



Council of State of Belgium

Magistrate Assessment

*Seminar organized by the Association of the Councils of State and the
Supreme Administrative Jurisdictions of the EU*

With the collaboration of the Council of State of Belgium

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THE NETHERLANDS

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Questionnaire

The court-system in the Netherlands is complicated. The Netherlands do have a three instances system of ordinary courts; courts of first instance, courts of appeal and the Netherlands High Court as court of cassation. Administrative jurisdiction in the first instance is for most cases integrated in the ordinary courts of first instance. But the country has three administrative appeal courts: the general court is the Department of Administrative Jurisdiction of the Council of State, the Central Council of appeal is competent in social insurance and civil servants-cases and the College of appeal in business cases.

The ordinary courts of first instance and of appeal are covered by the Netherlands Council of Jurisdiction. The Council decides on the budget of courts and their personal formation related to the number of cases. Ordinary courts do have a system of magistrate assessment both by systems of intervision and assessment procedures.

The Council of State and the Netherlands High Court are not covered by the Council for Jurisdiction.

The Council of State does has a system for dividing court sessions among its members. A year is divided in 13 periods and in every period a member of the Council of State has to fulfil a certain number of sessions, varying from two till six. The number depends on the position within the Council of State. A full member – involved in administrative jurisdiction and in advising on draft-legislation – has 3 or 4 sessions per period; an extra-ordinary member – only involved in administrative jurisdiction – has 6 or 7 sessions. A chamber president has about 4 sessions and the president of the Department of Administrative Jurisdiction has 1 or 2. During the year the president of the Department and the chamber presidents regularly check the number of sessions fulfilled by every member.

The Council of State in fact doe not have a system of magistrate assessment. The vice-president of the Council of State – the Queen is president of the Council of State – and the president of the Department of Jurisdiction together do have a meeting with every member about once in the two year. This is not really an assessment meeting. An assessment meeting is for several reasons not easy to organize within the Council of State. All members are appointed for life by Royal Decree; career development within the Council of State does not any role; functions like chamber president were in the past fulfilled according to seniority; nowadays the president of the Department of Administrative Jurisdiction appoints presidents and substitute presidents of chambers according to an informal procedure. So the regular meeting of members of the Council of State with the vice-president and the president has the character of an exchange of experiences and feelings.

The disadvantage of this lack of an assessment system is that the individual members do not get information or feed back about their functioning. Especially the members recruited from the courts of first instance do feel this as a lack. A number of them were already used to any system of assessment.

Organizing a system of assessment with in the Council of State will not be an easy job. It requires time, participants do have to prepare on assessment meetings, at the end of the meeting conclusions have to be formulated and possibilities and provisions have to be offered

to give a follow-up to this conclusions. For the way one behaves on court sessions a system of intervision can be of help. Such a system may be started on a voluntary basis. This all may be true, but I am convinced that a reasonable and balanced system of assessment may play an important role in the functioning of a court in general and of every member individual.

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