

First Study Commission I.J.A.

Complementary questionnaire (meeting in PORTO, Sept. 98)

I The processing speed and case flow delays in civil cases submitted to the courts

(time spent to handle the case between the input and the output in 1 court or instance, with reference to normal proceedings, exclusive of speedy trial or summary proceedings).

A) Is there a problem? (Is processing speed generally considered to be too slow?) Give some indication:

- 1) on the average time needed
 - a) at the first instance level
 - b) at the level of appeal
- 2) on the average time considered reasonable
 - a) at the first instance level
 - b) at the level of appeal

B) What are the causes of the problem? : indicate for each possible cause 1= very important, 2= important, 3= of little importance, 4= not important

Give some explanation for every answer with 1 (very important)

- 1) after listing (registering) the case, parties (lawyers) take too much time to prepare the case for final hearings;
- 2) delay is often caused by others (for instance expert advice);
- 3) the handling of the case by the judge himself (preparation time, proceeding time in court room and time spent on preparing the decision)
- 4) delay (queue) between the moment litigants are ready to face the judge and the moment a judge is available
- 5) delay between the moment the judge takes the case in private consideration and the moment he gives his decision
- 6) other important causes?

C) Which specific measures have been taken (since ± 1980) to remedy the causes you indicated as most important?

- 1) measures taken by the legislator?
- 2) measures taken on the field?

D) Which measures have been taken (which mechanisms have been developed) to increase case flow speed in general?

- 1) measures taken by the legislator
- 2) measures taken on the field

E) Case flow delays in civil cases and the problems this creates for litigants who seek quick decisions often leads to more summary procedures (in order to get provisional injunctions or orders)

Does this phenomenon exist in your country? If so, does it affect the delays in normal procedures (more and more of the available time and resources being spent on these summary procedures)

II The principle of proportionality between the importance of a case and the allocation of means

Is this principle taken into account in your system as an instrument to increase efficiency (to reduce the allocation of means for less important cases)?

How is this done?