Court Administration and Quality Work in Judiciaries in Four European Countries

Empirical Exploration and Constitutional Implications

Philip Langbroek Mirjam Westenberg

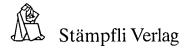






Table of contents

For	reword	db	V
Tal	ble of	contents	VII
Lis	t of ta	bles	XV
Lis	t of fig	gures	VII
1		oduction: Administration and quality work in courts	1
	1.1	1 8	1
	1.2		4
		1.2.1 History of court administration as a discipline	4 7
		1.2.2 Constitutional issues in court administration	11
	1.2	Quality management at courts	13
	1.3	1.3.1 History of quality management at courts	13
		1.3.2 Concepts of quality management	15
		1.3.3 Implications for judicial professional autonomy	17
	1.4	Safeguarding judicial values and standards	18
	1.5	Research questions and method	22
	1.6	Outline of the book	24
2	Qua	ality management in judicial organisations	27
	2.1	Introduction	27
	2.2	Approaches and concepts of quality management	28
		2.2.1 Quality control of products and the PDCA cycle	28
		2.2.2 Total Quality Management (TQM)	29
		2.2.3 Organisation development through double loop	
		learning	30
		2.2.4 New public management (NPM)	31
		2.2.5 New public governance (NPG) and digital era	
		governance (DEG)	33
		2.2.6 Summary and some considerations	34
	2.3	Models and tools of quality management	35
		2.3.1 EFQM Excellence Model	35
		2.3.2 CAF: the Common Assessment Framework	37
		2.3.3 ISO 9000 series	39
		2.3.4 Other tools	41 41
		2.3.5 Summary and some considerations	41

	2.4	Models and tools for quality mana	agement in judicial	
		organisations		_
		2.4.1 USA CourTools		3
		2.4.2 International framework fo		
		(IFCE)		
		2.4.3 Council of Europe: CEPEJ		3
		2.4.4 European Commission: EU		
		EU barometer		2
		2.4.5 Scandinavian countries: int		
		dialogue		
		2.4.6 Models at national level		
	2.5	Discussion	55	5
3	Adr	ministration and quality work in t	•	
	3.1	Introduction		
		3.1.1 Coordinated policy-making		
		3.1.2 Structure of this chapter		
	3.2	Administration of courts and judg		
		3.2.1 Organisation of the courts.		3
		3.2.1.1 Structural analysis		
			eat justice reform' 69	
		3.2.2 Judicial offices		
		3.2.2.1 Composition of the		
		3.2.2.2 Professional judge		
			74	4
		Qualification, recr	uitment, appointment,	
			motion 7:	
		Disciplinary proce	edings 78	8
		Ongoing debate ab	out the legal position of	
		judges	80	
		Rechtspfleger	84	
		3.2.2.3 Lay judges	8:	5
		3.2.2.4 Court clerks		
		3.2.3 Court administration, budg		
		3.2.3.1 Court administration	on8'	7
		Federal level and s	state level 85	8
		Debate about enha	incing judicial autonomy 89	9
		Lower Saxony	9	3
		3.2.3.2 Budget and account		4
	3.3			9
		3.3.1 Strategic initiatives		2
		3 3 1 1 The greation of 'co		2

			3.3.1.2 Management responsibilities of judges	103
			3.3.1.3 Permanent education of judges	104
			3.3.1.4 Quality management	104
		3.3.2		105
		3.3.3		
			purposes	105
			3.3.3.1 PEBB§Y: Calculation system for staffing	
			needs	106
			3.3.3.2 JuMIS: Justice management information	
			system	108
		3.3.4		111
			3.3.4.1 Comparison circles for benchmarking:	
			AgiL, LiVe, OliVe	111
			3.3.4.2 Professional content as organising	
			principle	115
			3.3.4.3 Standardisation through bottom-up	
			customised automation of workflow	116
	3.4	Analy	sis and discussion	118
		3.4.1	Political versus managerial perspectives	118
		3.4.2		119
		3.4.3	Judicial versus political perspectives	121
		3.4.4	Final remarks	122
4	Adn	ninistr	ation and quality work in the courts of the	
			ds	125
	4.1	Introd	luction	125
			Limited constitutional provisions	125
			Reform of the judiciary	128
			Structure of this chapter	129
	4.2		nistration of courts and judges	130
		4.2.1		130
			4.2.1.1 Ordinary courts	133
			District courts	133
			Appeal courts	134
			Supreme Court	135
			4.2.1.2 Specialised administrative tribunals	135
			Dispute over reorganisation specialised	
			administrative tribunals	136
		4.2.2	Judicial offices	140
			4.2.2.1 Composition of the courts	140
			4.2.2.2 Professional judges	141
			4.2.2.3 Court clerks	145

		4.2.3		145
			4.2.3.1 Court administration	145
			Council for the judiciary	146
			Court management boards	147
			Supreme Court	149
				150
	4.3	Effort	-	158
		4.3.1		158
				159
			4.3.2.1 Quality portfolio holders in the court	
				159
			` •	160
		4.3.3	Performance measurement for management	
				161
			4.3.3.1 RechtspraaQ: A hybrid measurement	
			system	161
				166
			Permanent education	167
			Peer feedback mechanisms	168
				170
			Reflection on RechtspraaQ	170
		4.3.4		171
			4.3.4.1 The process of defining values and	
			standards	171
			The ongoing debate about values and	
				172
			Developing explicit measureable standards	175
			4.3.4.2 Judges regaining their professional domain	176
			4.3.4.3 Organisation development: state of affairs.	181
				181
			Limited double-loop learning: confusion	
			of roles	182
	4.4	Analy	ysis and discussion	184
			Political versus managerial perspectives	185
		4.4.2	- · · · · · · · · · · · · · · · · · · ·	186
		4.4.3		187
		4.4.4		188
5	Adı	ninistr	ation and quality work in the courts of Norway	193
	5.1	Introd	duction	193
		5.1.1		194
		5.1.2		197

	5.2	Admi	nistration of Courts and Judges	197
		5.2.1	Organisation of the courts	197
			5.2.1.1 Ordinary courts	201
			5.2.1.2 Specialised courts	202
		5.2.2	Judicial offices	204
			5.2.2.1 Composition of the courts	204
			5.2.2.2 Professional judges	205
			Judges	205
			Deputy judges	206
			Appointment process	206
			5.2.2.3 Lay judges	208
			Co-judges (meddommer)	208
			Jurors	208
		5.2.3	, ,	209
			5.2.3.1 Court administration	209
			5.2.3.2 Budget and accountability	211
	5.3		s for quality work	213
		5.3.1	Strategic initiatives	213
		5.3.2		214
		5.3.3	Performance measurement for management	
			purposes	216
		5.3.4	Professional values and standards	216
			5.3.4.1 Judicial standard-setting	216
			Supervisory Committee	217
			Contact with the media	217
			Register of extra-judicial activities	218
			5.3.4.2 Common assessment framework (CAF)	219
			5.3.4.3 Internal-external dialogue	222
			5.3.4.4 Quality framework for development	
			(KRUT)	223
	5.4	•	rsis and discussion	230
		5.4.1	Ç 1 1	230
		5.4.2		231
		5.4.3	Judicial versus political perspectives	233
		5.4.4	Final remarks	233
6	Adn	inistr	ation and Quality Work in the Courts of	
			d	235
	6.1	Introd	uction	235
		6.1.1	Diversity of judicial systems	235
		6.1.2		236
	6.2	The c	onfederal judiciary	237
			-	

	6.2.1	Introduction	23
	6.2.2		238
		6.2.2.1 Organisation of the courts	238
		Civil jurisdiction	
		Criminal jurisdiction	
		Administrative jurisdiction	240
		6.2.2.2 Judicial offices	244
		Composition of the courts	244
		Professional judges	245
		Judges	245
		Substitute judges	246
		Lay judges	247
		Court clerks	248
		6.2.2.3 Court administration, budget and	210
		accountability	249
		Court administration	249
		Budget and accountability	250
	6.2.3	Efforts for quality work	255
6.3		anton of Bern	256
0.5	6.3.1	Introduction	256
	6.3.2	Administration of courts and indees	257
	0.5.2	Administration of courts and judges	257 257
		6.3.2.1 Organisation of the courts	257 258
		Judges	258
		Court clerks (Gerichtsschreiber)	259
		- the same station, baaget and	
		accountability	259
		Court administration	259
	(22	Budget and accountability	260
	6.3.3	Efforts for quality work	262
		6.3.3.1 Strategic initiatives	262
		6.3.3.2 Quality officers	265
		6.3.3.3 Performance measurements for	
		management purposes	266
		6.3.3.4 Professional values and standards	268
6.4	The ca	anton of Neuchatel	270
	6.4.1	Introduction	270
	6.4.2	Administration of courts and judges	271
		6.4.2.1 Organisation of the courts	271
		6.4.2.2 Judicial offices	272
		Judges	272
		Court clerks (greffiers-rédacteurs)	273

		6.4.2.3	Court administration, budget and	
			accountability	273
			Court administration	
			Budget and accountability	
	6.4.3	Efforts	for quality work	
	0.115	6431	Strategic initiatives	276
			Performance measurement for	2,0
		0.1.5.2	management purposes	277
		6133	Professional values and standards	279
6.5	The		Zug	279
0.5	6.5.1		ction	279
	6.5.2		istration of courts and judges	280
	0.3.2			280
			Organisation of the courts	
			Judicial offices	281
		6.5.2.3	Court administration, budget and	
			accountability	281
			Court administration	281
			Budget and accountability	282
	6.5.3		for quality work	285
			Strategic initiatives	285
		6.5.3.2	Performance measurement for	
			management purposes	285
		6.5.3.3	Professional values and standards	285
			Knowledge exchange	285
			Short routes	286
6.6	The R	enublic	of Geneva	287
0.0	6.6.1		ction	287
	6.6.2		istration of courts and judges	288
	0.0.2		Organisation of the courts	288
			Judicial offices	291
			Court administration, budget and	271
		0.0.2.3		292
			accountability	292
			Court administration	
		7 .00	Budget and accountability	297
	6.6.3	Efforts	for quality work	301
			Strategic initiatives	301
		6.6.3.2	Performance measurements for	
			management purposes	303
			Professional values and standards	305
6.7	Analy	sis and o	discussion	308
			d versus managerial perspectives	
			erial versus judicial perspectives	

	6.7.3 Judicial versus political perspectives	311		
	• • •	312		
7 C	omparative analysis and conclusion	315		
7		315		
7		316		
7		318		
7		321		
7		324		
7		327		
7		329		
		330		
		331		
7		333		
Litera	ture	339		
The In	The Interviewees			
The A	uthors	371		