

Quality systems for the judiciary

An international literature survey

Summary

Overall interest in the Netherlands in the quality of the judiciary is increasing. Due to the high work pressure at the courts the quality of the work might decrease. Both within the judiciary and outside the awareness is growing that the limited means currently available to improve judicial quality are no longer sufficient. By introducing a new quality system we are looking for ways to create a more systematic quality control. The Dutch judicial administration is on the threshold of a large process of modernisation. One of the main principles of that process is the improvement of quality. The Netherlands could learn from experiences that other countries have acquired in this respect. The objective of this survey of international literature about quality systems for the judiciary abroad is to acquire a picture of these foreign experiences and to contribute to the distribution of knowledge in the field. The following aspects of quality systems have been investigated: the backgrounds and objectives, the organisation, the nature of the criteria, the method of assessment, the quality assurance of the system and finally the experience acquired with it.

The levels on which the quality systems are focussed

If one looks at the literature, the first thing that will be noticed is the difference in objective and nature of the systems depending on whether they focus on the judiciary at large ('macro level'), the courts ('meso level') or the individual judges ('micro level'). The quality systems for the judiciary at large are definitely in the minority. This is possibly because "quality for the judiciary" is difficult to put into practice. Most quality systems are meant for courts. This is probably because substantial (statistic) information is available at court level. What's more, in particular quality systems focussing on the quality of the organisation and the service orientation of the courts can be implemented relatively easy, without influencing the independence of the judges too much. With quality systems on the level of individual judges that is more difficult, especially if the quality of the core activity of the judge, the administration of justice, is involved.

Various objectives of quality systems

A second important aspect concerns the objective of the system. Quality systems are used for more than one objective. A distinction can be made between internal use and external use. With internal use we mean for instance support with making improvements in the organisation or determining budgets. With regard to making improvements the quality system could be used to make comparisons, say, between individual judges or between courts so that they can learn from each other or in order to assess improvements in time. A quality system can also be intended for giving account externally to citizens or the electorate, an inspectorate or members of parliament. The results of the quality system concerned are, in that case, often made public. The nature and structure of the quality system is often geared to the intended objective. However, such a quality system can also be used for other objectives. It can for instance be used for internal skill improvement, it can be an instrument for a job evaluation or to give account of expenditure.

Internal or external assessors of quality

A third important aspect concerns the question to what extent people from outside the judiciary play a role in quality assessment. Abroad there are several quality systems in which inspectors of the Ministry of Justice, citizens or lawyers, judge the work of judges, the level of service or the administration of the courts.

Differences and similarities

In the background the judicial culture of the various countries plays a role with regard to the possible existence, nature and functioning of quality systems. That does not mean that they cannot be applied in other countries. They can be instructive and they can prevent that mistakes that were made elsewhere, are made in the Netherlands. They may be a source of inspiration in the search for a quality system that is right for the Netherlands. Finally remarkable similarities occur between quality systems that otherwise are very different. In

particular with regard to the reason for the development of the quality system, the way in which they are developed and the criteria that are used.

Quality systems for courts

Quite often the same reasons are given for the development of quality systems for courts: increasing workload of the courts, internal and external criticism on the functioning of the courts and the realisation that there is too much distance between the judges and the supporting staff within the courts. The design in the various countries show remarkable similarities. Within the courts a level of support is sought by involving people as much as possible in the development of the quality system. Subsequently, the system is tested at a limited number of courts after which it is modified.

The quality systems for the courts cover the following fields: quality of organisation, service orientation and legal quality. Most quality systems for courts are intended to give insight in the quality of the organisation and/or the service orientation of the courts. Especially in the US there are quality systems geared at legal quality. These quality fields usually have their own indicators. The number used (level of detail of the assessment) differs per system and depends in particular on the time, people and means available.

Quality systems for judges

With quality systems for judges which are intended to give them feedback, their co-operation is a must. That is why these systems usually have guarantees with regard to their independent position, voluntariness of their participation and confidentiality of the information.

The criteria of the various quality systems for judges show great similarity: impartiality and fair judging, proper use of the law and procedures, decisiveness, communicative skills, appropriate behaviour towards all persons involved, commitment, work efficiency and financial awareness, team work and leading a team.

Experiences with quality systems

The design, testing and implementation of quality systems usually takes two to three years. Creating support within the judicial administration takes time and energy. Experience shows that the use of a quality system by a court should not be too expensive and time consuming. Otherwise it may be detrimental to regular assessments which are essential for a quality system.

Hiatuses

There are a number of hiatuses in the literature on quality systems. Hardly any mention is made of systems of exchange of experiences between judges. Also, only about a limited number of systems something is said about the way in which they have been designed, what has been learned in that process, and what have been the effects.