

Conclusions of the summary report on the drafting of court decisions

The jurisprudence-analysing working group was set up on 17 January 2013 with the aim of providing guidance, upon the completion of an interdisciplinary survey, on the elaboration of the aspects based on which the Curia could appear, via its decisions, in a uniform manner and the rulings in the Curia decisions could be transmitted to the general public in a form meeting society's expectations. This latter aspect is of utmost importance, since it is a lawful demand on the part of the litigants and any other persons seeking justice to be able to learn from the individual decisions the legal basis of the rulings given by judges in the various cases. To achieve this end it is indispensable that decisions have a clear structure and the reasons underlying the rulings be clearly ordered and well-elaborated.

Within the jurisprudence-analysing working group three sub-groups were set up for examining the following aspects: 1. linguistic, 2. information technology, 3. comparative law.

The jurisprudence-analysing working group formulated several recommendations concerning various levels of decision-writing, namely: 1. linguistic correctness 2. stylistic correctness 3. non-structural citation uniformity 4. structural uniformity 5. contents.

The structural and linguistic analysis resulted in the following conclusions: the Curia decisions were widely differing in terms of structure and linguistic elaboration. While admitting that the choice of words, style and word order of the sentences may reflect individual style and preference and that everything cannot, and may not, be regulated, the working group has found that attention should be paid to recurring errors, cumbersome sentence structures and even minor stylistic errors, and endeavours should be made to apply certain expressions, phrases and abbreviations in a uniform manner. The linguistic analysis has found that absolute linguistic correctness cannot be an aim but errors should be minimalized.

The information technology sub-group has made the following recommendations: the writing of decisions can, at least in part, be automated, because court decisions cannot be regarded to be entirely free texts, and their structure is fix to a great extent. The creation of a recognition memory for the rules and the potential exceptions is a precondition to automatisation. To this end, an auxiliary program can be developed, on the one hand, for taking data over from other systems and for automatically inserting such data in this system and, on the other hand, for offering textual variables at certain points. In deciding on the introduction of such a system it should be taken into consideration that in the medium term the resource-demand for the operation of the system will significantly drop, but its introduction will require additional resources and efforts.

From the responses provided by the foreign supreme courts upon the information-request of the President of the Curia, the jurisprudence-analysing working group concluded that a Judicial Writing Manual to be compiled in the future could serve as a guidance on decision-writing in an intelligible, plain and clear language.

The jurisprudence-analysing working group reached the conclusion that from the five unification levels identified by the working group compliance with the requirements specified in points 1.4. above could reasonably be expected. Therefore a Stylebook was compiled and annexed to the summary report by the working group.

The summary report was discussed and adopted at the joint meeting of the Criminal, Administrative-Labour and Civil Departments of the Curia on 27 January 2014.