

**XVIth Meeting of European Labour Court Judges
11-12 September 2007**

Helsinki, Finland

**Questionnaire on
Decision-making in Labour Courts**

**General Reporter: Judge Jorma Saloheimo,
Labour Court of Finland**

This questionnaire, and the discussion in the Helsinki meeting, is devoted to issues concerning the methods applied in the daily work of the labour court judge.

Thus far we have in our meetings gathered important comparative information about the legal rules applied in resolving labour law cases in European and neighbouring legal orders. What we know little about is how the application of those rules takes place in practice. The question is about the decision-making process, the external phases but also mental processes through which a decision is reached.

The discussion in the meeting will be based on genuine labour court judgements, chosen by the national reporters, sent to the general reporter and distributed to all participants. In order to bring out as clearly as possible variations in the decision-making process, manifested also in the reasoning techniques, the case itself should be of such nature that it occurs in the practice of all labour courts involved and is decided under fairly similar rules. These criteria are met by a dismissal case in which the employment relationship has been terminated on grounds of breach of the employee's work duty. In the judgement of the court the action of the employee is dismissed.

The national reporters are asked to do the following:

- Please choose a suitable judgement, delivered by your court (or a lower court, if you find that more instructive) in a case described above, and have the judgement translated into English.
- Send the translation via email to Ms. Angelika Muller of the ILO (mullera@ilo.org) who will see to it that the texts are forwarded to all national labour courts represented in the meeting. If you consider that there are participants who may benefit from the original language version, please send it as well.

The national reporters are also asked to reply to the following questions, which relate to all kinds of labour court cases:

1. Is the case decided immediately upon the main hearing, or is a separate session held for that purpose?

2. Is there a presenting official involved in the process? If yes, please describe the formal and factual role of the official.
3. Does the composition of your court include lay members? If yes, please give a description of their role in the deliberation leading to the decision, with a view to the interplay between the chair and the lay members. What is in your experience the main contribution of the lay members in the decision-making process?
4. To what extent does the presiding judge take part in writing the decision?
5. What are the main legal sources you use in deciding a case, especially a difficult one? In the reasoning of the decision, do you make express references to legal literature, case law, previous decisions of your own court, etc.?
6. Is it customary to express the personal views of the judge in a decision?
7. Are there any further comments you wish to make on the subject?

In the meeting in Helsinki, the topics mentioned above will be discussed, and we will have an opportunity to make comparative observations on the dismissal case judgements circulated to us. The national reporters may wish to point out one or two features, which are especially characteristic of their own judgements in comparison with the others.