

Connecting court quality hotspots in Europe: from quality initiatives to excellent courts

Dr. Pim Albers

Several countries in Europe are introducing quality initiatives for courts. Some of them are using surveys to collect information about users. Others are applying comprehensive court quality systems. In this article a description is given of the development of court quality policies in Europe and the use of the international framework of court excellence.

Introduction

According to the latest report of the European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe, courts are in a majority of European countries producing annual reports about the court performance (and quality)¹. Also more and more countries have monitoring systems in place to measure and to manage the progress of court cases. With this information in mind it might give the impression that courts in Europe are moving towards a higher level of quality-awareness. Is this really the case?

The answer seems to be mixed. It should be no, when the number of countries with comprehensive court quality systems are taken into account. Only the Netherlands and Finland can be mentioned as best practice examples here. Yes, when the growing number of the use of satisfaction surveys (at a national or a court level) in several countries is mentioned. According to the CEPEJ-evaluation, more and more countries are using surveys to collect information about the services delivered by the courts and the public trust in the judiciary.

Before going into more detail of the current developments in Europe with respect to quality it is important to explain the different terminologies that are used to define quality of the judiciary and quality of courts. In the traditional sense of meaning quality in the judicial branch is often related to *judicial quality* i.e. the quality of a judgment or a verdict. The determination of the level of judicial quality is mostly laid in the hands of the

legal-professionals themselves (the judges) through a system of peer-review, the existence of (high) appeal courts, a legal review of judicial decisions in the academic world and/or judicial inspections/evaluations.

The evaluation of *judicial quality* is many countries a part of the assessment of the performance of a judge (carried out by judicial inspections or other (independent) bodies). Judicial performance evaluation is focussed on three aspects of the work of a judge:

- the performance (how many cases have been decided in a given period, the number of adjournments of court hearings, and the labour productivity of a judge);
- the interaction of the judge with the parties during court hearings;
- the legal-technical quality of the decisions rendered².

For the last aspect assessors may select ad randomly a number of cases to detect legal errors in judgments or to review the quality of the legal reasoning and the correct application of the laws. Sometimes complaints against a judge or disciplinary measures can also be included in the process of judicial performance evaluation.

It is important to note in this respect that judicial performance evaluation and judicial quality is not the same as the introduction of *quality initiatives* in the courts or the use of *court quality systems*. *Quality initiatives* and *quality systems* are not focussed on the work of an individual judge, but are aiming at improving the quality at the level of courts

as a whole or departments within courts. In this article only the current state of affairs regarding quality initiatives and quality systems will be described.

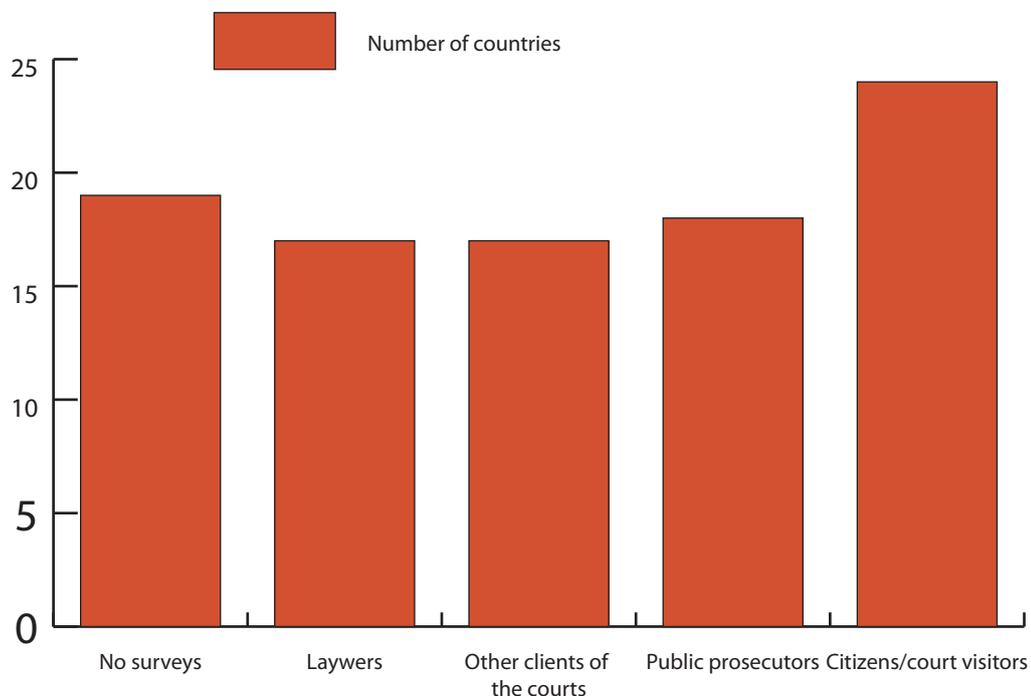
Quality initiatives

In 2008 the European network of Councils for the Judiciary (ENCJ) published an overview of quality initiatives undertaken by the members of this network³. In this overview several countries indicated that measures have been introduced to solve one of the major problems in the operation of courts *the length of proceedings* by introducing more efficient procedural laws, new working methods in the courts and the application of court technology to monitor the performance of courts (in Denmark and in the Netherlands norms have been defined regarding the acceptable duration of proceedings and in Lithuania a mechanism have been introduced to detect cases with a long duration).

national judicial training institutes and the opening of possibilities for e-distance learning (see for example the Hungarian Judicial Academy, the Dutch Training Institute for the judiciary and the National Institute of Magistracy in Romania).

Not only measures to reduce the duration of proceedings or strengthening the training capacity is described as one of the many quality initiatives in the European judiciary, but also the use of court user surveys and surveys at a national level to collect information about the public trust in the judiciary is often reported. How these surveys are implemented, at which level and what the frequency is, may vary from country to country. For example in the ENCJ report on quality initiatives several examples are provided. Some of them are focussed on measuring the general public opinion of the judiciary (in Belgium through the use of a Justice Barometer study or in Austria via a general opinion poll), whilst others are oriented at measuring the level of satisfaction of the users of the courts

Figure 1 Type of target groups of user surveys (Source: CEPEJ 2010: p.81)



Another often mentioned quality initiative in the report is related to the training and education of judges and court staff. Many countries reported that the level of expertise of judges (and staff) is raised by investing in

(Denmark, the Netherlands, Hungary, Romania, etc.)

To identify the number of countries that cur-

rently are applying court surveys (at a national and/or court level) and its frequency it is important to take note of the results of the last CEPEJ evaluation report on European judicial systems.

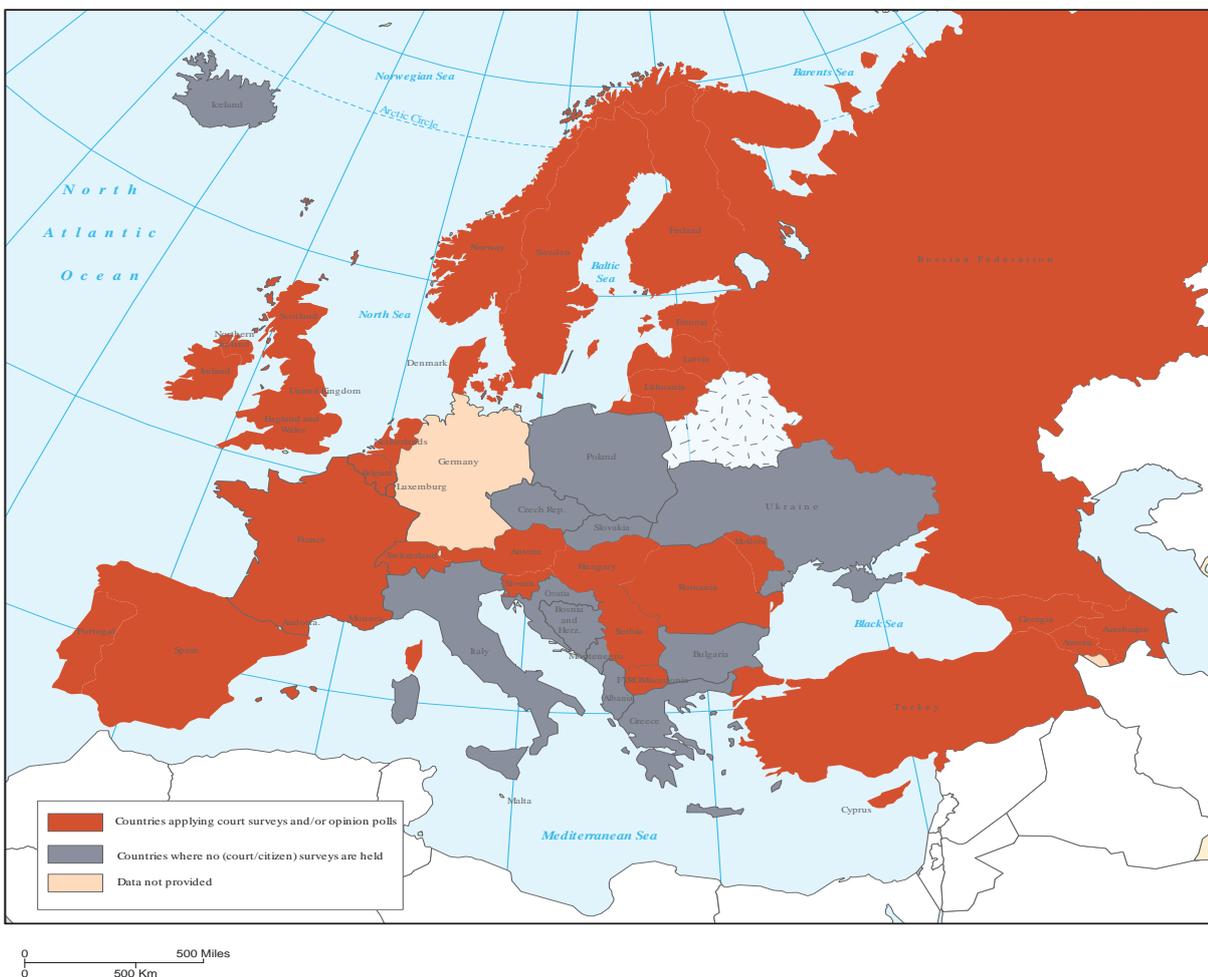
Especially for countries in transition (Eastern European countries) court user's surveys can be a good a good starting point for enhancing the quality of justice and the introduction of court quality systems. However, the European overview (see figure 1) shows that four central Eastern European countries (Bulgaria, Poland, Czech Republic, Slovak Republic and the Ukraine) and four Balkan countries (Croatia, Bosnia Herzegovina, Montenegro and Albania) have indicated that for the reference year 2008 no surveys were conducted to measure the public trust in the judiciary or the level of satisfaction of the services delivered by the courts. Compared to the Eastern European region, court user surveys or general surveys seems to be more widely applied in Western Europe, when looking at the map.

One remark in this respect must be made, since also developments in this area can go rapid. See for example the case of Croatia and the Ukraine. In Croatia a user survey will be prepared as a part of a Justice Sector Support Project funded by the World Bank and in the Ukraine USAID is involved in the development of a Citizen Score Card for courts (see case illustration).

This report shows that at the moment 28 countries (member states of the Council of Europe) have indicated that they are conducting court/justice surveys. Nineteen countries do not have introduced this tool to collect information about the trust and satisfaction in the courts⁴.

Regarding the target group of the surveys, various types of court users can be listed. In the countries that have indicated at the CEPEJ evaluation to use surveys the main target group of these surveys is the ordinary citizen/court visitor, followed by the public prosecutor, the lawyer and/or other clients of the courts (see figure 1).

Figure 2 User surveys in Europe (source: data CEPEJ 2010:p. 80)



For judges and court staff separate surveys may be developed. Eighteen countries have introduced surveys for judges and fifteen countries indicated to use a survey tool to measure the level of court staff satisfaction.

As has been discussed earlier, surveys might be conducted at a national level or at a court level and also the frequency of application may vary from country to country. It seems to be that countries tend to apply surveys more often at a national level (especially to monitor the level of public trust in the judiciary). Only a limited number of countries conduct on a regular basis court user surveys at the level of individual courts (11 reported countries in the CEPEJ study). Nineteen countries have reported that they have implemented (on an incidental basis) at a national level a survey to measure trust.

Case illustration of a court user survey: Citizen Report Card (Ukraine)

With the assistance of USAID a pilot program on the *Citizens Report Card* has been developed for the Ukraine. The main goal of this pilot is to introduce the tool in several courts in the period 2008 – 2011. The idea of a Citizen Report Card was derived from the public affairs centre in Bangalore (India) for measuring citizen satisfaction with municipal services.

Table 1 Citizen Report Card results Lutsk District Court Ukraine (Source: USAID 2010 presentation Asia Pacific Courts Conference Singapore October 2010)

Quality measure	Max score	Highest score	Lutsk District Court
Physical access to court	1.00	0.94	0.79
Level of comfort in the courthouse	1.00	0.95	0.62
Access to court information	1.00	0.95	0.78
Affordability of court fees	1.00	0.78	0.75
Timeliness	1.00	0.97	0.75
Quality of performance of court staff	1.00	0.95	0.84
Quality of performance of judges	1.00	0.97	0.86
Average	1.00	0.94	0.77

With the use of a dedicated court survey tool, court visitors are invited to mark their rates concerning several aspects related to court proceedings and the visit of a court such as:

the physical access to the courts, the level of comfort of the courthouse, affordability, timeliness of the proceedings and the quality of performance of court staff and judges⁵.

The results of the Citizen Report Card for the courts can help to detect the strong points of the operation of a specific court and the areas of improvements. In table 1 an illustration is provided from the scoring result of the Lutsk District Court. This illustration showed that especially the level of comfort of the courthouse needs more attention and is a potential area of improvement.

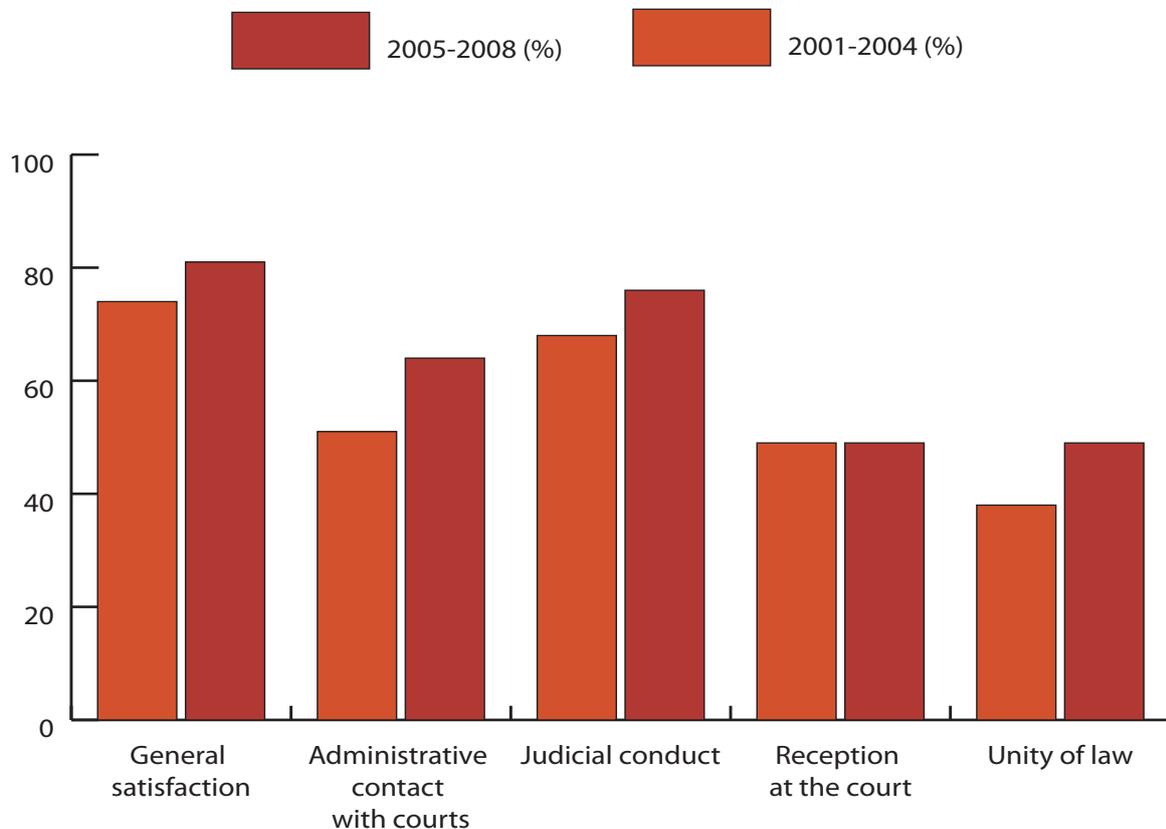
From quality initiatives to court quality systems

Compared to other regions in the world (e.g. the United States (Trial Court Performance Standards and Courtools⁶) and Singapore (eJustice Scorecard)) Europe has only a relative young experience with the use of comprehensive court quality systems and the development of quality standards. In most of the member states of the Council of Europe (26 countries) there are no quality standards. Also many European countries are lacking specialized staff in the courts to assist the management of courts in implementing court quality policies. The only exceptions are: the Netherlands (rechtspraakQ), Finland (Quality Benchmarks) and to a lesser extent Denmark where a general quality model (Common Assessment Framework⁷) is applied in the courts.

If you are not accustomed to the use of the 'quality' terminology, such as CAF, EFQM, Six Sigma, ISO, etc. you might wonder what this is all about? Well, generally speaking in most of these models the client is put on a central place in determining the level of quality. This is also the case for the comprehensive court quality models applied by the Netherlands, Finland and Denmark. As a part of their quality systems information is collected on a systematic basis of the level of satisfaction of users of the courts (lawyers, public prosecutors, other repeat players and the citizens/court

visitors). This can help courts to identify areas of improvement concerning the quality level of courts.

Figure 3 Trends in professional user satisfaction (lawyers, prosecutors, repeat players) in the Netherlands (Source: PRISMA 2010: p.8)



quality models. Management and leadership of courts, management of resources, internal procedures, the quality of judges and court staff, a regular monitoring of the court performance and a transparent presentation of the results to the general public (for example

In the Netherlands interesting information is available about the developments in the level of satisfaction of the professional users and the citizens of the Dutch courts in the period 2001-2008. This information showed that in the period 2001-2008 the level of satisfaction of the professional users of the courts and the citizens have been raised (from 74 percent to 81 percent for professional users and from 66 percent to 78 percent for the citizens)⁸.

Mostly this was caused by an increase of the perceived level of satisfaction related to the expertise of judges, the treatment of the parties and the quality of the judgments (summarized as the conduct of the judge).

A user orientation (and the application of user surveys) is not the only aspect that is taken into account in comprehensive court

through printed annual court reports or via court websites) are elements that can be found in these models too.

For example the Dutch model Rechtspraak

Quality benchmarks (Rovaniemi Finland)

- The process
- The judicial decision
- The treatment of the parties and the public
- Promptness of the proceedings
- Competence and professional skills of the judge
- Organisation and management of adjudication

contains: a measurement system for court quality (oriented at the following quality as-

pects: independence and integrity of judges, timeliness of proceedings, unity of law, expertise and treatment of parties), quality regulations for courts, a peer review mechanism for judges, a complaint procedure, staff and user surveys and a visitation protocol. The last point is important to mention, because on a four year cycle an independent visitation committee is visiting every court in the Netherlands to assess the various quality initiatives undertaken by the courts. On the basis of these visits a report is drafted concerning the current state of affairs of the quality of the courts in the Netherlands.

Stimulating quality awareness in the courts

In the introduction of this article the facts of the CEPEJ report showed that certain countries are applying court user surveys and that in a very limited number of countries comprehensive court quality systems have been introduced. From that point of view it seems to be that more work needs to be done to raise the awareness of the European countries for the need of having a specific mechanism in place to monitor and to improve the quality of courts.

Already some initiatives in this respect have been undertaken. For example the CEPEJ of the Council of Europe has produced practical documentation for courts to implement court user surveys⁹. This in addition to the rich material (and experiences) that is already available on the internet (see especially the Courtools website of the US National Centre for State Courts). Also the European Network of Councils for the Judiciary has produced an overview of the current quality activities in the courts in Europe that can stimulate countries to start with quality projects in the judiciary. Moreover, *the international framework for court excellence* can be a source of inspiration too¹⁰.

The international framework of court excellence

In 2007 the Singapore Subordinate courts

took the initiative to invite experts from the United States, Australia and Europe to develop a (global) practical tool for courts to assess and to improve their quality and performance. Using the experiences available in the United States (Trial Court Performance Standards, Courtools), Europe (RechtspraakQ and Quality Benchmarks), Asia (eJustice Scorecard Singapore and Quality work initiated in Australia), combined with major principles of general quality models (EFQM, Malcolm Baldrige Quality Awards, Singapore Quality Award, etc) the *International Framework of Court Excellence* was created.

Case: the Land and Environment Court of New South Wales Australia was the first court that have acted as a pilot for the framework of court excellence. In 2008 and 2009 several meetings were held with judges and court administrators to review and score the self-assessment questionnaire. Looking at the seven areas of excellence certain areas of improvement were identified, which resulted in the development of a plan of action that have been undertaken in 2009 are: the adoption and publication of a court statement of purpose, the collection of statistics of case timeliness, targeting delayed pending cases, the preparation of a court newsletter, the upgrade of the courts computer system and the improvement of the court website (see: Land and Environment Court of NSW, *Annual review 2009*, Sydney Australia).

In this framework seven areas of excellence are identified relevant for assessing the performance and quality of courts, namely: management and leadership, court policies, human material and financial resources, court proceedings, client needs and satisfaction, affordable and accessible court services and public trust and confidence. These areas of excellence are connected with the main values of a court (equality, fairness, impartiality, independence, competence, integrity, transparency, accessibility, timeliness and certainty (see figure 4).

International framework for court excellence



Figure 4 International framework of court excellence

In a ‘journey towards excellence’ courts can assess their strong and weak points by making use of a self assessment questionnaire where all the seven areas of excellence are included.

The application of the framework of court excellence may not be limited to the court level, since the model can also be used at a national level to review the quality of a judicial system as a whole. A good example concerned a ‘quick scan’ assessment of the judiciary of Kazakhstan conducted in 2010 as a part of the United Nations Development Program (UNDP) project transparency and access to information and justice.

In a report drafted for this project it was concluded that, based on the analysis of the situation in Kazakhstan by making use of the seven areas of court excellence, several actions have already been undertaken to enhance the quality of the judicial system as a whole¹¹.

Good examples in this respect are: improvements in civil procedural laws (e.g. setting of time limits for proceedings, increasing use of a single sitting judge), the publication of judgments at court websites, the use of videoconferencing techniques and alternative dispute resolution mechanisms. Areas of improvements identified in the analysis are: the relationship with the media and the application of court user surveys. For the last subject a concrete recommendation has been given for the development and implementation of a survey.

Conclusions

Looking at the European judicial landscape one can conclude that in every country - to a varying degree - quality activities have been implemented, ranging from measures for strengthening the training and education of

judges, improving the efficiency of judicial proceedings to the introduction of information and communication technology in the courts. Also the number of countries which

Quality assessment Kazakhstan (Albers 2010)

- *Management and leadership:* much attention to this subject is given due to the presence of the Supreme Court which describes the necessary future actions to improve the judiciary in Kazakhstan.
- *Court policies:* the management of the court administration is laid in the hands of the Committee on Court Administration at the Supreme Court. As the result of this the process of planning and control of the judiciary is rationalized. However improvements may be necessary with respect to the application of a forecast model (for forecasting the development of cases and the need for personnel and financial resources).
- *Court proceedings:* much efforts have been given to the increase the efficiency of court proceedings for example by setting timelimits in the proceedings and the promotion of a single sitting judge.
- *Affordable and accessible court services:* several actions have been undertaken in increasing access to justice. Concrete results can be found in the area of opening court websites (with a database of judgments), information kiosks at the courts and public areas, videoconferencing facilities and the stimulation of Alternative Dispute Resolution Mechanisms.
- *Management of court resources:* looking at the current situation it is clear that this is a major attention point for the Supreme Court of Kazakhstan and several steps have been undertaken to enhance the management of resources. Point of reflection for the future in this area will be more investments in the ICT of the courts and the release of more financial resources for the national training institute for judges.
- *Public trust and confidence:* the judiciary of Kazakhstan promotes openness and transparency. The general public is actively informed through the written media and the television. Also specialized staff is available for the communication with the press (in high profile

court cases). However, the relation with the press needs some reconsideration and it is expected that a new communication policy will be developed in the future.

- *User satisfaction:* only at a limited level court user surveys are held in Kazakhstan (mostly as a part of a judicial monitoring project). Recommendations have been given to introduce this method on a nationwide basis to systematic collect information about the perceived level of satisfaction of the services delivered by the courts.

The general conclusion of the assessment is that the judiciary of Kazakhstan is on the right international track in enhancing court quality. To given even more attention to this aspect it is recommended that pilot projects will be selected for the application of the international framework of court excellence.

are applying surveys at a national level (for measuring the public trust in the judiciary) and court level (court user satisfaction surveys) is growing. This must be seen as an important step for a more user oriented operation of courts, where not only much attention is given to the judicial quality (legal quality of the judgments), but also to the quality perceptions of citizens, lawyers, prosecutors and other court repeat players.

Figure 4 Meeting at the Supreme Court of Kazakhstan



Another conclusion that can be made is that over a period of more than 10 years only a very few countries in Europe have introduced a comprehensive court quality system (e.g.

Finland and the Netherlands). It is hoped that as the result of the publication of the international framework of court excellence, more and more countries are inspired of introducing a quality system. Especially because it is not sufficient anymore to define the quality of the work of judges only in terms of judicial quality. As is the case in other parts of the public sector too, the views and expectations of the users must be included as well.

Endnotes

- 1 CEPEJ Council of Europe (2010), *European judicial systems edition 2010: efficiency and quality of justice*, p.80, Strasbourg.
- 2 See: University of Denver. Institute for the Advancement of the American Legal System (2006), *Transparent Courthouse*, Denver.
- 3 European Network for Councils for the Judiciary (2008), *ENCJ working group Quality management: register of quality activities*, Budapest.
- 4 CEPEJ (2010), p.80 - 81
- 5 Powerpoint presentation USAID (2010), *Asia Pacific Courts conference Singapore (October 2010)*, Singapore.
- 6 See: <http://www.courtools.org>
- 7 See: <http://www.eipa.nl/en/pages/show/&tid=69>
- 8 PRISMA (2010), *Gezaghebbend en toeganke-lijk (Dutch)*, Utrecht/Amersfoort.
- 9 <http://www.coe.int/cepej>
- 10 See: <http://www.courtexcellence.com>
- 11 P. Albers (2010), *Report on the assessment of judicial monitoring and court quality of the judiciary of Kazakhstan*, The Hague/Astana.