



Quality of courts and judiciary: European experiences and global developments

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1 Introduction

The concept of quality, quality assurance and quality improvements is well known within the private sector. Many companies across countries utilise various quality systems to serve their customers the best they can. The origin for the development and implementation of quality policies lies in Japan in the period after the Second World War¹. The general impression was that Japanese products were perceived as cheap and bad imitations of Western European products. After recognising this problem Japanese industrial leaders invited quality gurus, like Deming², to change this negative image into a positive one. As a result of this in the 1950's quality control and management developed quickly in this country and became an important issue for the Japanese management of companies.

The term 'total quality' was for the first time used by Feigenbaum at an international conference on quality control in Tokyo in 1969. In the period 1980 to 1990 a new phase of quality control and management started with the introduction of Total Quality Management (TQM). The main orientation of the model is concentrated around the understanding of the needs and wishes of the clients. Customer knowledge and other information are used for a constant improvement of the quality of the products and services delivered (see: <http://www.tqe.com/tqm.html>).

Another important step in quality management was made with the development of the Malcolm Baldrige Award³ in 1988. This award and the underlying model (based on the TQM principles) were created by the United States government to encourage companies to pay more attention to quality. At a European level a similar model was developed by the European Foundation on Quality Management in 1992 (EFQM). See: www.efqm.org.

1 Gar Yein Ng (2007), quality of judicial organisations and checks and balances, p. 25.

2 <http://www.deming.org>.

3 http://www.nist.gov/public_affairs/factsheet/mbnqa.htm.



Quality systems, quality assessment, quality assurance, quality management and business excellence

Langbroek⁴ explained in a research proposal made for the European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe that quality systems, quality assessment, quality assurance and quality management are different concepts. According to Langbroek quality systems must be seen as an integrated set of tools which quality management may be organised. Quality assessment is related to the inventory and state of affairs, measured against a set of (quality) standards, whilst quality assurance is related to a set of instruments to maintain a certain level of quality standards.

Excellence models

TQM-models are often described and defined as Business Excellence Models. This to distinguish the new TQM-model from the old ones. In this article I will focus on quality systems, quality assessment (tools) and excellence models developed and applied in one specific sector: namely the judiciary. Before I introduce the concrete examples and developments in the next paragraph I explain the concept of 'judicial and court quality'.

2 Judicial and court quality

The concept of quality is difficult to define, especially in the field of justice. At first sight quality is mostly connected with the decisions of judges' i.e. judicial quality. It is related to the legal arguments that judges use for motivating their decisions and it also refers to the use of a system of appeal. Other judicial quality aspects are the protection of the independence of a judge and integrity. In such a viewpoint a high level of judicial quality is related to the use of measures to protect and improve the independent position of a judge and his/her integrity.

This is a rather limited point of view, especially when you take the experiences of general (TQM) quality systems into account. In these systems quality is not restricted to the behaviour of one single person (like a judge) and his/her output, but it is the result of an organisation as a whole, where the client needs and wishes are taken into account as well.

When you take a closer look at the history of quality measures in the judiciary, it was mainly focussed on 'judicial quality'. Many books and reports have been published on the issue of the protection of the



independence of the judiciary and improvements of legal quality. However as a result of a reduced public trust in the judiciary or even 'crises' in the judiciary, there is a tendency for introducing new measures to monitor the performance of courts and judges. In the United States most of the State Courts monitor their performance regularly and also in Europe there is a growing attention for evaluation and monitoring as well. Sometimes the court performance information is open for the public, in other situations/countries this is not the case and is it only used for internal management purposes.

A growing attention for court performance must be seen as a positive development. On the other hand court performance is only one part of judicial and court quality. Too much orientation towards efficient court proceedings, may lead to a decrease of judicial quality ("justice hurried is justice buried"). On the other side too much attention to a detailed and proper motivation of judicial decisions can have a negative effect on the quality as well, due to an increased length of court proceedings ("justice delayed is justice denied"). In that sense there should be a balance between 'efficiency' (mainly focussed on performance) and 'quality' (in terms of judicial and court quality).

A proper quality system is not limited to one aspect (performance or judicial quality) but takes both aspects into account.

3 Underlying values of a court

Courts do not operate in the 'blind' but are mostly guided by central values. Compared with other public organisations courts are unique, due to constitutional and legislative requirements to give them a certain degree of freedom from scrutiny which other public institutions does not have. It is therefore necessary that courts strive for continuous improvements in the quality and efficiency of judicial proceedings. To make these possible courts must respect a number of important core values. For example: independence and impartiality, fairness, accessible, timely and competent.

For most of the countries in the world the core values of a court are laid down in national and international law. At a European level article 6 of the European Convention on Human Rights is important. See the textbox where this article is presented.

At global level articles 10 and 11 of the UN Declaration of Human Rights are important too.



court quality

"In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly by the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice" (article 6 ECHR)

Bearing in mind the knowledge that has been build in the private sector with the development of quality systems and general notions of a proper functioning of judicial systems which respect certain core values, in the early nineties the first initiatives for creating specific quality models for courts were taken. In this period the US Trial Court Performance Standards were developed.

4 Developments in the US and in Asia (Singapore)

The US Trial Court Performance Standards
In 1987 discussions started among twelve members of US State court communities on the fundamental responsibilities of courts. The outcome of the discussion was the development of the Trial Court Performance Standards (TCPS)⁵. The main

reason for the need of these standards was the growing problem of court delays. Examining this issue led also to discussions about the underlying values of a court, such as access to justice, fairness, competence, etc. In addition to this court managers felt the need for a wider attention to court performance and the society urges more openness of the judiciary. The final version of the TCPS was published in 1990. The system identifies 68 measures for 22 standards that are related to five areas of measurement:

1. Access to justice: trial courts should ensure that the structure and the machinery of courts are accessible to those they serve;
2. Expedition and timeliness: trial courts should meet their responsibilities in a timely and expeditious manner;
3. equality, fairness and integrity: trial courts should provide due process and equal protection of the law to all who have business before them;
4. independence and accountability: trial courts should establish their legal and organisational boundaries, monitor and control their operations and account publicly for their performance;
5. Public trust and confidence: trial courts should work to instil



public trust that courts are accessible, fair and accountable⁶.

The TCPS system was tested in twelve courts. For the collection of the data different methods were used. Varying from: observations and stimulations, case record review to surveys of clients and focus groups. One of the most important critics on the TCPS system was that too many measures were defined and the implementation of the whole system at the level of the courts was too complex and too time consuming.

CourTools

One of the reactions of the comprehensive TCPS system was the introduction in 2005 of more simplified and practical tools to improve court performance and quality in the US trial courts. The CourTools developed by the US National Center for State Courts must be seen as an attempt to provide the courts a common set of ten indicators and methods to measure the performance in a meaningful and manageable manner.

The identification and selection of the ten measures are based on the integration of the major performance areas defined in the TCPS with other TQM-models, such as the Malcolm Baldrige Award and the Balanced Score Card. In the table below the ten measures are listed.

Table 1 CourTools (10 measures)

Access and fairness	Reliability and integrity of case files
Clearance rates	Collection of monetary penalties
Time to disposition	Effective use of jurors
Age of active pending caseload	Court Employee satisfaction
Trial date certainty	Cost per case

For each of the CourTool measure listed, a practical guide is available which can be used by the courts to implement the tool and to monitor the results⁷.

eJustice Scorecard system (Singapore Subordinate Courts)

As was the case in the United States, the main reason for reforming the

⁶ Draft framework of court excellence (2007), p. 56.

⁷ <http://www.courttools.org>.



court system in Singapore concerned the increase of backlog of cases. Several reforms were implemented in the period 1990 – 2000. One of the most interesting ones is the introduction of an eJustice Scorecard system. The system is based on (modified versions of) the four areas of measurement of the Balanced Scorecard⁸ (Community, Internal processes, learning and growth and finance). For each of the areas of measurement a set of key indicators was developed. In 2005 an updated version of the eJustice Scorecard was launched. In the software application it is for court managers possible to visualise alerts on specific quality issues on computer screens and to link court performance to goals and objectives set by the management of the courts.

The eJustice Scorecard is an important element of the general quality model that is used by the Singapore courts, namely the Singapore Quality Awards (SQA)⁹. The framework of this award is comparable with the Balcolm Baldrige Quality Award and the European Foundation on Quality Management.¹⁰

5 European initiatives: ‘Costa report’ of the European parliament and the CEPEJ checklist on the quality of the judiciary and courts

The importance of quality for the judiciary and courts is also underlined at a European level. Both the Council of Europe and the European Parliament have examined this topic. In 2004 the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament published a working document on ‘the quality of criminal justice and the harmonisation of criminal legislation in the Member States’¹¹. The general notion of this working document is that an area of freedom, security and justice in Europe is founded on a culture of diversity of legal systems and pre-supposes the establishment of a common reference framework and a mechanism for mutual evaluation. The special Committee of the European Parliament proposes a quality charter for (criminal) justice. This quality charter should specify a set of criteria for evaluating the functioning of judicial systems. Elements of this charter should be: the level of respect for the principle of judicial independence, compliance with fair trial standards and the conduct of criminal proceedings,

8 <http://www.balancedscorecard.org/BSCResources/AbouttheBalancedScorecard/tabid/55/Default.aspx>

9 <http://www.spring.gov.sg/Content/WebPage.aspx?id=510802e4-4a99-4790-98a1-c843d9d08849>

10 In 2006 the Singapore Subordinate Courts received the annual Singapore Quality Award.

11 European Parliament (2004), Working Document on the quality of criminal justice and the harmonisation of criminal legislation in the Member States, Brussels.



including the execution of sentences¹². In addition to these suggestions the Committee recommended to include in the mechanism for 'mutual evaluation' various components, such as:

- A comparative statistical basis;
- A 'benchmarking' exercise;
- The dissemination of best practices;
- An evaluation report on compliance with the quality charter.

Up till now there is to my current knowledge not much progress made in the European Union concerning the implementation of the ideas. More work has already be done by the European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe in this field.

The CEPEJ, created in 2002, has published two comparative reports on judicial systems, based on the collection of statistical information and qualitative data. The first report was presented in 2005¹³ and the second one in 2006¹⁴. Currently the third evaluation round of judicial systems is underway. It is foreseen that the next report on European judicial systems will be available in the fall of 2008. Main elements of the report will be a description of the composition and the functioning of judicial systems of the member states of the Council of Europe, by looking at the following items: budgeting and financing of judicial systems, access to justice, judicial proceedings and court performance, status and role of various legal professionals, enforcement of judicial decisions, etc.

During many years the CEPEJ is involved in one specific quality issue of the functioning of courts and that is the reduction on court delays and the improvement of efficiency of judicial proceedings. Special working groups, a task force on delays and currently SATURN (Center for Judicial Time Management) has published many reports and documents. Some of them provide more insight in measures taken in Northern European countries to reduce the length of proceedings¹⁵, time standards that are used by the European Court of Human Rights¹⁶ and causes for delays, whilst others are oriented a producing practical tools for the courts to reduce the length of proceedings¹⁷.

12 European Parliament (2004), p. 3.

13 CEPEJ (2005), European Judicial systems: facts and figures, Strasbourg.

14 CEPEJ (2006), European Judicial systems: edition 2006 (data 2004), Strasbourg.

15 CEPEJ studies No. 2 (2006), Time management of justice systems: a Northern Europe Study, Strasbourg.

16 CEPEJ studies No. 3 (2006), Length of court proceedings in the member states of the Council of Europe based on the case law of the European Court of Human Rights, Strasbourg.

17 CEPEJ (2005), Time management checklist: a checklist of indicators for the analysis of length of proceedings



court quality

In 2007 the CEPEJ created a special working group on quality (CEPEJ-GT-QUAL). This working group is responsible for the collection of information and the evaluation of quality models that are used in the member states. In addition they have to create tools to measure the quality of judicial work and to develop concrete solutions for policy makers and the courts to remedy dysfunctions in the judicial activities and to strive for a balance between the independence of the judges and the obligation to provide a high level of quality for the users of the courts¹⁸.

One of the first activities the quality working group concerns the drafting of a 'checklist for quality of the judiciary and courts'¹⁹. The main aim of this checklist is to introduce a practical tool to assist member states in collecting appropriate information and to analyze relevant aspects regarding quality. What this document makes unique, compared to general quality models and some court quality systems that has already been introduced in various countries, is that it addresses the quality at *three levels*: the national level, the level of the courts and the level of the individual judges. For each of the three levels a list of questions is defined, which can help policy makers and judicial practitioners to improve the quality in the courts *and* at the level of a judicial system as a whole.

Concerning the clustering of questions to main themes that are related to court quality and quality of the judiciary, there is not much difference with certain quality models that has been introduced at a national level (see the next paragraph). As is the case in these models to improve quality at a national level and the level of the courts it is necessary to answer several questions on:

- Access to justice;
- Accountability and transparency;
- Legitimacy and public trust;
- Strategy and policy of courts;
- Management of resources (by the courts);
- Court proceedings and the conditions for court proceedings and ADR;
- Conditions for infrastructure and operation of judicial systems;
- Conditions for judicial independence, professional skills and ethics;

in the justice system, Strasbourg.

18 CEPEJ (2007)3, Terms of reference the Working Group on quality of justice (CEPEJ-GT-QUAL), Strasbourg.

19 CEPEJ-GT-QUAL (2007)9Rev, Quality of the judiciary and courts (a checklist), Strasbourg.



- Evaluation.

Points of attention at the level of the individual judges are connected with: the treatment of the parties, the management of cases, professional skills, ethics and training and the presentation of judicial decisions.

It is foreseen that the checklist on quality for the judiciary and courts will be adopted at the next plenary meeting of the CEPEJ in the summer of 2008. After adoption the document will be available for the court practitioners and policy makers in the member states of the Council of Europe.

A second activity of the CEPEJ working group on quality is related to one of the first task mentioned in their mandate, namely to provide an overview at a European level of the current quality models that have been implemented by European countries. In the beginning of 2008 a research proposal²⁰ has been submitted by a network of universities and research institutes to conduct a study on this issue. The researchers propose to examine the quality of courts by making a differentiation between: (1) legal quality, (2) managerial quality and (3) public quality. Legal quality concerns the standards, controls and policies to develop the (legal) quality of justice; managerial quality is related to standards, controls and policies that are used in courts to improve effectiveness and efficiency; public quality includes the standards, controls and policies that have been implemented to develop and maintain core-values, such as fairness, timeliness, independence, etc. in relation to the treatment and the level of satisfaction of the court users²¹.

These 'areas' of quality will be linked to the management of quality in courts (composed of quality standards, quality controls and quality development). The summary of the analytical scheme is presented in the following table.

20 CEPEJ-GT-QUAL (2008)2, Quality management in courts: organization and effects, Strasbourg.

21 CEPEJ-GT-QUAL (2008)2, p. 3.



Figure 1 Analytical model of the research project on court quality
(Source: CEPEJ-GT-QUAL (2008)2, p. 4).

Quality management				
Quality areas	Values	Q. standard	Q. controls	Q. development
Legal Q.	Consistency, procedural fairness	Judgements & legal reasoning	Judges meetings at chamber and unit level, training for new laws, appeals?	improvement of judgments (e.g. legal reasoning, readability)
Managerial Q	Efficiency, timeliness of proceed, cost per case	Time standards Production	Statistics on performance	Active case management program
"Public" Q.	Satisfaction of the public for the service delivery	75% of users satisfied with ... comportment,	Regular users' surveys	Quality of service meetings with key users, focus groups etc.

This scheme will be used to examine a sample of eight countries. This, to identify the current state of affairs concerning the use of quality systems in the courts. It is expected that at the end of the year 2008 the final research report can be presented.

Next to the work of the CEPEJ in the field of quality the Consultative Council of European Judges – an advisory body of the Council of Europe on issues related to the independence, impartiality and competence of judges – decided at its plenary meeting in November 2007 to prepare an Opinion on the Quality of Judicial decisions²². As a part of the preparation process a questionnaire has been send to the member states. Seventeen questions are included in this questionnaire focussing on the preparation and the evaluation of a judicial decision. 35 Countries have replied to the questionnaire. The replies can be found on the website of the Consultative Council of European Judges²³.

6 Developments in European countries: two examples (rechtspraak and Quality Benchmarks)

As can be derived from the previous paragraph, a growing attention for

²² CCJE(200&16, Abridged report of the 8th meeting (Strasbourg, 21-23 November 2007), Strasbourg.

²³ www.coe.int/ccje.



court quality and quality for the judiciary (in a broader sense of meaning) at a European level in the two main European institutions i.e. the Council of Europe and the European Union started after the year 2004. However, before that period there were already in some countries developing activities going on. Two of these 'early adopters' were the Netherlands and Finland. Both countries started in 1999 with initiatives to develop a quality system for the courts.

1) The Netherlands: from 'measurement system court quality' to RechtspraakQ

In the period 1998 – 2002 a large reform programme of the Dutch judiciary was introduced. Main aims of this programme were to increase the external orientation of the judiciary, to reduce length of proceedings and to increase more unity in law. The implementation of the programme itself was partly done by the ministry of Justice and partly by the judiciary itself. For that reason a special programme organization for the judiciary was created under the name PVRO (Project Reinforcement Judicial Organization). This programme organization was responsible for the development of several innovation programmes at a national level and the co-ordination of the implementation of these programmes at a local i.e. court level. One of the projects that have been developed in this period was the project Quality (1999). A small project team, composed of judges, court staff, advisors of the ministry of justice and experts of a quality agency for the judiciary (PRISMA) was responsible for the development of a 'measurement system court quality'. This measurement system was composed of five areas of measurement:

1. Independence and integrity;
2. Timeliness of proceedings;
3. Unity of law;
4. Expertise;
5. Treatment of the parties.

For each of the areas of measurement several indicators were defined, as well specific instruments (court statistics, (court user and staff) surveys, audits) to collect and to present the relevant data. Taking into account the experiences with the US Trial Court Performance Standards and the principles of the Balanced Scorecard the project team created a 'quality dashboard'. For each area of measurement and the corresponding indicators the results of a quality assessment in the court was summarized with the 'stop sign' colours red (score to be improved), yellow (neutral) and green (positive quality outcome).



The measurement system itself was tested in the period 2000 – 2001 in three pilot-courts (the district courts of Roermond and Maastricht and the criminal department of the district court of Amsterdam).

After the establishment of the Dutch Council for the Judiciary and the Quality bureau in this Council in January 2002, a (modified) version of the measurement system became part of the comprehensive quality system for the Dutch judiciary 'RechtspraakQ'.

The comprehensive quality system is composed of eight elements, clustered by three categories (a normative framework, measurement instruments and other elements).

Normative framework:

Quality regulations (at a court level and at a level of departments within the courts). The regulations are designed as a checklist that can be used by the management of courts to improve its quality. These regulations are accompanied by the measurement system court quality. This is the system that is described at the beginning of this paragraph.

Measurement instruments:

Every two years each court must held a court-wide review on the basis of a 'INK' procedure (INK must be seen as the Dutch model of the EFQM model). As a part of this review the management of the court must analyse the progress of improvements made in the field of quality based on the INK standards. In addition to the INK-review a court must conduct every four years a court user satisfaction survey and a court staff satisfaction survey. In the same four-year cycle courts will also be visited by an independent visitation committee. The outcome of the visitation will give a description of the current state of affairs of the quality of the Dutch judiciary in a given time period²⁴.

Other elements:

RechtspraakQ includes a system of peer review and a complaints procedure as well. The peer review must be seen as professional consultations between judges, mainly to improve the functioning of individual judges. The review focus strongly on the interaction of the judge with the parties at court sessions and the individual performance and quality of a judge. Together with the launch of the Council for the judiciary in January 2002 a uniform complaint procedure for all the courts was introduced. The central aim of the procedure is streamline the treatment of complaints received by the courts.



The application of RechtspraakQ by the courts is assisted by two organisations: the Quality bureau of the Dutch Council for the Judiciary and the PRISMA-agency (an independent and impartial service organisation for the judiciary in the field of quality).

2) Quality project in the Courts in the jurisdiction of the court of Appeal of Rovaniemi (Finland) and the Quality benchmarks

The Quality project in Finland was launched in 1999 and included all the courts in the jurisdiction of the court of appeal of Rovaniemi. In this period a *development committee* (chaired by the president of the largest district court of the jurisdiction), a *co-ordinator for quality* and *working groups for quality* were created. Each year there are four working groups active. The selections of the topics that are addressed to these working groups are decided during a *Quality conference*. This conference (every autumn of the year) is attended by judges, referendaries, trainee judges and various stakeholders²⁵. The reports of the individual working groups are presented at the quality conference too and every year a Report on Quality is distributed to the participants of the Quality project, all the courts in Finland and to various stakeholders.

As a part of the Quality project in Finland in 2003 a set of Quality Benchmarks for Adjudication was introduced. They are used to measure the quality of various aspects of adjudication. It analyses the successes and failures of the court activities, by making use of a six point scale.

The benchmarks are used in the courts in the jurisdiction of the court of appeal of Rovaniemi as a source of information for improvements in the functioning of the courts. It serves also as a tool for training and development for judges and court staff and as an instrument for debate between the courts and the users of the courts²⁶.

The Quality benchmark consists of six aspects that are important for the work of the court and 40 quality criteria:

1. The process (nine quality criteria);
2. The decision (seven quality criteria);
3. Treatment of the parties and the public (six quality criteria);
4. Promptness of the proceedings (four quality criteria);
5. Competence and professional skills (six quality criteria);
6. Organisation and management of adjudication (eight quality criteria).

25 Ministry of Justice Finland (2005). Quality project in the courts of the jurisdiction of the court of appeal of Rovaniemi.

26 Court of Appeal of Rovaniemi, How to assess quality in the courts, Finland (p. 4).



All the quality criteria are analyzed in the framework of a six-point scale and during the valuation phase. The total points of the benchmark are calculated by adding up the points of the individual criteria within each aspect (the maximum score of the benchmark is 210 points). To collect all the necessary information various evaluation methods are used, varying from a self-evaluation, surveys, an expert evaluation to statistical analyses and responses by the courts.

The assessment of the courts by making use of the quality benchmark is based on frequency of 3 to 5 years. However it is underlined by the creators of the benchmark that certain aspects need to be monitored constantly. For example: for the aspect 'promptness of the proceedings' they recommend to use this part of the benchmark annually.

The Quality of Adjudication project of the Rovaniemi courts was in 2005 awarded with the 'Crystal Scales of Justice Award'. This Award, an initiative of the Council of Europe (CEPEJ) and the European Union, is every two year given to an organization which has carried out an innovative project in the field of civil justice²⁷.

7 Towards a global framework for court excellence

In the beginning of 2007 the chief justice of the Singapore subordinate courts took the initiative for the development of a global 'Framework for court excellence' i.e. a universal applicable quality system and an assessment tool for courts. As has been written in previous paragraph this country has already gained much experience with the use of general quality models (Singapore Quality Award) and specific tools (eJustice scorecard) to improve the functioning of courts.

As a part of the initiative of the Singapore judges, experts around the globe were invited to work on this framework and to join a Consortium for Court Excellence (a non-binding group of organisations which are willing to contribute to the development. Currently the consortium is composed of the US National Center for State Courts (NCSC), the US Federal Judicial Center (FJC), the Australasian Institute of Judicial Administration and the Singapore Subordinate Courts. The Consortium is assisted with experts from the (Secretariat of the) CEPEJ and the World Bank (Legal vice Presidency).

The goal of the framework is to create instruments and concepts that can be used by courts worldwide to assess the quality of justice and



the court administration they deliver. In the framework a description is given of the fundamental purposes and responsibilities of courts, court performance measures and a recommendation how to implement the system to make a 'journey' towards excellence possible²⁸.

The framework identifies seven areas of measurements. These areas has been selected by taking into account of the experiences with various general quality models (EFQM, Balanced Scorecard, Malcolm Baldrige Award, Singapore Quality Award, etc) and quality systems that has been developed for courts (Trial Court Performance Standards, CourTools, RechtspraakQ, etc). The areas of measurement are:

1. Court management and leadership;
2. Court policies;
3. Human, material and financial resources;
4. Court proceedings;
5. Client needs and satisfaction;
6. Affordable and accessible court services;
7. Public trust and confidence.

To give an impression of how these areas of measurement are interrelated to each other, the following picture can be presented. It is one of the ideas to visualise the framework for court excellence and to explain the relationship between the importance of a proper court management and leadership, the need to measure court performance, to manage courts well and to take into account of the needs and wishes of the supply side²⁹.

For each area of measurement several points of attention has been described in the framework. These points of attention (at the moment there are 37) can be used by the courts to assess the current state of affairs and to identify strengths and weaknesses in the court performance and court quality. For the assessment a self-assessment questionnaire can be used. This questionnaire can be applied in two ways. First as a checklist and secondly – if a court this prefer – as a scoring and benchmark instrument. For the last option the Framework includes a scoring mechanism as well. For each attention point and area of measurement the level of 'approach' and 'deployment' needs to be assessed. Approach refers to how the courts meet the criteria requirement. There are six levels/scales of approach possible (none, reactive, defined, integrated, refined and innovative). At

28 Draft Framework for court excellence (2007), p.4.

29 It is not yet decided how the final model of the framework will look like. This is one of the suggestions that have been given by an expert of the Consortium.



the lowest level 'none' there is no approach at all, whilst at the highest level 'innovative' the court uses an exceptionally well-defined innovative approach where the organisational needs are fully integrated with the quality model.

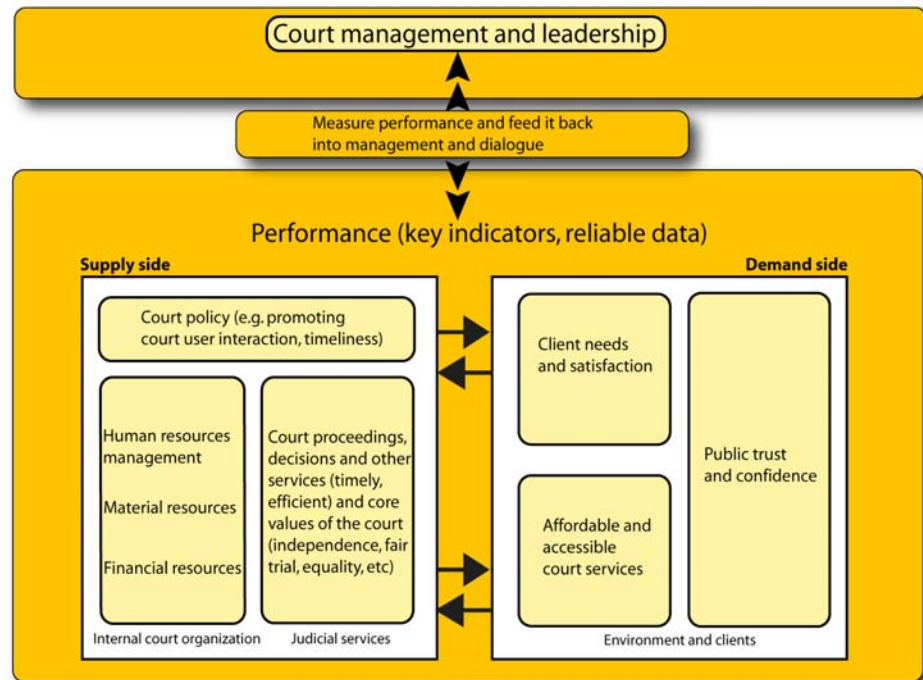


Figure 2 one of the suggestions for how the framework for court excellence will look likes.

Deployment refers to the extent to which the approach/practices are applied, implemented and deployed within and outside the organisation. There are six levels/scales of deployment possible (none, some area, some key areas, most key areas, all key areas and all areas). At the lowest level there is no deployment at all and at the highest level the practices are implemented in all areas within and outside the court organisation and practiced consistently by all levels.

In addition to the areas of measurement and the level of approach and deployment the results of the organisations performance and the level of (quality) improvements needs to be assessed too. The total sum of the scores received for approach, deployment and results determines the level of court excellence. Currently the experts of the consortium are refining the scoring method that may be used by the courts. A final method has not been determined yet.

To strengthen the practical use of the framework a plan of action for the implementation in the courts is included, as well as references to tools that can be used in certain areas of measurement (for example a reference is made to the CourTools developed by the US National Center for State Courts).



After two years of development it is expected that the final version of the Framework will be available by the end of 2008 and will be launched at a special event in Australia. The framework itself will be published on a website with links to relevant reference documents and tools that can be used to improve the quality in the courts.

8 Concluding remarks

Since the fifties' much has been developed in the area of quality management, quality control and quality assurance. At the beginning, by introducing quality systems in Japanese enterprises. In a later period enterprises in other parts of the world underlined the importance of quality as well and followed the approach of the Japanese companies to implement quality systems (ISO, Balanced Score card, Six Sigma, Malcolm Baldrige quality Award, etc.). In the nineties the importance of quality improvements for a proper functioning of courts was identified by creating the US Trial Court Performance Standards. Experiences with the standards became a source of inspiration for other countries to develop quality systems for the judiciary. Examples of early adaptors in Europe were the Netherlands and Finland. In the period 2004 – 2006 a growing attention to quality issues at a European level could be found in the initiatives developed by the European parliament and the European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe. These European institutions are trying to promote 'quality awareness' in the courts of the member states. The year 2007 marked a new 'era' with the development of a global framework for court excellence. It is expected that this framework will lead to the awareness that for a proper functioning of a justice system it is necessary to pay (sufficient) attention to quality and to look at (innovative) ways to improve the court performance.