlichting@rechtspraak.nl](mailto:voorlichting@rechtspraak.nl)  
 telephone: +31 (0)70 3619840

#### 1. Introduction

The judiciary system in the Netherlands was drastically reorganized starting in 2002, when the court boards and the newly created Council for the Judiciary (referred to below in abbreviated form as the Council) were given greater responsibility for and more control over their own organization. The agenda for the judiciary system for 2002-2005 was presented in March of that year. Many wheels have been set in motion since then: there is now considerable experience to draw from, and the relations between the various parties involved have taken shape. At the same time, much has changed in the world around the judiciary system in recent years. Seen in this context, the first agenda proved to give insufficient direction for the changes and to offer too little basis for prioritizing. There was also a great need to create a better cohesion within the current activities. All in all, enough reason to re-open the debate in the spring of 2004 and to start drafting a new agenda. It has been decided to design this new agenda on the basis of a mission statement and a vision for the future, with the aim of arriving at concrete objectives for the coming years. The Council's agenda was confirmed in late June 2004 after extensive consultation with the various courts.

After this introduction, this document will deal with the following:

Chapter 2	Observations from inside and outside the judiciary system
Chapter 3	Mission statement
Chapter 4	Vision
Chapter 5	The objectives for 2005-2008
Chapter 6	Issues for strategic debate

## **2. Observations from inside and outside the judiciary system**

A key consideration for this agenda is the level of esteem in which the judiciary system is held: from the outside by the litigants and by society as a whole, and from the inside by its own staff. This will be discussed on the basis of a number of extremely relevant findings from academic studies and the results of the debate conducted when this agenda was being developed.

### **The litigants and their representatives**

Almost every court in the Netherlands conducts ‘customer satisfaction’ surveys. It is clear from an analysis of the surveys conducted between 2001 and 2003 that a large majority of all litigants (approx. 65%) and the professional parties such as attorneys and public prosecutors (approx. 75%), are, on the whole, satisfied with the court they deal with. This positive conclusion does not imply that people resort to the courts more quickly: it is clear from recent studies that civil or administrative law proceedings are initiated for just 5% of the disputes encountered by ordinary citizens. In all the other cases a dispute is settled out of court, to varying degrees of satisfaction. From an international perspective, and taking account of the size of the population, few cases make it to court in the Netherlands. This is influenced by the wide range of extra-judicial facilities and the high thresholds, financial and otherwise, which discourage access to the courts.

The overall conclusion stated above is significantly influenced by the fact that litigants and the professional parties attach particularly great importance to the professionalism of the judges and the way they are dealt with by the judges. This is even more important to them than the duration of the proceedings. Litigants attach greater importance to the scope they are given during the hearing, the judge’s listening ear and his ability to recognize their point of view. Professional parties attach more importance to the grounds on which decisions are made and to unity of law. Both groups are very positive about their treatment by the judge, the judge’s expertise and the helpfulness of the court staff.

There are, however, also points of criticism. A minority of the professional parties are satisfied about the unity of law. They also believe that the grounds given for judicial decisions are inadequate. Both the professional parties and litigants are negative about processing times, while litigants are also critical of the information provided by the courts.

On the subject of the duration of legal proceedings, it is clear from earlier studies that, unlike private litigants and professional parties, ‘wholesale’ users of the court system (the business community, consumer organizations etc.) often give high priority to short processing times. It is also clear that lengthy proceedings take a heavy social toll, something which was also confirmed in the discussions leading up to the drafting of this agenda. This can only lead to the conclusion that it is necessary to reduce the amount of time needed to complete proceedings, but that this should not be done at the expense of the way the courts treat their users and the attention that the judiciary system devotes to litigants.

In many cases, however, this is unlikely to lead to a dilemma. The discussions leading up to the drafting of this agenda revealed that working within time constraints is a major problem in almost every part of the public sector and that this lack of speed is often not a ‘trade-off’ for better quality, but simply a problematic lack of attention to the importance of time-related issues. A second conclusion is that needs differ. This is in keeping with a growing demand for customized dispute resolution in which the length of the proceedings is tailored to the parties’ wishes (as long as they are justified).

The discussions regarding the unity of law and the grounds for decisions confirmed that society is making increasingly high demands of government bodies in terms of uniformity and conformity. Added to this is the fact that derogations will become much more visible as a result of the scrutiny of discerning and outspoken citizens and the media, while information systems are also improving. For the judiciary system, this means that inexplicable and unexplained discrepancies in judgements will come in for increasing criticism. Aside from this, the predictability of judgements is a value worth defending, and this is only possible if there is unity of law.

It should also be pointed out that the demands being made of the judiciary system keep pace with the development of the public and the private sector. In the coming years, the public sector will shift more towards providing services or access via the internet, and the judiciary system must not be permitted to fall behind. The demands placed on the expertise of the judges will also become heavier due to the increasing complexity of legislation, specialization in the legal profession and internationalization. Like other knowledge-intensive sectors, such as healthcare, the information systems within the judiciary must be developed into knowledge and expertise systems and be geared towards the general public, with a view to accessibility and the practical implications of the law. Special attention must be devoted to the repercussions of these changes for the professionals within the judiciary system.

### **Society’s opinion of the judiciary system**

The trust that the general public places in the courts is the key to society’s opinion of the judiciary system as a whole. The system needs trust in order to fulfil its role properly, but trust is something that must be earned. In this respect it should be pointed out that trust is a vague concept and that the studies and surveys do not indicate how the public defines this concept. At any rate, the level of trust in the judiciary system measured among the general public declined gradually between 1981 and 1999 before gradually starting to rise again.

Confidence in the judiciary system primarily seems to rise and fall in line with the extent to which the public trusts other public institutions. This link is strongest with the police, parliament and the civil service, and trust in the court system is high compared with the latter two. The general sense of unease about the way the criminal justice system operates would seem to be a major cause of the above-mentioned decline.

Since trust in the judiciary system corresponds so closely with confidence in the criminal justice system, the public sector and beyond, the opportunities for influencing this trust are limited. An important factor in this regard is that many citizens, and frequently also the media, fail to distinguish between the different bodies within the judiciary system. Few people have any real insight into the organization of the public law bodies. The judiciary system is frequently seen as an executive body run by civil servants and headed by the Justice Minister, and as part of various chains of justice cooperation rather than as an independent power.

Due to the rise of ‘chain’ and ‘system’ thinking as a solution to complex problems in such areas as the fight against crime, the judiciary system will have to take a clear stand and develop a clear profile so that it can fully shoulder the responsibilities entrusted to it in the division of power within the state while also responding adequately to the justified need for coordination and cooperation throughout the entire chain of justice.

The general public’s relative lack of knowledge about the judiciary system means that opinion is strongly influenced by incidents, as reported by the media. These often concern issues of integrity or the alleged lack of it. The discussions have shown that, within the public sector and beyond, substantial investments have been made in mechanisms to safeguard and provide insight into integrity, and that the judiciary system will have to comply with the highest possible standards of integrity and transparency. After all, to a considerable extent it is the task of the judiciary system to guarantee trust in society’s other public institutions.

### **The employees’ opinion of the judiciary system**

It is clear from the collated surveys conducted in 2001 and 2002 to measure staff satisfaction that a very high proportion of staff (approx. 85%) enjoy their work. A survey conducted simultaneously within six District Courts in 2003 gives a comparable score: around 90% of the staff declared that they were satisfied or extremely satisfied with their job. However, the latter study does indicate that the pressure of work is very high. Staff were also less satisfied about educational and career prospects, and about management style: in this regard they rated such aspects as inspiration, innovation and listening to the signals given off by staff as being relatively weak. Another point demanding attention is dealing with knowledge, as both studies demonstrate that just 65% of staff say they are familiar with the latest developments in their field, a result which appears to be partly related to the high pressure of work. Another factor in this respect is the need for improvement in the accessibility and especially the prompt availability of information that employees need to carry out their work.

### **3. Mission statement**

The essence of the judiciary system’s constitutional position, the tasks with which it is charged and the way it is required to undertake these tasks are enshrined in the Dutch Constitution and in the European Convention on Human Rights (the ECHR).

The judiciary system’s mission statement reads:

***The judiciary system is responsible for the impartial and prompt settlement of disputes and adjudication of offences by independent judges.  
The judiciary system contributes to maintaining the rule of law and public confidence in the law.***

The aim of this mission statement is to express concisely not only what the judiciary system stands for, but also to motivate its staff and to give direction to their tasks.

#### **4. Vision**

The vision for the future of the judiciary's organization is an elaboration of the mission statement. This vision devotes attention to both the fulfilment of concrete tasks and to the organization set up for that purpose. It formulates ambitions for the medium term.

The vision consists of five principal elements:

- The position within the structure of the state
- The domain
- The values
- The interpretation of tasks
- The professional organization

##### **The position within the structure of the state**

- The judiciary system has its own position within the structure of the state. The activities undertaken in the fulfilment of this position are conducted while taking due account of developments in society.
- The judiciary system has a special responsibility for upholding the rule of law and safeguarding legal protection, as laid down in international treaties and conventions.
- The judiciary system has its own responsibility for incorporating the administration of justice in the Netherlands into the developing European system of law. It also collaborates with judiciary organizations in other countries.
- The Council will call the other state powers to account when the judiciary system is not given sufficient scope to perform its tasks effectively. This particularly applies to cases in which there is a failure to carry out judicial decisions.
- The funding of the judiciary system must be adequate to enable it to properly discharge its tasks and to do so according to the quality standards drawn up by the judiciary system itself. Funding must be provided on the basis of objective criteria.
- To ensure the effectiveness of the judiciary system, it is necessary to ensure sound logistical coordination with those persons and bodies with which the courts have intensive contact, such as the Public Prosecution Service, the legal profession and administrative bodies.
- As society becomes ever more heterogeneous, the judiciary system must attempt to translate these changes into its staff recruitment programme, so that the judiciary system remains a body with which every group in society can identify.
- The judiciary system must promote knowledge of the judiciary by providing information and contributing to education.

##### **The domain**

- The legislature has charged the courts with wide powers of dispute resolution and the adjudication of offences. This situation must remain intact in order to ensure citizens' continued access to legal protection. Even with regard to simple cases, caution must be exercised by the legislature in considering the removal of tasks from the responsibility of the courts, especially since these simple cases can be dealt with quickly and efficiently by the organization.



- The point of departure for the relationship between the judiciary system and alternative, extra-judicial dispute resolution, such as mediation, must be that litigants do not opt for alternatives because the judiciary system is failing to perform its tasks (for example because the procedures take too long), but because these alternatives offer better solutions for certain disputes. The parties must be at liberty to choose in this respect, without being subjected to compulsory preliminary proceedings.

### **The values**

- When performing his duties, a judge is guided by the requirements for a fair trial, as laid down 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 a fair adjudication of disputes and offences. There may be no doubt of this, especially within the judiciary system; it must be explicitly anchored in the judiciary's quality control system.
- The judiciary system must strive for a high degree of transparency, both in individual cases (for example when explaining the grounds for a judicial decision) and within the judiciary system as a whole (for example with regard to performance, appointment procedures and the utilization of resources).

### **The interpretation of tasks**

- The judiciary system sets high quality standards for the way it performs its tasks, especially with regard to expertise, promptness and accessibility.
- In view of the broad domain covered by the judiciary system and the variation in the 'weight' of cases, the way a case is handled and the attention it receives must be proportionate to its importance (proportionality). This includes factors such as the social significance of a case, the influence of that case on other cases (and the importance for jurisprudential development) and the parties' interests, financial and otherwise. This principle means it is essential to differentiate between and within case types. The spectrum of case types ranges from straightforward but numerous cases (such as undisputed claims) which can be handled quickly and efficiently using ICT applications, via legally straightforward disputes in which the parties desire, above all, a satisfactory oral hearing of their case and not an extensive written motivation for the grounds of the judicial decision, to highly complex disputes which demand an extensive written treatment and a decision of a similar nature.
- Judicial decisions must be motivated in a manner which is clear and unequivocal for the public. The judiciary system must strive to achieve unity of procedural and substantive law.
- Proceedings must not be speeded up at the expense of the overall quality of the process and, more specifically, the quality of the way the parties are treated during the hearing. In order to ensure that the substance of the dispute is dealt with in full, a judge must assume a strongly directive role. Administrative processes can be streamlined by making greater use of ICT applications (for example digital case files and the possibility of handling cases via the internet).

### **The professional organization**

- The courts and the Council form a single organization in which the courts and the individual judges occupy their own position. The strength of this organization is largely

determined by the collaboration between the various organizational layers within a court, the collaboration between the various courts and the collaboration between the courts and the Council. The Council is not only in charge of the finances but also occupies a supervisory and binding role.

- The judiciary system is a professional organization of committed professionals who are subject to considerable demands and where a systematic investment is made in knowledge and skills. A good employer will reap the benefits of a highly-motivated and expert staff and a strong position on the labour market.
- The organization itself is responsible for safeguarding the quality of its service and it determines the standard to be applied in this respect. In doing so, the justified expectations of litigants and professional partners must be taken into account as much as possible.
- Innovation is an important instrument for keeping the organization up-to-date. Ongoing development and renewal are fed by investigating the external frame of reference and the expectations for the future, in the form of studies and research & development with a view to the possible applications of new technology.
- The judiciary system must use the public funds at its disposal efficiently and effectively and provide transparency on the expenditure of these funds, and the achievements and targets reached as a result.

## **5. The objectives for 2005-2008**

In this section, the judiciary system presents five objectives which it has set itself for the period 2005-2008. These objectives are based on the results achieved in recent years and the experience gained in executing the first agenda, the observations presented in Chapter 2, the mission statement and the vision.

### **Objective I: Institutional safeguards for impartiality, independence and integrity**

The judiciary system must meet the highest standards in terms of impartiality, independence and integrity. The judiciary system's safeguards for ensuring this must be made visible to the outside world. In recent years, considerable progress has been made in this regard. In the coming years, an effort will be made to improve the institutional safeguards, for example by developing a cohesive code of conduct which complies with 'best practices' inside and outside the Netherlands. Most of this process should be completed and made visible outside the sector by 2006. However, codes of conduct should not be a static entity, but should be the subject of ongoing debate throughout the entire organization. More important than a code of conduct is its incorporation into the organization's culture. There must be a conscious awareness of these values in an open culture where it is everyday practice to point out each other's responsibilities in this regard. This subject must therefore have a permanent place on the agendas of the court boards and the Council for the Judiciary.

### **Objective II: Differentiating between cases and standards for processing times**

The present statutory frameworks provide scope for conducting proceedings in various ways. In view of the fact that these proceedings are publicly funded and the parties' often conflicting interests as to how they are conducted, the courts must ensure that proceedings are organized as efficiently as possible, both in first instance and in appeal. For this reason, the processing of a case will have to be tailored to its specific characteristics more than is presently done. These characteristics include aspects such as the social significance of a case, the influence of that case on other cases (and the importance for jurisprudential development), the parties'

interests, financial and otherwise, and the professional requirements of due procedure (including the proper treatment of the litigants). These factors together must largely determine how proceedings are conducted and therefore determine the cost of a case and its processing time. Where possible within these frameworks, the parties can be offered freedom to determine the steps in the proceedings, but always under the direction of the court. This will lead to a greater differentiation of processing times, so that it will be possible to reduce these times to their necessary duration in view of the specific characteristics of certain types of cases.

This system will be set up in the years leading up to 2008, with a small number of courts being given the opportunity to gain some experience of working in this way, so that it can then be put into practice throughout the judiciary system in the years that follow. Among other things, this means that a system of standards will have been achieved in terms of the treatment and processing times of various case categories, translated in terms of procedural rules and work processes. Interested parties from outside the sector and their organizations will be given the opportunity to express their wishes regarding these standards.

### **Objective III: Promoting unity of law**

The judiciary system acknowledges that, within the boundaries set by judicial independence, it must meet society's need for a uniform application of the law in every field of law. This is in addition to the existing safeguards for unity of law, such as the scope for appeal and cassation, and with due observance of the special role played by the Netherlands Supreme Court in this regard.

With regard to procedural rules (regulations for proceedings etc.), the judiciary will strive towards a high degree of unity of law. In order to meet the need for substantive unity of law in respect of a judicial decision, it will consider the extent to which certain elements of the administration of justice can be laid down in guidelines. This will be done on the basis of an inventory of problem areas and by calling on the expertise of judges active in those fields. In the first instance, this process will focus on straightforward cases of a relatively uniform nature which are dealt with in large numbers. These guidelines will also be made public, which means that if a judicial decision derogates from a guideline, this fact must be motivated. Unity of law in every field will be promoted by improving the means by which knowledge on judicial decisions can be shared. The results of these measures should be reflected by the fact that the professional parties take a more positive view of the extent of the unity of law. The response given by these parties to relevant questions in the 'customer satisfaction' surveys will therefore be an important barometer for the success of these measures.

### **Objective IV: Concentration as a means to specialization**

Both society and the law have become more complex, and the judiciary system's external frame of reference (for example the legal profession) has become or is becoming highly specialized (the Public Prosecution Service). The judiciary system will therefore be required to take a specialized approach to certain cases. New legislation has considerably expanded the scope for collaboration between the courts with a view to such special treatment. The courts will realize this collaboration by means of mutual arrangements based on a more detailed description of the relevant case categories. Arrangements will have to be made on the principal specialized fields by 2006.

In addition to the above, an analysis will be conducted of the usefulness, necessity and nature of knowledge centres for each legal field, to be completed by 2006. Depending on the outcome of this analysis, these centres will then be set up, albeit in accordance with the principle that their size must be restricted.

### **Objective V: Improving transparency**

Transparency is an important value within the judiciary system, and politicians and society must be able to obtain an active insight into the role of the judiciary system and how it functions.

One of the objectives of the quality system being developed within the framework of the RechtspraakQ programme is to improve transparency. This system provides information on the present state of affairs regarding quality in the courts. The quality assurance system will be fully operational by 2007. A restricted set of index numbers and performance indicators will also be developed to describe the core aspects of the functioning of the judiciary system as a whole and of the individual courts. This will be realized by 2006. A precondition for this is the availability of a sound information infrastructure which offers safeguards for the reliability of these index numbers and performance indicators.

When further developing existing instruments, it is necessary to ensure that they contribute to greater transparency in the judiciary system. This includes important documents such as budgets, year plans and annual reports, but also covers the active provision of information to the public, via the internet and other media. Information at schools and universities will be a particular focus of attention in the coming years.

### **ICT**

Information systems must be efficiently organized in order to realize these objectives. An extensive long-term investment programme, the Information Management programme, has been set up for this purpose. As well as improvements to the purely technical infrastructure, the programme is designed to improve primary processing systems and management information, to introduce the possibility of working with electronic messages and digital case file and to increase the flexibility of the organization.

## **6. Issues for strategic debate**

As was the case for the first agenda, there are also a number of current questions which merit special attention in the coming years; important questions which could have far-reaching consequences for the judiciary system. The first three questions below will not be commented on, as they refer to the specific situation in the Netherlands. However, the fourth will be dealt with more extensively, since it is also relevant outside the Netherlands.

**Question A: Which management concept is most appropriate for the way the judiciary system is organized, in terms of effectiveness?**

**Question B: What is the ideal scale of the courts in the Netherlands, and should the present organization be amended accordingly?**

**Question C: Should the judiciary system continue to be charged with supervisory and non-judicial tasks?**

**Question D: How can public involvement in the judiciary system be improved?**

Public awareness of the position of the judiciary system and how it operates leaves much to be desired. This is reflected for example by the confusion and lack of clarity about the role of the judges and their relationship to the other parties involved in court proceedings, such as the Public Prosecution Service. Opinion polls have furthermore demonstrated that the general public often has a different view of certain issues than judges: for example, many people believe that sentences are not tough enough. Added to this is the fact that, unlike other countries, the Netherlands has no jury system and there is very little justice administered by non-professionals. Such considerations make the question of how to involve the public in the judiciary system a relevant one.