



Newsletter No.8

March 2000

5th Annual Congress of the EALCJ — Trier, Germany **“The European Court of Justice and the Labour Court Judge: Working together now and in the future”**

This *Newsletter* contains final details relating to the EALCJ’s forthcoming Congress, which will take place in Trier, Germany, between 18-20 May 2000. The preparatory questionnaire for that meeting is also set out. The Congress is being hosted jointly by the Association and the Academy of European Law, Trier, and has been organised with the generous support of the European Court of Justice in Luxembourg, together with financial support from the European Commission.

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Edited by Alan C. Neal

Contents

Trier Congress 2000 – “The European Court of Justice and the Labour Court Judge: Working together now and in the future”1

Trier Congress 2000 – Preparatory Questionnaire2

Tenerife 1999 Technical Seminar Report – “The Changing Workplace: New Forms of Employment and of Organising Work”3

Notice of Annual General Meeting of the EALCJ4

The EALCJ in 20004

Trier is the 5th Annual Congress organised by the European Association of Labour Court Judges, following earlier meetings in Bath, Seville, Rome and Tenerife. Its primary objectives are:

- (1) To educate national labour court judges as to what is required of them when they make references to the European Court of Justice and as to how they should interpret and apply preliminary rulings within their own national courts;
- (2) To obtain input from national labour court judges themselves as to the way in which judges in the national courts should prepare references, how the form and style of preliminary rulings could be improved, and how the systems for implementation and enforcement could be harmonised and improved;
- (3) To consider wider issues of the future development of the European Court of Justice, particularly in a context of that body currently being overwhelmed by large numbers of references while, at the same time, the enlargement process for the European Communities is progressing apace. Attention will be given particularly to recent proposals for reform issued by the European Court of Justice itself.

The Annual General Meeting of the EALCJ will also take place in Trier, and formal notice of that event is given in this *Newsletter*.

2000 Technical Seminar: Preparatory Questionnaire

A. MAKING REFERENCES TO THE COURT OF JUSTICE

1. Please identify and provide copies of the Regulations (the relevant procedural rules) in your national courts for making References to the European Court of Justice under Article 234 of the European Treaty.
2. Have these regulations caused any particular difficulties in their operation? If so, please indicate shortly the nature of such difficulties.
3. Are references commonly made by courts of first instance, first appeal stage courts, or subsequent appeal stage courts – or are they only made at the final stage of appeal?
4. Please give an example of a reference made from your country – preferably in the field of Labour/Social Law, and, ideally, one of which you have personal knowledge.
 - (a) Do you, with the benefit of hindsight, feel that the question asked was appropriate?
 - (b) In hindsight, could the question have been improved? If so, in what way?
 - (c) Who drafted the wording of the reference? Was it, in particular, the judge(s), court official(s), or advocate(s)? Was there input from any other sources?
 - (d) Did the national level court make specific findings of fact before making the reference?

B. TRACKING CASES REFERRED TO THE COURT OF JUSTICE

Take an example of a reference from your country of which you either have some direct knowledge or which you can assess from the available documentation.

1. Summarise the progress of your chosen example through the system. Indicate any input at each stage of the case from (a) the referring judge, (b) the advocates, (c) the European Commission, (d) your own country's government, (e) other governments, and (f) any other sources.
2. Set out the outcome of the case, both at the level of the European Court of Justice and subsequently when it was dealt with in your national system.
3. Please explain how cases are reported or otherwise publicised in your country. Illustrate this by reference to your chosen example.

C. THE FUTURE OF THE COURT OF JUSTICE

1. Is there a debate in your country about the European Court of Justice? If so, where does that debate generally tend to take place?
2. What would you assess to be the level of awareness in your country of Judge Kapteyn's *Proposals and Reflections on the Future of the ECJ* and of the *Proposals for amendment of the Rules of Procedure of ECJ*?
3. Have these documents been publicised in your country? If so, please indicate by what means.
4. (a) Do you, in general terms, think that these are valuable proposals? Please indicate the considerations which lead you to this conclusion.
 - (b) Has any consensus emerged in your country (whether within the court system, within the context of your national ministry of justice, or otherwise) about the appropriateness of these proposals? Please indicate what issues have emerged as particularly significant.
5. Do you feel that the scope and/or size of the Court of Justice should be increased? What considerations lead you to this conclusion?
6. Is it desirable that the Court of Justice should sit in different locations to deal with national cases?
7. Should judges of the Court of Justice be appointed on a national basis or purely "on merit"?
 - (a) What factors do you consider should be taken into account in any appointment process?
 - (b) Are there any factors which you consider should *not* be taken into account in any circumstances? If so, what factors would you consider to fall within this category?
8. Should the Court of Justice be able to select the cases it hears or should it be obliged to respond to all references, without any selection process? If you feel that some selection process might be introduced, what criteria do you consider should be taken into account in making any selection?
9. Should there be a "fast track" method of obtaining redress in the Court of Justice to enable the Court to deal with urgent cases? What criteria do you consider should be taken into account in deciding what are "urgent cases"?

1999 Technical Seminar on “The Changing Workplace: New Forms of Employment and of Organising Work”

At the invitation of Judge Alfonso Martinez Escribano and colleagues from the Spanish judiciary and labour courts, the Association organised a technical seminar in Tenerife over the period 11th - 13th November 1999.

The technical seminar was organised with generous support from the ACECCO Foundation, under its patron Professor Miguel Rodriguez-Piñero y Bravo-Ferrer (*Member of the Spanish Council of State*).

Some forty participants gathered to discuss a wide range of issues relating to new forms of work organisation and related problems facing labour court judges. The Association was also pleased to welcome a representative from the European Commission, as well as a group of distinguished judicial colleagues and representatives from the Tenerife Council and the Government of the Canary Islands.

Amongst the matters addressed during the seminar were problems posed by the increasing use of new forms of work contract; issues raised by extensive use of sub-contracting and outsourcing for work; particular problems arising within the context of groups of companies and subsidiaries; and a range of issues concerning the operation of employment agencies in the European Community.

The technical working sessions proceeded on the basis of reports drawn up by each of the national delegates, prepared in response to a template questionnaire drafted by the EALCJ Secretariat. Following the discussion sessions, reports have been prepared which are presently being edited for inclusion in a published volume reflecting the proceedings of the seminar.

The Association would like to place on record its appreciation of the tremendous organisational efforts made by our Spanish hosts, together with the ADECCO Foundation, who provided the delegates to the seminar with the opportunity to address a variety of key problems arising in these increasingly troublesome areas of labour law and employment regulation.

Participants in the Tenerife Seminar

Austria	Judge Herbert Hopf Judge Gustav Maier
Belgium	M. Georges van Kerschaever M. Marc Windey
Finland	Judge Pekka Orasmaa Mr. Jorma Saloheimo
France	M. Philippe Foriel-Destezet
Germany	Judge Meinhard Zumfelde
Iceland	Judge Ingibjorg Benediktsdottir Judge Kristjana Jonsdottir
Ireland	Ms. Mary Faherty Mr. Dermot MacCarthy
Israel	Judge Steven Adler Judge Judith Hoffmann Judge Yigal Plitman
Italy	Judge Monica Garzia Judge Giovanni Mammone
Luxembourg	Judge Jean-Marie Hengen Judge Tom Moes
Spain	S. D. Manuel Alcaide Judge Alfonso Martinez Escribano Professor Miguel Rodriguez-Piñero y Bravo-Ferrer S. Benito Recvero Saldana Professor Antonio Martin Valverde Professor Jesús Cruz Villalón
Sweden	Judge Inga Åkerlund
United Kingdom	Mr. Michael Homfray-Davies Mr. Colin Milne Professor Alan Neal Mr. Colin Sara Mr. Christopher Tickle
EU Commission	Mr. Fernando Vasquez

NOTICE

Following the end of the technical seminar on Saturday 20 May 2000, the Annual General Meeting of the Executive Committee of the European Association of Labour Court Judges will be held at the Academy of European Law, Trier.

The final Agenda for this meeting will be circulated to Executive Committee members in advance. Would any member of the Executive Committee who wishes to raise an item during the course of the Annual General Meeting please notify the Convenor, Professor Neal, or the Secretary-General, Mr. Sara, not later than noon on Friday 5 May 2000.

Officers of the European Association

President (1999-2000) Judge Gustav Maier (*Austria*)
 Immediate Past-President (1999-2000) Judge Alfonso Martinez Escribano (*Spain*)
 President-Elect (1999-2000) Ms. Mary Faherty (*Ireland*)

Secretariat

Secretary-General (1997-2000) Mr. Colin Sara
 Treasurer (1999-2000) Mr. Michael Homfrey-Davies
 Convenor (1997-2000) Professor Alan C. Neal

EALCJ Web Site

Information about the constitution, activities, and publications of the EALCJ can be obtained from the EALCJ Web Site. This includes all of the Newsletters of the Association, which may be downloaded in PDF format. The EALCJ site is accessible at:

<http://ic.law-web.co.uk/Neighbours/EALCJ.html>

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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