ANSWERS TO THE QUESTIONNAIRE FOR 2006 MEETING

I. Are there initiatives to make Labour Court more efficient?

In amendments to the Civil Procedural Act all labour cases should be completed at first instance court in six months and at Appellate Court in one month.

New Mediation Act has been just recently introduced and in all cases, including labour cases it is possible to seek for alternative means of resolving legal disputes.

All labour cases are decided at general first instance courts. In Croatia there are not special labour courts.

Only in collective labour disputes regarding negotiations between syndicates and employers about working conditions, salaries and industrial action parties are obliged to solve these disputes through arbitration (Ad hoc, or through institutions).

In labour cases employees can be represented by layers engaged by the syndicate.

1. Are there any pre-trial procedures?

There are none for individual labour disputes.

In collective labour disputes pre-trial procedure is mandatory in direct negotiations between social partners.

a. Are they mandatory?

See answer I. and 1.a.. 

b. In which way the court is involved.

According to Article 212. of Labour code before starting industrial action syndicates and employer have to establish an agreement about jobs which can not be terminated during industrial action.
If agreement can not be reached, it is decided by ad hoc arbitration consist of three members. One member is nominated by employer, one by syndicate, and third member who is also president of Arbitration is nominated by President of Court of Appeal among judges of this court. Rules of jurisdiction determinate which Court of Appeal will give a judge for this purpose.

c. How long may they go on?

Pre-trial proceedings are short. not more than one month.

d. Who has to bear legal costs?

In pre-trial proceedings legal costs are bored by each party.

e. Which effect do they have on the time of prescription?

There are no special provisions.

2. Are there specific ideas to give assistance to the plaintiff to raise his claim more effectively?

In individual labour case plaintiff can be representative by syndicate layer and they do not have to pay court fees.

3. What interest has to be paid for remunerations, which are not paid at the date of maturity?

The same interest as for any other money claim. It is determinate by Law.

4. Are there procedural regulations for mediation?

There are such provisions in Mediation Act, and in Civil Procedural Act if settlement is completed during the trial. (Judges have to try peaceful settlement at a beginning of a trial.).

a. Is mediation compulsory?

No.

b. How are the mediators selected? In which way is the court involved. Are judges different from trial judges?

Mediators by Mediation Act have to be legally competent and not previously convicted. They have to act in good faith, according to the law. Mediator has to be independent, impartial and neutral. Mediator is not responsible if the parties do not reach an agreement or do not implement their agreement.
It is also possible to ask for mediation within the first instance court (general and commercial courts). In that case parties are directed to another judge to try to settle their dispute before a judge who acts as a mediator.

Special training is provided for such judges.

Also in Civil Procedural Act judge is in obligation to propose to the parties' settlement before him. Such settlement has the same legal strength as a judgment and can be executed.

c. Is it confidential?

Yes.

d. How long my mediation go on?. How is it finished?

According to Mediation Act there are not time limitations for mediation process. It is terminated by agreement, on a mutual content, on refusal of one of the parties.

e. Who has to bear the legal cost?

Each party is bearing its costs.

f. Which effect does mediation has on time of prescription?

No provisions in Mediation Act.

g. What training in law and procedure is given to mediators?

The issue is regulated by acts of the Minister of Justice which settle the education standards for mediators.

II. Collective (class) action.

1. What kind of collective actions have you got?

There are no class actions in our law system.

Only collective actions are those regarding employer's claim to forbid any industrial action (strike) by the syndicate.

2. Who are the Parties of these procedures?

Employer is plaintiff, and defender is syndicate which is organizing industrial action.

3. Which courts are competent?

Court of Appeal. In this case Court acts as first instance court sitting in a panel of three professional judges. Supreme Court acts as Court of Appeal for such cases.
4. Which effects have their decision?

Decision affects all parties in the case, as any other court decision.

5. To whom is this decision binding?

See above answer.

6. Is it possible for works council or trade union to sue or request for ascertainment of rights or legal relations, if some employees are involved. Do they have to specify these employees?

In labour cases syndicates my represent workers in court proceedings.

7. Who has to bear the cost?

Party who loose the case.

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