



FEDERATION DES BARREAUX D'EUROPE
EUROPEAN BARS FEDERATION
VERBAND EUROPÄISCHER RECHTSANWALTSKAMMERN
FEDERACION DE LOS COLEGIOS DE ABOGADOS DE EUROPA
FEDERAZIONE DEGLI ORDINI FORENSI D'EUROPA

STAGE - LEGAL EDUCATION COMMITTEE - FBE

MINUTES

Franckfurt May 30 , 2013

Attend:

Aitzol Asla

Marta Isern

Alessandro Garibotti

Pawel Szczesniewski

Thierry Goegebeur

Milosz Paulinou

Alain Marter

STAGE – CLUJ

Given the special complexity of the Cluj STAGE organization, for its practical character and for the effort to implement a different format, we had dedicated the session of the training committee for this matter mainly.

Aitzol Asla introduced the matter and then Nahia Llona, member of the Bar of Bilbao, explained the situation at this moment.

In November 2012, after the commission of "Legal Education – STAGE " celebrated in Geneva, we send a guideline about the next STAGE to be held in Cluj. See the text:

“As we already advanced at the working session of Saturday, we will like to organize next Stage taking place in Cluj, Oct. 2013, from a more practical and participative point of view. After proposing and discussing the different possibilities, I proceed to sum up the conclusions, in which, I propose to be the base of the organization of the program (and from which we shall change anything under convenience, of course):

The main OBJECTIVE of this new form of organization is to get everyone participating, working and contributing to the discussion on the different topics proposed, as well as getting general conclusions that allow us to have a comparative approach of the topics discussed.

The TOPICS ON DISCUSSION should not be more than FOUR (4) as we need to put this in connection with the high organization requirements of this format and the committed people on whom we can count for it.

There should be one room dedicated to each topic, in order to discuss the different topics and extracting conclusions for each group.

In order to get everyone's contribution, we propose a group dynamics that should be coordinated by a person, to whom we would call DYNAMIZER or COORDINATOR. His function would be getting attendants offering a general view of the situation of the topic in their home-countries and to ease and provoke discussion and comparisons among the different perspectives, trying to focus on the cause of the different regulations and on the consequences that they might have both in our practice and in citizens' access to justice in relation to the education/training of lawyers.

After that the group should try to summarize the content of the discussion in some BRIEF CONCLUSIONS.

As a start, the coordinator will count with different panels describing the status of the matter in some countries of our environment, that should be taken as launching platform of the questions made to assistants in order to generate the discussion.

The discussions will be annotated by a person (that will belong to the organization as well as the coordinator) that we will call REPORTER. After the group dynamics sessions, that will take place in the morning, the reporter will have to summarize the ideas and opinions stated on the different groups in order to expose the most interesting

ones as well as the adopted conclusions in the afternoon session. The principle objective is to offer a comparative approach of the topics discussed, allowing all the assistants to get a clear, general vision of the situation in the different countries who have been represented in the group dynamics. Furthermore, we should end the session boarding the consequences that this might have on legal practice and their implications to the education and training of lawyers.

PEOPLE WE NEED

- One coordinator and one reporter for each group, out of the Stage Commission or other, if the topic is connected.
- A person from each country of the ones taking part either of the Stage or of the Access to Justice Commission that will be in charge for providing the panels explaining the status of the matter in his country.

WORK TO BE DONE

- All members of the commission: **SUGGEST THE TOPICS AND CHOOSE A ROL.**
- In relation to that, take in account:

- o There will not be possible to have translation service in the morning sessions, so the discussion should be carried out in the most extended/better known language, which will be probably French or English.
- o We should decide in which language the dynamic will develop, in each group, and from then on, postulate as coordinator or reporter, starting from the point that both need to have a good command of the language chosen (specially in the case of the relator).
- o Coordinator should be, at the best, an organized person with good directing and motivating skills.
- o Reporter should have a good command of the language of the dynamic, and have both good summarizing and communicating skills.
- o At last, the "panel gatherer" won't need to fulfil any language skills, but in case he's not able to write the panels in the language chosen, they will need to be translated.

- Coordinator: In first place, should explain the content of the panels and some preliminary conclusions in order to open the debate. Should prepare some questions on the topic, to supply spontaneous participation if needed, and directing the interventions in order to focus them on the consequences on practice of lawyers and right of citizens to access to justice.
- Reporter: Person in charge of taking notes of the working sessions, summarizing them and exposing them in the afternoon. He cannot reduce his function just to "repeat" what has been said, instead he should give a general-comparative approach of the topic, focusing on the status of the matter, motives and consequences (good and bad, if any) and eventual recommendations, if appropriate.
- "Panel maker/gatherer": In order to have a base, we propose to do different panels to be hanged on walls of each room with a schematic vision of the topic in some countries. For that, we ask each member representing a country in the Commission to be responsible for the confection of those relating the situation in his country. He could either do them himself, or delegate the task in other people of his bar.
- Members of the Commission belonging to Cluj Bar → Work in coordination to the organizers of the Intermediate Meeting at their Bar, in order to assure that appropriate and enough spaces (rooms) are provided so we can develop the group dynamics.

- **Coordinator of the Stage:** Person to whom we all should address in order to suggest the topics, our ideas and the problems that each of us will find developing our task, and that will guide the organization of the stage. In principle, he´s our colleague Aitzol Asla, unless he points anyone else to undertake/share this responsibility with him.

IN ORDER TO GET ALL THE ABOVE DONE, I SUGGEST THE FOLLOWING SCHEDULE

- **November, 14th.** Deadline for choosing the **topics as well as its number.**
On Saturdays meeting we suggested:

- o Judiciary fees/taxes
- o Access to appeal
- o Mediation and alternative conflict resolution.

- **December, 1st.** Deadline for choosing the **language** of each group, and therefore its coordinator and reporter, as well as the panel makers. In order to do that, we will ask you to inform us and the coordinator of the rol you would like to take, between Nov. 14th. and 30th.

At this point, we might need to adjust the number of topics chosen in order to put them in relationship to the people willing to work for the stage or think of people out of the Commission willing to hold this tasks.

We could also think of looking for the collaboration of other Commissions, like for example Mediation Commission, Mediterranean Commission or Human Rights Commission in topics having to do with their duty.

- **February 2013** (San Raimundo Peñafort): Preliminary display and presentation of the panels, to be made by their makers/gatherers to the coordinator.

- **March 2013:** Sending of the first conclusions of the coordinators related to the panels displayed and questions that might be suggest.

- **May 2013** (Congress of Frankfurt): Place in common of the work done, determining practical aspects of the way the session will be developed.

Think if we need to ask the members to prepair anything or to make any choice (of taking part in either one or other group, for ex.) in advance.”

After that, we sended another mail to the members of the comission, explaining the advances and what remains to be done. This is the text of this mail that we reproduce in the minutes, because is the best form to explain what we want to do in Cluj.

“As you already know, the guidelines of the stage and its organization were set by a document sent to you in Nov. 2012

We have come forward on it along these last months, so we already have the three sections of the stage and their coordinators:

Sect. 1: Access to appeal. Coord. Genis Boadella and Alessandro Garibotti.

Sect. 2: Mediation (ADR). Coord. Silvia Jiménez Salinas

Sect. 3: Taxes and judiciary fees. Coord. Aitzol Asla and Nahia Llona

Now it´s time to count on your work in order to fill the contents of the sections, and therefore, I write to you as coord. of the "Taxes and judiciary fees".

The aim of this section is to take a comparative approach of the different systems operating in the EU setting. We did a preliminary study of the matter, based on the Evaluation Report on European Judicial Systems published by CEPEJ (you may find it after the following link):

http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2012/Rapport_en.pdf

Out of this study, we considered it would be interesting to analyze the matter (judiciary fees in relation to access to justice) under the perspective of its relation with:

- jurisdiction where applicable (criminal matters included or not)*
- legal aid*
- legal expense insurance*
- exemptions*
- share of court fees in the court budget*
- and of course, the amount of the tax in relationship with the country´s GDP*

(I recommend you reading the part of the report relating to the matter first, in order to figure out the interesting aspects of the debate)

On this basis, we pointed as interesting the situation of the following states:

- UK, basically for its long tradition and little increase of the impact of the fees in the last years, despite of the world economic crisis.*
- Austria, interesting to consider the inner workings of the whole judicial system, that allows it to obtain net benefits out of the taxes.*
- Switzerland and Belgium, as countries where the taxes and fees are applicable to criminal causes.*
- Poland, interesting for the exemptions applicable and the evolution of the weight of the fees in the contribution to the funding of the judicial system in the last years.*
- Romania, for the big increase of the way taxes/fees contribute to the funding of the judicial system.*
- Spain, specially for the amount of the taxes in relation with the GDP.*

In order to analyze these scenes, we´d like to ask a representative of each country above to:

- Prepare a "poster" explaining how taxes and fees apply in his country (amount, due jurisdictions, exemptions...).*

- Make a short presentation of it (10 min) in the stage, pointing (if relevant) how the application of judiciary fees and taxes may interfere the access to justice, and the mechanisms set by the state in order to save it (Ex: high amount taxes balanced through legal aid, legal expense insurance, etc...)"

As coordinators and "spanish delegation", we have our poster totally finished so you can figure out how we want it, so we have enough time to get all posters well finished (and in a similar format) before Sept 2013.

JUDICIARY FEES IN SPAIN ACCORDING TO THE 10/2012 ACT AS AMENDED BY THE ROYAL DECREE 3/2013			
JURISDICTION	TYPE OF PROCEDURE	FIXED AMOUNT	VARIABLE FEE: In addition to the fixed amount, a variable fee is charged taking into account the amount of the claim, according to the following rates:
CIVIL	Oral proceedings and small debt proceedings	150 €	FROM 0 € TO 1.000.000 €: 0,5 %
	Ordinary procedure	300 €	
	Order for payment procedure, European order for payment procedure, incidental claims in bankruptcy procedures	100 €	FROM 1.000.001 €: 0,25 %
	Extrajudicial enforcement, opposition to order/ judgements enforcement	200 €	LIMIT OF VARIABLE FEE: 10.000 %
	Mandatory bankruptcy proceedings	200 €	When the administrative appeal has the challenging object sanctioning decisions, the amount of the fee, including variable amount which provides the below, may not exceed 50 percent of
	Appeal	800 €	
	Appeal to the Supreme Court	1.200 €	

	Appeal to the Supreme Court on the ground of breach of law	1.200 €	percent of amount of the financial penalty imposed. When the taxpayer is an individual will be satisfied, in addition, the amount obtained by applying the tax base rate a rate of 0.10 percent with the limit amount variable 2,000.
CONTENTIOUS ADMINISTRATIVE PROCEEDINGS	Summary proceeding	200 €	
	Ordinary proceeding	350 €	
	Appeal	800 €	
	Appeal to the Supreme Court	1.200 €	
LABOUR	Ordinary and rest of proceedings		
	Order for payment		
	Appeal	500 €	
	Appeal to the Supreme Court	750 €	
CRIMINAL	Non applicable		

	TYPE OF PROCEDURE
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**OBJETIVE
EXEMPTIONS**

The filing of demand and subsequent presentation resources in relation to the processes of capacity, affiliation, marriage and regulated under Title I of Book IV of the Civil Procedure Act. However, be subject to payment rate regulated processes in Chapter IV of cited book title and Civil Procedure Law is not initiated by mutual agreement or by one party to the consent of the other, even if there are minor except that the measures requested exclusively concerning these.

Matrimonial proceedings that relate only to custody of minor children about maintenance

Process on the protection of fundamental rights and public freedoms

Proceedings brought against the conduct of the electoral administration

Request voluntary bankruptcy by the debtor

Administrative appeal brought by public officials in defense of their statutory rights

Presentation of the initial request for payment procedure and demand verbal judgment claim amount if the amount of these does not exceed € 2000.

Except when the presentation is based on a extrajudicial enforcement title

Administrative appeal against negative administrative silence or inactivity of the administration.

The filing of the demand for enforcement of awards dictated by the Consumer Arbitration Boards.

	The actions in the interests of the mass of the contest and after authorization Mercantile Judge, are filed by the receivers.	
	Court procedures asset division, except in cases where opposition is made or arises controversy over the inclusion or exclusion of goods, earning rate for oral proceedings and the amount to be discuss or dispute arising from the notebook particional by the opponent, and if both are unfavorable in charge of each one for their respective amounts.	
SUBJETIVE EXEMPTIONS	The people who have been recognized as eligible for the legal aid, stating that the requirements for it in accordance with its regulations. The Public Prosecutor	
	The General Administration of the State, the Communities, Regions, local authorities and public bodies dependent on all of them.	
	The Parliament and the legislatures of the Autonomous Communities.	
	In administrative law cases, officials public when acting in defense of their rights have a statutory exemption from 60 percent in the amount rate to them for bringing the appeals and cassation.	
	FEE REDUCTION CASES	
	CASES	PERCENTAGE
	Employed workers or freelancers in supplication and cassation (social order)	Reduction of 60 % of the fee
	Extrajudicial solution of the dispute	Repayment of the 60% of the fee
	Accumulation process.	Repayment of the 20% of the fee
	Using telematic means for the presentation of writings that originate accrual and other communications with judicial organs	Bonus of 10% on the fee

After that, the members discussed about technical details and about the distribution of the work.

STAGE