



HOW TO ASSESS QUALITY IN THE COURTS?

Quality Benchmarks for Adjudication are a means
for the improvement of the activity of the courts



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Quality Benchmarks for Adjudication

The planning for a set of Quality Benchmarks for Adjudication began in 2003 as a part of the Quality Project of the Courts in the Jurisdiction of the Court of Appeal of Rovaniemi. The Quality Benchmarks for Adjudication are without precursor in the history of judicial development in Finland. The activities of the courts have been evaluated as a part of the performance management process and in various credibility surveys. Operational benchmarking has been

based on case throughput times in various case types and on productivity and cost-effectiveness indicators. In contrast, no proper Quality Benchmarks have yet been used anywhere.

In contrast, in certain other countries the measurement of the quality of judicial work has been an area of emphasis for quite some time. For instance, in the United States the construction of a system for measuring the performance capacity of the courts began already in 1987. The system was introduced in 1995; since that time, the system has become an established element in the system of court management and control.

The development and implementation of a quality measurement system for the courts has been under way also in the Netherlands in recent years. In Sweden, systematic work for the improvement of judicial quality has also commenced quite recently.

Focus on the customer

The Quality Benchmarks for Adjudication are intended primarily to serve as a means for the development of court activities. In line with other public institutions, also the courts will be expected to deliver even more and even better services than before.

The Quality Benchmarks are used to measure the quality of various aspects of adjudication. These aspects have been selected so that they would provide the broadest possible view of those court activities that have a bearing on the quality of the proceedings and of the judgment. The benchmarking proceeds by way of an analysis of the successes and failures of the activity in question, set to a six-point scale.

The Benchmarks are not intended for measuring the success of the entire operations of the court. They are relevant only in respect to the aspects that have a direct bearing to the quality of process and decision in matters of adjudication. The primary focus in the development of the Benchmarks has been on the parties to the proceedings. A conscious effort is being made to assess quality at the interface between the customers of the court and the judge.

The Benchmarks are not intended for the evaluation of the quality of the work of an individual judge, nor for the detection of possible shortcomings there. All evaluations are carried out anonymously and they always pertain to an entire court instead of a judge serving in that court.

The intent is not to carry out a systematic and comprehensive analysis of all courts every year; instead, a frequency of 3 to 5 years between analyses is proposed. That said, with regard to certain aspects that are to be monitored constantly, such as the promptness of proceedings, the Quality Benchmarks can be utilised annually. The judges and every court may use the Benchmarks as a means of developing their own work and as reference material in the development.

Uses of the Quality Benchmarks

- 1. Information about the needs for development.** The primary purpose of the Quality Benchmarks is to serve as a means for the development of the activities of the courts. Benchmarking will provide diverse information about the current standard of adjudication. This will serve as the basis for further development work.
- 2. Training and development.** Another purpose of the Benchmarks is to serve as a tool for judicial training. In addition, it can be used as a common framework for the debate among the judiciary and other legal professionals about the quality of adjudication.
- 3. “Opening up” the activities of the courts and their societal effect.** The Benchmarks will make adjudication and the debate about adjudication more accessible to interested outsiders. In addition, the feedback received from parties will direct the attention of the courts even better to the needs and expectations of everyone involved in court proceedings.

The aspects of development and training are in fact more important than the Quality Benchmarking itself and the results obtained from the Benchmarks. That said, the collection of the benchmarking data and the compilation of concrete benchmarking results are necessary to spur the debate about the needs for development measures for the improvement of quality. Moreover, the benchmarking result can serve as a “fire alarm”, indicating possible major problems in the activities of the court.

What will we benchmark?

The preparation of the Quality Benchmarks began with the definition of the sectors of adjudication, the **aspects**, whose quality is to be assessed. The next step was the selection of suitable **quality criteria** for each aspect. Finally, the quality criteria have been illustrated by way of **examples of the characteristics of the quality criteria**.

The intention has been to identify the most salient quality criteria from each aspect, combining to produce quality. Court proceedings, with all their intricacies, would allow for the selection of any number of quality criteria from each aspect.

Attention has been paid e.g. to how the quality criterion serves the main premises of the evaluation, that is, the realisation of everyone's protection under the law, access to justice, the perceived fairness of the proceedings and the credibility of the courts.

The quality criteria have been selected so that they can be applied regardless of whether a criminal or a civil case is concerned.

Aspects

The proposed Quality Benchmarks consist of six aspects, which contain a total of 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 of the judge (six quality criteria)
- 6) organisation and management of adjudication (eight quality criteria)

(See following page for examples of quality criteria)

Examples of quality criteria

The quality criteria of the first aspect (the process) are:

- a) the proceedings have been open and transparent vis-à-vis the parties
- b) the judge has acted independently and impartially
- c) the proceedings have been organised in an efficient manner
- d) active, but non-coercive, measures have been taken to encourage the parties to settle (civil cases and the civil liability issues in criminal cases)
- e) the process has been managed effectively and actively (both procedurally and substantively)
- f) the proceedings have been arranged and carried out so that a minimum of expenses is incurred by the parties and others involved in the proceedings
- g) the proceedings have been organised in a flexible manner
- h) the proceedings have been as open to the public as possible
- i) the proceedings have been interactive

The quality criteria of the fourth aspect (promptness of the proceedings) are:

- a) the case has been dealt with within the optimum processing times established for the organisation of judicial work
- b) the importance of the case to the parties and the duration of the proceedings at earlier stages have been taken into account when setting the case schedule
- c) also the parties feel that the proceedings have been prompt
- d) the time limits that have been set or agreed have been adhered to

Analysis

In addition, there is another essential element to the Quality Benchmarks: The setting of the **point scales for analysis**. All quality criteria will be analysed in the framework of a six-point scale and a corresponding written evaluation.

The total points of the Benchmarks are computed by adding up the points of the individual criteria within each aspect. As the quality criterion relating to optimal processing times is set to a scale of 0 to 15 points, the maximum points of the entire set of Benchmarks are 210.

Point scale for analysis	
Points will be awarded on the basis of the achievement of the quality criterion, as follows:	
0 points	The criterion is not met at all (fail)
1	The criterion is met partially (pass)
2	The criterion is met satisfactorily (satisfactory)
3	The criterion is met well (good)
4	The criterion is met laudably (laudable)
5	The criterion is met in an exemplary manner (exemplary)

Evaluation methods

In order to establish a realistic and comprehensive view of the quality of court activities, a number of different evaluation methods must be used.

Evaluation methods
1) Self-evaluation
2) Surveys
3) Expert evaluation
4) Statistical analysis
5) Response by the court

These evaluation methods offer more or less objective or subjective data. For the objective methods, the advantage is that the view provided of the quality criterion is precise. In contrast, however, they may not describe the object of the benchmarking in broad enough terms so that necessary development measures could be planned merely on this basis.

The advantage of subjective methods is that they can provide very extensive information about the object of the benchmarking. In contrast, however, the data may be very vague and at times also erroneous.



How to use the Quality Benchmarks

The Quality Benchmarks can be used in the evaluation of the adjudication of a court either in their entirety or by choosing an aspect for a separate benchmarking exercise.

The Quality Benchmarks should be taken into use by way of experiment. The design of the experiment has begun in Finland. The objective for the autumn of 2006 is that the usefulness of the entire set of Benchmarks will be tested in practice in about a dozen courts in the North of Finland.



The Quality Project of the Courts in the Jurisdiction of the Court of Appeal of Rovaniemi, Finland was recognised with an international Award

The Quality in Adjudication Project of the Courts in the Jurisdiction of the Court of Appeal of Rovaniemi was given the Crystal Scales of Justice Award 2005 in a ceremony in Edinburgh. The Quality Benchmarks for Adjudication have been developed in the context of this award-winning project.

During the autumn of 2005, the European Union and the Council of Europe organised for the first time a competition for the identification of innovative projects in the field of civil law. In all, 22 projects from 15 European countries participated. The Finnish system of public legal aid received a honourable mention. The competition is linked to the European Day of Civil Justice, celebrated annually in all of the EU Member States in the last week of October.

The Rovaniemi Quality Project has as its participants all nine District Courts in the jurisdiction of the Court of Appeal, as well as the Court of Appeal of Rovaniemi itself. In addition to judges, the work has been undertaken also by prosecutors, advocates and public legal aid attorneys in the region. The work has been arranged around discussions in group format and training sessions. The judges self select the quality themes that are to be discussed and lay down their proposals for improvement, to be followed up in all courts. The project has concentrated especially on the development of the quality of the process and of the decisions.

The project was launched in 1999, as the first judicial quality project in Finland. It has served as an example to many of the other quality projects now under way in the jurisdictions of all six Courts of Appeal in Finland, as well as in certain administrative courts.

The courts set their quality targets in adjudication themselves. This is an inherent element of judicial independence. The Ministry of Justice of Finland provides financial support to the quality projects of the courts and participates in their co-ordination on a nationwide basis. The Ministry of Justice sees also to the incorporation of the targets in the annual State Budget.



The Quality Project of the Courts in the Jurisdiction of the Court of Appeal of Rovaniemi, Finland

Additional information:

Judicial system in Finland
www.oikeus.fi/8108.htm

Court of Appeal of Rovaniemi
www.oikeus.fi/5996.htm

District Court of Oulu
www.oikeus.fi/6028.htm