

Meeting of Judges – 2017

A justice network at European level : a guarantee of high-quality justice

The European Union and its Member States are required to assist each other in carrying out tasks which flow from the Treaties.¹ That assistance presupposes mutual trust between political authorities and between judicial authorities.

Mutual trust is based on the premise that both the European Union and all the Member States have the same level of commitment to a set of values which are recognised and observed by all. It is precisely because those actors are under a uniform obligation to observe the principles of democracy and of the rule of law, as well as fundamental rights, as provided for in primary EU law, that it is possible to develop a system of assistance based on mutual trust.

Judicial cooperation within the European Union requires not only trust between the courts of the Member States and the Court of Justice of the European Union, but also between the courts of the Member States *inter se*. The effectiveness of such cooperation can be improved by any scheme that enhances our knowledge of one another's various legal systems. Mutual trust goes hand in hand with mutual knowledge, which presupposes effective channels for communication and for the exchange of information.

The exchange of information, carried out in a climate of mutual trust, facilitates use of the comparative law method. A national court, faced with a legal problem for which a solution has already been set out in another legal order, may apply that method for the purposes of resolving that same problem in its own legal order. Use of the comparative law method leads to a convergence between national legal systems which, in turn, establishes an environment conducive to the emergence of a law that is shared between the Member States. That method thus strengthens the European project by horizontal means.

Primary EU law also provides that the Court of Justice of the European Union must apply the comparative law method.² By examining the solutions favoured by the legal

¹ Article 4(3) TEU.

² Article 6(3) TEU; Article 340 TFEU, second paragraph.

orders of the Member States and by adopting those which appear to be the most appropriate for achieving the objectives of the Treaties on which the European Union is founded, the comparative method leads to mutual enrichment of national legal orders and EU law, which also encourages normative convergence between them, thus strengthening the European project as a whole.

Various networks have been established between national courts for the purposes of facilitating the exchange of relevant information. The Court of Justice of the European Union participates in certain of those networks.³

On the occasion of the 60th anniversary of the Treaty of Rome, it is necessary to highlight the importance of justice networks, which are vital for ensuring the quality of justice at European level and which contribute to the creation of a truly common European legal space.

Programme

Sunday 26 March 2017

(time unspecified) Arrival of the participants

(time unspecified) Check-in at the hotel

Sofitel Luxembourg Europe Hôtel

4, Rue du Fort Niedergrunewald, L – 2015 Luxembourg

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19:00 Departure from the hotel

19:30 Welcome reception
(location to be confirmed)

21:30 – 22:00 Return to the hotel

³ Association of the Councils of State and Supreme Administrative Jurisdictions (ACA); International Association of Supreme Administrative Jurisdictions (IASAJ); Network of the Presidents of the Supreme Judicial Courts of the European Union; European Network of Councils for the Judiciary (ENCJ).

Monday 27 March 2017

9:00 – 9:00 Welcome

Coffee

(Salle des pas perdus, level 2 of the Palais)

9:30 **Formal opening of the Meeting by Mr K. Lenaerts**, President of the Court of Justice

(Main courtroom, level 2 of the Palais)

9:40 First working session: **‘A justice network at European level: an essential component of high-quality European justice’**

(Main courtroom, level 2 of the Palais)

The session will be chaired by **Mr K. Lenaerts**, President of the Court of Justice

The topic will be presented by **Mr M. Szpunar**, Advocate-General at the Court of Justice and by **Mr J.-M. Sauvé**, Vice-President of the Council of State of the French Republic

‘High-quality justice is an essential component of the rule of law. Traditionally, judicial activity is assessed by reference to the inherent quality of judicial decisions, namely the quality of their reasoning, and the celerity with which those decisions are delivered.

However, high-quality justice cannot be guaranteed unless the courts have access to the relevant legal information. Cooperation between courts may facilitate such access. To what extent does the existence of a justice network constitute an indicator of the quality of European justice?’

11:00 Coffee break

(Salle des pas perdus, level 2 of the Palais)

11:30

Second working session: **‘Forms of cooperation between the Court of Justice of the European Union and national courts’**

(Main courtroom, level 2 of the Palais)

The session will be chaired by **Mr A. Tizzano**, Vice-President of the Court of Justice

The topic will be presented by **Mr A. Rosas**, Judge at the Court of Justice and by **Chief Justice S. Denham**, Supreme Court of Ireland

‘National courts regularly express the view that the Court of Justice should make available requests for a preliminary ruling. Those requests, which are communicated to all the Member States, are available in all the official languages of the European Union. Access to those requests would have the advantage of giving national courts a clearer, more up-to-date and more precise picture of the cases pending before the Court of Justice. It might prevent repetition of preliminary ruling cases concerning the same issue of interpretation or validity of EU law.

Some of the institution’s other internal documents might also prove useful for national courts. It could be envisaged that the research notes prepared by the institution’s ‘Research and Documentation’ directorate be made available. However, unlike the requests for a preliminary ruling, those notes exist exclusively in French.

It would also be useful to ascertain which documents might usefully be made available to the Court of Justice of the European Union by the highest courts of the Member States, by the European Court of Human Rights and by the EFTA Court.

The next issue which arises is how the exchange of information could be organised. That might take place under bilateral or multilateral agreements concluded between courts or within the framework of an existing network.

Certain documents, such as requests for a preliminary ruling, might also be made available on the internet site of the institution, either for the general public or, alternatively, in a section to which only national courts have access. Those documents could then be linked to a search engine.’

12:45

Lunch in the dining rooms of the Court (with seating plan)

14h45

Third working session: ‘A challenge raised by cooperation within a network: the protection of personal data’

(Main courtroom: level 2 of the Palais)

The session will be chaired by **Ms R. Silva de Lapuerta**, President of chamber at the Court of Justice

The topic will be presented by **Mr M. Ilešič**, President of chamber at the Court of Justice and by **(tbd)**

‘Under Article 8 of the Charter of Fundamental Rights of the European Union, the Court of Justice is required to ensure the protection of personal data. National courts are placed under a similar obligation by national law. It is therefore important to provide for safeguards so that the exchange of information between courts complies with the principle of the protection of personal data.’⁴

The right to the protection of personal data is not an absolute right but must be reconciled with another fundamental right, enshrined in Article 47 of the Charter of Fundamental Rights of the European Union, namely the principle that judgments should be delivered in public. Publicly-administered justice is a fundamental principle of the rule of law. It is therefore essential to strive for a fair balance between the public delivery of judgments and the protection of privacy.

Since it is already current practice to send requests for a preliminary ruling to all the Member States, some of which make those requests accessible online through ministerial websites, the recommendations addressed to the national courts on submitting questions for a preliminary ruling request the referring court itself, should it consider it necessary, to blank out certain names or data in its request for a preliminary ruling or to send, in addition to the full request for a preliminary ruling, an anonymised version of that request to be used as a basis for the proceedings before the Court.

That said, any individual who brings an action makes a choice and can expect that his or her personal data may be included in a judicial decision which will, to an extent, be made public. On the other hand, a defendant makes no such choice. Should anonymisation be provided automatically in any case in which a private individual is involved? Should a distinction be drawn between applicants and defendants? Is anonymisation necessary only where certain aspects of the case are of a delicate or sensitive nature?

⁴ See judgment of 9 November 2010, *Volker und Markus Schecke and Eifert*, C-92/09 and C-93/09, EU:C:2010:662, paragraph 85, in which the Court held that ‘[n]o automatic priority can be conferred on the objective of transparency over the right to protection of personal data’.

Furthermore, irrespective of the answers to those questions, must documents exchanged exclusively between courts under a cooperation agreement on the exchange of information be subject to review beforehand by the ‘issuing’ court to ensure that they do not contain personal data ?’

16:15 Coffee break

(Salle des pas perdus, level 2 of the Palais)

17:00 **Closing session**

‘The 60th Anniversary of the Treaty of Rome: from a Europe of markets to a Europe of citizens’

(Main courtroom, level 2 of the Palais)

‘The Court of Justice’s contribution to building Europe’, by Mr K. Lenaerts, President of the Court of Justice

‘The General Court’s contribution to building Europe’, by Mr M. Jaeger, President of the General Court

‘The view from a Member State that joined the Union at its foundation’, by Mr P. Grossi, President of the Italian Constitutional Court

‘The view from a Member State that joined the Union subsequent to its foundation’, by Mr R. Norkus, President of the Lithuanian Supreme Court

18:00 Reception

Tuesday 28 March 2017

8:15 – 8:40 Welcome

Coffee

(Salle des pas perdus, level 2 of the Palais)

8:45 Presentation of the case (tbd)

9:30 **Attendance at the hearing in Case (tbd) before the Grand Chamber of the Court of Justice**

11:00 Coffee break

(Salle des pas perdus, level 2 of the Palais)

11:15 Continuation of the hearing or
(tbd)

12:15 Buffet lunch in the dining rooms of the Court

14:00 End of the program; transfer to the airport / railway station