

“Complaints database” project

1. Name of institution

High Council of Justice (CSJ-HRJ).

2. Project description and position within the institution’s framework

The High Council of Justice is a recently-founded institution within the Belgian institutional landscape. Article 151 of the Belgian Constitution defines the general principles for its organisation, operation and responsibilities. The Act of 22 December 1998 determines the Council’s organisational and operating methods as well as its missions.

The Council has 44 members, divided evenly between French-speakers and Dutch-speakers, and comprising 22 judges elected by their peers and 22 members appointed by the Senate. Their term of office runs for four years.

The mission, for which the High Council of Justice has been effectively responsible since 3 August 2000, is four-fold:

- External control over the workings of the judicial order:
 - Examination of annual reports on the workings of jurisdictions, public prosecutor’s departments and auditor’s offices.
 - Annual external controls of the use of internal control mechanisms by jurisdictions, public prosecutor’s departments and auditor’s offices.
 - Execution of specific audits or enquiries.
- Examination of complaints relative to how the judicial order functions, addressed to it both by persons under its jurisdiction as well as actors within the legal system, and formulation of recommendations.
- Submission of opinions to the political authorities in order to improve the workings of the judicial order.
- Exercising of primary responsibility within the policy of nominating and appointing judges as well as that of training for them.

These missions are performed by, on the one hand, the Council’s three advisory and investigative committees (French-speaking, Dutch-speaking, joint) and, on the other hand, by the Council’s three appointing and designating committees (French-speaking, Dutch-speaking, joint).

Since commencement of its activities (August 2000), the High Council of Justice has received around 1,000 complaints. Firstly, each of the advisory and investigative committees examines the admissibility of these complaints; the committee then examines the competence of the CSJ-HRJ (the High Council of Justice makes provision for five grounds for incompetence); finally, the committee examines whether the complaint is founded (in accordance with established norms). Where this is so, the committee will draw up recommendations with a view to rectifying or fixing the error in relation to the plaintiff as well as structural recommendations with a view to remedying the irregularity recorded in the workings of the judicial order.

Each year, the High Council of Justice has to report on the handling of, and follow-up to, complaints made to the legislative, executive and judiciary authorities.

Both the complaints processing method and the way in which they are reported to the authorities call for greater professionalism, as does the manner in which ideas are exploited while respecting the policy laid down. Within the framework of these efforts, a database is to be set up that will allow the following data to be recorded, stored and exploited:

- Plaintiff's identity and profile:
 - o name, first name
 - o address
 - o language
 - o capacity (from either inside or outside the magistrature)
 - o other information
- reference institution
- subject of the complaint: complaint description or summary
- jurisdiction, public prosecutor's department, auditor's office and actors involved from inside and outside judicial circles
- competent committee (NL-FR)
- designated *rapporteur*
- designated legal expert
- various stages involved during processing of the complaint:
 - o date on which the CSJ-HRJ received the complaint
 - o person receiving it
 - o date on which the acknowledgement of receipt was sent out
 - o examination of admissibility:
 - dates and deadlines for requesting additional information
 - examination date
 - classification of grounds for inadmissibility:
 - unwritten complaint
 - undated complaint
 - unsigned complaint
 - decision date
 - notification date
 - o examination of competence:
 - dates of the various examinations by the committee
 - date on which the final duty was performed
 - list of the various duties requested and performed
 - decision date
 - notification date
 - classification of grounds for incompetence
 - o examination of grounds
 - dates of the various committee investigations
 - date on which the final duty was performed
 - list of the various duties requested and performed
 - decision date
 - notification date
 - classification of grounds for non-foundation

- o file closure date
- deadlines for handling the various stages
- authorities consulted and questioned
- follow-up given to individual decisions
- structural, legislative and political recommendations.

Creation of this database will be required in both French and Dutch.

Compilation of such a database is of social, scientific and political relevance since it will allow:

- more rational management of complaints about the workings of the judicial order: the status and role of the various figures acting as mediators between citizen and judiciary must be clearly defined and created while respecting complementarities. The database would then be exploitable on the various "echelons" with the handling of complaints (structures for front-line [judicial] aid, public prosecutor's departments, justice department, High Council of Justice);
- ultimately, to provide an overview, courtesy of scientific exploitation, of the dissatisfaction felt by a person under jurisdiction with regard to the workings of the judicial mechanism, and to pinpoint more clearly irregularities in the workings of the judicial system and ways of resolving these.

Therefore, the project promoters intend to associate two public prosecutor's departments (one French-speaking and one Dutch-speaking) in the design and monitoring of the project presented, which is intended for generalised adoption by all jurisdictions.

Without methodological and scientific support from AGORA, it will not be possible for the CSJ-HRJ – a fledgling institution whose numerous legal missions are being performed with the backing of a only small number of staff – to carry this project through to completion.

3. Execution

a) *By the scientific team*

The scientific team will provide scientific and technical support useful for designing and compiling the database.

b) *By the High Council of Justice*

The High Council of Justice already has raw, currently unprocessed information at its disposal. Furthermore, the Council's IT capacity must allow this database to be shaped in accordance with the existing infrastructure. Ultimately, the Council should be provided with the necessary resources for practical execution (in particular, encoding).

4. Expected end product

Upon completion of this project, the High Council of Justice will have an effective, high-performance database at its disposal that will also prove useful within the framework of the (graded) processing of complaints throughout the entire judicial order.

5. End product valorisation

a) *For the High Council of Justice:*

By installing an enhanced system for the recording of complaints, the High Council of Justice will be able to examine complaints more professionally (efficiency and effectiveness). This "complaints" database will make it possible to rationalise complaints management by the advisory and investigative committees – chiefly through formalisation of "jurisprudence" in decisions following the processing of complaints – and, conversely, to compile the basis for the annual report on how complaints are being processed (as stipulated by the Act).

Based on the data recorded, the High Council of Justice will have a clear and systematic view of the number of complaints, the language they are made in, their geographical spread, the body being complained about, and case processing, referral and conclusion phases. Such information is vital if the Council is to develop well-founded, detailed analyses.

In the long run, the database will prove useful for rationalising management of all complaints about the judicial order (cf. *above*).

b) *For the public:*

This database, from which any information relating to persons will be expurgated, may prove particularly useful for persons and institutions that are conducting research into the workings of the judiciary in Belgium and for evaluating the High Council of Justice itself.

6. Timing and planning of research

a) *Timing of activities:*

1/1/2004 – 30/06/2005

b) *Planning of activities: definition of working phases:*

It will be possible to devise a planning schedule after a meeting with the appointed team.

7. Special conditions

a) Suggestions regarding the composition of an accompanying committee.

The chairmen of the two advisory and investigative committees, along with the officials specifically appointed to handle complaints, should sit on the accompanying committee.

b) Data confidentiality clause

As specified previously, the database will be accessible from outside the High Council of Justice, within the confines determined by the Privacy Protection Act.

c) Team presence within the institution, where required

The High Council of Justice is committed to providing the necessary premises and equipment for the scientific team.