

## **The BEJUBE project – Switzerland – practical action taken following a “user” survey**

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### I. Introduction

The Berne justice system has a good customer image, and was given an almost universally good rating on human relations, general atmosphere, information provided and clarity of language in a comprehensive survey carried out in the last three months of 2000.

This was the first time that the criminal and civil courts in the Canton of Berne had invited “customer” comments. Parties, witnesses, informers and lawyers involved in civil and criminal proceedings were asked what they thought of their work. The questions focused mainly on human relations, general atmosphere, clarity of the language used, and length of proceedings. The survey (“BEJUBE”) did not cover quality of judgments, since this is assessed by the higher courts only.

4,805 questionnaires, or 20% of the total sent out, were completed and returned to the processing agency, Interpublicum (in Ostermundigen, Berne). Professional users, i.e. lawyers, had an unusually high response rate - 43%.

Analysis of the questionnaires, and particularly the comments, highlighted a number of shortcomings.

This paper sets out is to indicate the points which attracted most criticism, and the action suggested by the working party chaired by the then President of the Court of Appeal, Mr Ueli Hofer, to improve the service provided by the Canton of Berne’s justice system.

### II. Main criticisms

#### **1. Length of proceedings**

This point rankles particularly with the Berne system’s customers. 29% say that the proceedings in which they were involved were too lengthy. The number of comments, whether positive or negative, also shows how important this aspect is for those concerned. While bearing in mind that the comments were subjective, the working party still felt there was room for improvement. The courts must remember that this is a sensitive aspect, and act accordingly.

#### **2. Intelligibility of official documents and clarity of written correspondence**

The opinions expressed certainly gave no cause for concern on this point, but the working party still felt that some improvement could be made here too - especially as court staff got a markedly higher rating for oral expression.

### **3. Atmosphere**

The comments show that the way in which “customers”, many of whom are in difficult personal situations, are treated means a lot to them. The general atmosphere in which proceedings are conducted is particularly important: a good-humoured, polite, human and fair-minded approach to people is just as important as legal skill *per se*, and indeed the judgment. Court staff should always remember this.

#### **III. Improvements set in hand**

The project group went on to formulate practical proposals for courts, the officials responsible for running the justice system, and the committees in charge of further training.

In 2002, further training courses for all judicial staff (judges, registrars and administrative staff) were held in all of Berne’s judicial districts. The aim was to publicise the results of the survey and alert staff to aspects that needed improving.

The following action is being – or may be – taken to remedy shortcomings highlighted by the survey:

#### **1. Length of proceedings**

The “length of proceedings” sub-group, chaired by the rapporteur, drew up guidelines on this point for first-instance civil and criminal courts. Goals were set for “normal” cases, and first-instance courts were given instructions on practical ways of speeding up proceedings (e.g. asking for an immediate advance on costs, setting short deadlines, etc.).

The working party sent these proposals to the Supreme Court, asking it to make them mandatory by embodying them in circulars. There are clear differences of opinion on the proposals. Indeed, the rapporteur was recently asked to spell them out in detail. It is plain that they are not always well received by first-instance judges, many of whom see them as interfering with independence of the judiciary.

This question will again become important when the New Public Management system is introduced, at least for a trial period.

#### **2. Intelligibility of official documents and clarity of written correspondence**

Berne’s first-instance courts use TRIBUNA - a computer programme which incorporates templates for orders and judgments in proceedings of all types. This has definitely eased the courts’ workload, and particularly that of the registries’ administrative sections. However, the models are largely based on legislation, and so the wording used is not always very clear to non-lawyers.

The working party has submitted numerous proposals on rewording or, better still, rewriting these texts to the Supreme Court, which has so far rejected all of them.

One of the reasons given by the Court is that the proposed simpler wording would make the texts less precise. None the less, special further training courses on this question are already planned for 2004.

### **3. Atmosphere**

Better public facilities come under this heading. Many courthouses now have refreshment facilities (drinks machines) for the public. There have also been changes in courtroom layout, e.g. judges no longer sit on platforms, but on the same level as the public. Whenever possible, new waiting rooms have been provided for lawyers and litigants. For the moment, however, the Canton of Berne's limited financial resources rule out more substantial changes.

At the training sessions referred to above, the atmosphere in courts was a hotly debated issue. All the courts' administrative staff were asked to regard the parties to the various proceedings as "customers".

### **IV. Conclusion**

It was certainly a good thing to carry out a survey of this type. We believe that the general satisfaction expressed by our customers obliges us to improve our services still further. However, for the reasons I have given, taking practical action on the findings is not always easy: firstly, some judges are opposed to changes which they see as interfering with their constitutional independence; secondly, the Canton of Berne's current lack of funds prevents it from making major investments.

However, the measures already taken or planned make me feel that we are on the right path.