



Newsletter No.1

January 1997

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Edited by Alan C. Neal

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The EALCJ in 1997

Welcome to this first edition of the *Newsletter* of the European Association of Labour Court Judges. The *Newsletter* will appear as a regular bulletin, providing information and news about the various activities of the Association.

Following its successful inaugural meeting at Bath, on 3-5 July 1996, the EALCJ has quickly developed a programme of activities designed to build upon the objectives agreed by its newly-elected Committee. Information about some of these activities is included in this first *Newsletter*, along with details of the initial projects established at the Bath meeting.

Most significant amongst the events planned for 1997 is a technical seminar, to be hosted by our Spanish colleagues in Seville, on the issue of "Fundamental Rights in European Labour Law". This will provide a forum in which judicial officers and representatives from the EU and EEA Member States can discuss and respond to the current debate over fundamental civic and social rights within Europe and more generally.

We wish all of our colleagues and associates within the Labour Courts and Tribunals of Europe every happiness and success for the New Year 1997.

Officers for 1996-97

At the inaugural meeting of the EALCJ, held on 5 July 1996, the following officers were elected for 1996/1997:

President.....	Mr. Christopher Tickle
President-Elect.....	Judge Alfonso Martinez Escribano
Secretary-General.....	Mr. Colin Sara
Honorary Treasurer.....	Mr. Douglas Crump
Convenor.....	Professor Alan C. Neal

Bath Seminar — July 1996

Background

The inaugural meeting of the EALCJ took place in Bath, United Kingdom, on 5th July 1996. That meeting followed a two-day technical seminar on “Labour Courts and Tribunals in Europe”, which was organised in conjunction with the European Commission by the International Centre for Management, Law and Industrial Relations, University of Leicester, England.

The programme of work for the seminar was as follows:

Wednesday 3 July 1996

P.M. **RECEPTION AND INTRODUCTION**

Thursday 4 July 1996

A.M. **TECHNICAL WORKING SESSION I**

Preparation of a Guide to Labour Courts and Tribunals in the European Union

P.M. **TECHNICAL WORKING SESSION II**

The Role of Member State Labour Courts and Tribunals in the Enforcement of European Community Directives

Friday 5 July 1996

A.M. **FINAL SESSIONS**

The Organisation of a European Association of Labour Court Judges (Constitution, Objectives, Organisational Infra-structure)

Future Activities and Plan of Work for the European Association of Labour Court Judges

P.M. **END OF SEMINAR**

Simultaneous translation facilities were provided throughout the Seminar, which proceeded upon the basis of two primary working languages — English and French.

Civic Reception

On the evening of Thursday 4 July, the City of Bath and the Chair of Bath & North East Somerset Council hosted a civic reception for the participants of the Seminar at the Pump Room and Roman Baths. The guest speaker at a dinner following that reception was Sir John Mummery, President of the Employment Appeal Tribunal of England and Wales.

Technical Sessions

Technical Working Sessions took place on the first day of the two-day working period. Sessions I and II were run under the chairmanship of Professor Neal, and involved presentations from each of the participating Member States in accordance with a “Structured Questionnaire” prepared for the purpose.

For each of the Sessions, introductory descriptive contributions were made by each participant to the Seminar, following which a focused discussion took place in relation to emerging “key” issues. During the first Session, particular attention was paid to identification of common administrative and procedural problems within the various judicial systems represented, together with consideration of issues such as the selection, training, and technical updating of judicial personnel engaged in Labour Courts and Tribunals throughout the Member States. The second Session moved on to address various substantive issues dealt with by the various Labour Courts and Tribunals within the Member States.

The second working day sought to build upon the progress achieved during the initial working Sessions I and II. In particular, consideration was given to ways in which contacts between the Labour Courts and Tribunals of the Member States established through the medium of the Seminar might be turned into fruitful channels for exchanges of information on technical matters (both procedural and substantive), and for the establishment of permanent points of contact to enable judges to call upon their colleagues within other Member States for information and assistance.

Organisational and Future Planning

After follow-up discussions on the technical sessions of the first working day, the remainder of the second working day was given over to a number of organisational and “future follow-up” matters. In particular, agreement was reached that the results of the first day’s deliberations should be used as the basis for a follow-up project designed to make available some of the basic descriptive information about the various Labour Courts and Tribunals represented

in Bath. It was therefore agreed that the material presented should be further developed and published, in the form of a "Handbook of European Labour Courts and Tribunals", under the editorship of Professor Neal.

In the aftermath of the Bath Seminar, contact has been made with those delegates who had been unable to attend the July meeting in person. As a consequence of this follow-up action, a fuller European-wide network is now in place for future meetings to be organised through the newly-established European Association of Labour Court Judges.

Furthermore, it has proved possible to build links between members of the judiciary specialising in employment and labour law and other groups of judicial officers in a number of Member States. It is anticipated that the developing of this networking will constitute a valuable enhancement of the arrangements already achieved through the medium of the Bath Seminar.

The Bath Seminar has proved a catalyst for the establishment of durable links between the various Labour Courts and Tribunals of the Member States of the EU and the EEA. It has also enabled contacts to be formalised with a view to aiding the exchange of information and assistance between those various national Labour Courts and Tribunals.

Given recent initiatives at the level of the European Union to encourage these kinds of co-operative actions between various judicial organs and institutions within the Member States, it is envisaged that the model established by the Bath Seminar of Labour Court Judges will prove a valuable forerunner to future initiatives designed to ensure harmonious and integrated judicial approaches to the operation of European Law throughout the Member States of the Union and within the legal systems of the countries making up the European Economic Area.

Participants in the Bath Seminar

Austria	Hofrat J. Mayr <i>Supreme Court, Vienna</i>
Belgium	Mr. Mark Windey <i>Arbeidsrechter, Brugge</i>
Denmark	Judge Per Sørensen <i>Supreme Court, Copenhagen</i>
Finland	Judge Pekka Orasmaa <i>Labour Court, Helsinki</i>
Germany	Dr. Franz Lorenz <i>Bundesministerium für Arbeit u. Sozialordnung, Bonn</i>
Iceland	Mrs. Audur Thorbergsdottir <i>Labour Court, Reykjavik</i>
Ireland	Ms. Mary Faherty <i>Employment Appeals Tribunal, Dublin</i>
Netherlands	Mr. Jeff de Laat <i>Labour Tribunal, Utrecht</i>
Northern Ireland	Mrs. Mayo Pervical Price <i>Industrial Tribunal, Belfast</i>
Norway	Judge Stein Evju <i>Labour Court, Oslo</i>
Portugal	Mr. Vitor Ribeiro <i>Proc. Distrital de Lisboa, Lisbon</i>
Scotland	Mr. Robin Webster <i>Industrial Tribunal, Glasgow</i>
Spain	Judge Alfonso Martinez Escribano <i>Tribunal Superior de Justicia, Seville</i>
Sweden	Ms. Nina Pripp <i>Labour Court, Stockholm</i>
United Kingdom	Mr. Douglas Crump <i>Industrial Tribunal, Birmingham</i> Mr. Christopher Goodchild <i>Industrial Tribunal, Birmingham</i> Sir John Mummery <i>Employment Appeal Tribunal, London</i> Professor Alan Neal <i>Industrial Tribunal, London</i> Mr. Colin Sara <i>Industrial Tribunal, Bristol</i> Mr. Christopher Tickle <i>Industrial Tribunal, Birmingham</i>
EU Commission	Mr. Fernando Vasquez <i>DG/V, Social Affairs Directorate</i>

* The material in this account of the Bath Seminar has been drawn from a Report (No. 950969, of 12 December 1995) on the event, prepared on behalf of the EALCJ for the Social Affairs Directorate of the European Commission.

European Association of Labour Court Judges

OBJECTS

- (a) To act as an association of judicial officers and those acting as judicial officers in matters concerning employment and labour law within the States which are members of the European Union and the European Economic Area;
- (b) To provide a forum for the exchange of information and views in relation to the fields of Social Policy and Labour Law;
- (c) To provide a technical forum in which to compare and contrast national practice as to the adjudication of employment and labour disputes;
- (d) To discuss problems relating to the laws of the European Union and the European Economic Area and their enforcement in Member States;
- (e) To act as a channel of information to and from the European Union and the European Economic Area and the members of the Association and others as to the operation and enforcement of European Law and other sources of law and legal rules;
- (f) To act as a source and resource of information in relation to employment and labour issues within the European Union and the European Economic Area for members of the Association and others;
- (g) To assist in the formation of associations and organisations of judicial officers and those acting as judicial officers in matters concerning employment and labour law within the States which are members of the European Union and the European Economic Area;
- (h) To promote the provision of courses, seminars, education, and training on employment and labour issues within the European Union and the European Economic Area;
- (i) To act as a forum of experts on matters relating to employment and labour issues within the European Union and the European Economic Area and their Member States;
- (j) To promote, undertake, and co-ordinate research into employment and labour issues within the European Union and the European Economic Area and generally to disseminate the results thereof;
- (k) To undertake all and any action or activity which the Association shall consider from time to time to be conducive to its objectives.

Seville Meeting 1997

During the inaugural meeting of the EALCJ in Bath, a preliminary invitation was received to host the next meeting of the new Association, and a follow-up technical Expert Seminar, in Spain, during 1997.

Following this invitation, the officers of the newly-formed European Association of Labour Court Judges have undertaken arrangements for a second Expert Seminar, which it is intended to be held in Seville between 10th and 14th May 1997, on the subject of "Fundamental Rights in European Labour Law".

The objective of the Seville Seminar will be to develop a judicial response to matters considered, and proposals aired, in the *Report of the Comité des Sages, For a Europe of civic and social rights* (1996).

An approach has been made to the Commission of the European Communities for financial assistance to support the organisation of the Seville Seminar, and final discussions about the budget for the Seminar took place in December 1996.

Handbook of European Labour Courts and Tribunals

Completion of the study leading to publication of the "Handbook of European Labour Courts and Tribunals" is continuing under the direction of Professor Neal. A commercial publisher (Dartmouth Publishers) has agreed to undertake the publication of this work, and it is hoped that the final versions of the national reports will be ready by Easter 1997.

The preparation of the national contributions to this Handbook is being undertaken within the framework of a "structured questionnaire", which was discussed and finalised during the Technical Seminar at Bath in July 1996.

That framework, as modified during the working sessions in Bath, is set out in the following:

LABOUR COURTS AND TRIBUNALS: A STRUCTURED QUESTIONNAIRE

A. Background and Evolution

1. Date of foundation of current Labour Court or Labour Tribunal in your country.
2. Was it established in its own right or did it develop as part of your "ordinary" civil Court system?
3. What position does it currently hold in your country's Court structure?

B. Composition

4. Who sits in the Labour Court or Labour Tribunal in your country?
 - Is this a judicial appointment; is there a tri-partite structure, etc?
5. What qualifications do the members have to possess in order to sit in the Labour Court or Labour Tribunal?

6. Who appoints the members and how is this process carried out?
7. How long are members of the Labour Court or Labour Tribunal in your country appointed for?
8. Do the members hold this position alone or can/do they combine it with another function?

C. Jurisdiction and Position within the Court Hierarchy

9. What matters can be dealt with by the Labour Court or Labour Tribunal in your country?
 - Please give an indicative list.
10. Are other aspects of Labour Law/Employment Law handled by different Courts or Tribunals within your country's judicial system?
 - Please indicate what these might be and by whom they are handled.

11. Is there a self-contained set of procedural rules governing operations of the Labour Court or Labour Tribunal in your country?
12. What is the extent of the fact-finding functions of the Labour Court or Labour Tribunal in your country?
13. Does the Labour Court or Labour Tribunal in your country exercise any appellate jurisdiction?
 - If so, from where and on what matters?
14. Does the Labour Court or Labour Tribunal in your country have powers to review its own decisions?
15. Can the decision of the Labour Court or Labour Tribunal in your country be appealed against to another judicial instance?
 - Please indicate where, how, and on what matters.
16. Are the decisions of the Labour Court or Labour Tribunal in your country subject to any powers of administrative review?

D. References to the European Court of Justice

17. What are the procedures for the Labour Court or Labour Tribunal in your country to make references to the European Court of Justice?
18. How regularly is this power to refer to the European Court of Justice actually used?

E. Representation before the Labour Court or Labour Tribunal

19. Who is entitled to appear to present a case before the Labour Court or Labour Tribunal in your country?
20. Are public funds available (“legal aid”) to cover the costs of parties appearing before the Labour Court or Labour Tribunal in your country?

F. Powers of the Labour Court or Labour Tribunal

21. Does the Labour Court or Labour Tribunal in your country have powers to make Orders which will bind the parties before the full hearing of their case (*e.g.* “interim orders”, “injunctions”, or the like)?
 - If so, please indicate when such powers will be available and how these are exercised in practice.
22. What is the range of primary remedies which can be granted by the Labour Court or Labour Tribunal in your country in relation to each of the matters within its jurisdiction?
 - Please list.
23. What mechanisms are there in your country to ensure that remedies granted by the Labour Court or Labour Tribunal can effectively be enforced?
24. Does the Labour Court or Labour Tribunal in your country exercise any powers of a penal or quasi penal nature (*e.g.* “fines”, “penal awards of damages”, or the like)?
 - If so, please indicate what these are and when they are exercised in practice.

G. Statistical Annex

25. Judicial Costs (on an Annual Basis)

Please furnish statistics for:

 - Judicial and lay-members.
 - Case lists.
 - Cases disposed of (by jurisdiction).
26. Administrative Costs (on an Annual Basis)

Please state the sources of financing for the Labour Court or Labour Tribunal in your country (*e.g.* “Ministry of Labour”, or the like).

Please furnish statistics for:

 - Cost of running the Labour Court or Labour Tribunal.
 - Cost per case disposed of.
 - Cost per day of activity.

Reference Collection of Regulations relating to Procedure and Functioning of European Labour Courts and Labour Tribunals

Background

One of the most challenging tasks facing the EALCJ has been that of establishing a comprehensive and updated collection of regulatory instruments relating to the procedures and functioning of Labour Courts and Labour Tribunals in the Member States of the EU and the EEA.

Recent years have witnessed increasing concern about the extent to which procedural differences between the way in which cases are dealt with in various Member States may have an impact upon the quality and effectiveness of substantive rules provided for through European-level legislation. It has therefore become a matter of urgency to facilitate speedy and accurate comparisons between the procedural treatment of matters in the various Member States. Yet, until now, no effective mechanism has been established through which access to the basic provisions in this area can be facilitated.

The EALCJ's Response

In the face of this unsatisfactory state of affairs, the EALCJ decided, as one of its priority activities, to establish a Reference Collection which could go some way towards rectifying the problem. That task is currently being co-ordinated by the *International Centre for Management, Law and Industrial Relations* in the University of Leicester, United Kingdom, with the intention of eventually making the material available to Labour Courts and Labour Tribunals by way of document delivery services and over the Internet.

In addition to basic regulatory materials, a number of institutions in various Member States of the EU and the EEA have also provided the collection with descriptive materials (including

books, articles, and guidance materials) relating to the practical operation of their national systems of Labour Courts and Labour Tribunals. As a result, the EALCJ is in the process of building up an extensive general reference facility in relation to the workings of Labour Courts and Labour Tribunals in Europe.

Materials are currently being brought together only in their original language versions — although it has quickly become clear that there will be an urgent need for future translation and other multi-lingual facilities in order to make the content of the Reference Collection more easily accessible to users throughout Europe.

It is hoped that basic materials in their original language versions will be readily available through the EALCJ by the Summer of 1997.

Follow-on Developments

Once the “core” reference collection has been established, there will be a need for updating facilities, together with an effective librarianship service to administer access to the collection on a continuing basis. The creation of such a facility calls for significant funding, and the EALCJ is currently investigating possible avenues for financial support in this important venture.

Consideration is also being given to the suitability of a variety of media (such as CD-ROM, *etc.*) for delivering material contained in the Reference Collection. Once again, the EALCJ is looking into potential sources of finance in order to ensure that Europe's Labour Courts and Labour Tribunals are not left at a continuing disadvantage when having to deal with a growing volume of cases involving comparative European practice and procedure.

EALCJ Web Site

As another of the initiatives agreed at Bath, work is proceeding on the establishment of an Internet site for the EALCJ, in order to facilitate easy access to material held in the Association's reference collections, to make the *Newsletter* avail-

able electronically, and to provide a “Bulletin Board” of up-to-date information on events, courses, colloquia, and other developments of more general relevance to the Labour Courts and Labour Tribunals of Europe.

Diary of Events

Events scheduled during 1997 include the following (further information can be obtained by contacting the Editorial Office):

28 - 29 April 1997

Euro-Japan Institute for Law and Business Conference
 “European Works Councils and Social Policy Developments in the EU”
(Leuven, Belgium)

10 - 14 May 1997

EALCJ Technical Seminar
 “Fundamental Rights in European Labour Law”
(Seville, Spain)

23 June - 4 July 1997

6th SINNEA International Summer School
 in Comparative Industrial Relations
(Bologna, Italy)

11 - 29 August 1997

12th International Seminar for
 Comparative Labour Law, Industrial Relations and Social Security
(Szeged, Hungary)

26 - 29 August 1997

International Industrial Relations Association
 5th European Regional Congress
(Dublin, Ireland)

22 - 26 September 1997

International Society for Labour Law and Social Security
 XVth World Congress
(Buenos Aires, Argentina)

The EALCJ *Newsletter* is the official organ of the European Association of Labour Court Judges, which is a Company limited by guarantee in the United Kingdom. The *Newsletter* aims to provide current news and information about the activities of the Association and its members. Contributors to the *Newsletter* express their personal views, and should not be taken necessarily to represent the official positions adopted by the Courts or Tribunals in which they sit, or the views held or expressed by the governments or any government agency of the Member States or legal systems in which they act.

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