

Mapping legal Europe

When you walk in a courtroom of an Italian court you might face many differences in the behavior of legal actors, compared for instance with the situation in a French court or a court in Georgia. There might be professional judges, lay-judges or even temporary-judges sitting behind the court bench. The right for legal aid and the amount of legal aid granted differs from one European country to another one. Sometimes you receive a high financial contribution from the State; sometimes you receive a relative small amount or even nothing. In highly 'automated' societies citizens, legal professionals or legal entities might have the possibility to communicate with courts via the Internet or by means of electronic data exchange, whilst in other countries the tools of communication are limited to the use of the telephone or the postal services. Languages, legal cultures, court proceedings are different as well.

With an increasing mobility of European citizens and a growing cross-border trade and exchange of goods and services there is a need for a better understanding how the different legal systems in Europe are composed and functioning. With respect to the latter, some legal scientists noticed in the recent past a 'European crisis' in the courts due to lengthy court proceedings and an inefficient operation of courts in the various European cities. A crisis that must be solved because 'justice delayed is justice denied'. Is this really true, and what are the concrete facts?

To get a better understanding of the real situation of the courts in Europe and the legal professionals which are playing a central role in the court proceedings in 2002 the European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe was established. The main task of this commission, composed of representatives of the 47 Member States of the Council of Europe, is to promote an exchange of information and a better understanding of the functioning of legal systems, including how the 'legal maps' are structured. Another aim of the Commission is to help Member States in situations that there is a

need for information or assistance to modify or to improve their systems. The last task of the Commission is related to the 'classical' work of the Council of Europe; the drafting of Recommendations.

One of the challenges the CEPEJ was facing at the beginning of their mandate was to create a methodology for collecting statistical and qualitative information concerning the legal systems in Europe. Some critics said that it is a 'mission impossible' and that the final outcome of such an exercise is a report where 'apples' are compared with 'pears'.

Despite the skeptics, a small team of expert drafted in 2002 a first version of a questionnaire on legal systems to be send to the Member States. The first comparative (pilot-) report saw the light at the end of the year 2004. Notwithstanding the fact that it was a 'test', the publication of the report was a success. It showed that it was possible to collect at European level information on legal systems. Based on the success of the first evaluation round a second report was published last year. In this report detailed information is presented on the financing of courts, legal aid, the status and role of judges and prosecutors, court performance, lawyers, mediators, enforcement agents, etc. Many tables with facts can be found in the report and descriptions of the current legal state of affairs are visualized with graphs and geographical maps – similar to the weather forecast maps – where the reader quickly can identify the similarities and differences between countries on a certain topic. If you are curious I would like to invite you to visit the website of the CEPEJ (www.coe.int/cepej), where the full report 'European judicial systems' can be downloaded. At this website also other interesting information can be found. Reports on the 'fight against delays', the use of mediation, relevant Recommendations in the field of justice and other more practical information can be retrieved as well.

In the fall of this year a third evaluation round will be launched. Hopefully it will be as successful as was the case with its predecessors and that the

report will be used by government officials, legal professionals and scientists to stimulate a debate within the countries on the need to constantly improve the judicial systems and to promote the quality of services delivered by the courts for the sake of its users.

With the development of the evaluation methodology the CEPEJ has created a unique instrument, accepted by many European countries. Even outside Europe the awareness about the work of the CEPEJ (for example in the Middle East region) in this field is rising. Another indication for the growing interest in the activities of the CEPEJ is the increase of European and international legal professional organizations actively participating at meetings of the CEPEJ. Two good examples are the representation of the Council of the Bars and Law Societies of the European Union and the American Bar Association – Rule of Law Initiative. With the involvement of the legal professionals, like lawyers associations, at meetings of the CEPEJ the quality of the work in the legal field in the European countries can be improved and important principles like article 6 of the European Convention on Human Rights - everybody has a right to a fair trial established by an independent tribunal within reasonable time - be promoted. ■