



# European Day of Lay Judges

Documentary  
of the elaboration  
of the European Charter  
of Lay Judges

# CONTENT

<b>What is the European Day of Lay Judges?</b> .....	<b>3</b>
<b>Participation of citizens in jurisdiction</b> .....	<b>4</b>
<b>Charter Signatory Organisations and Locations</b> .....	<b>5</b>
<b>The European Charter of Lay Judges</b> .....	<b>6</b>
<b>Signature of the European Charter of Lay Judges</b> .....	<b>9</b>
<b>The History of European Lay Judge Cooperation</b> .....	<b>10</b>
<b>Merging the Initiatives: Berlin 2010</b> .....	<b>11</b>
<b>Elaborating the Charter: London 2011</b> .....	<b>13</b>
<b>London Declaration</b> .....	<b>14</b>
<b>Definition of lay and honorary</b> .....	<b>16</b>
<b>Participation Modes of Lay Judges in Jurisdiction</b> .....	<b>17</b>
<b>Lay Judges under threat: the case of Spain</b> .....	<b>18</b>
<b>Lay Judges under threat: the case of Finland</b> .....	<b>19</b>
<b>Participants in the project</b> .....	<b>20</b>
<b>Country Profiles</b>	
<b>Austria</b> .....	<b>21</b>
<b>Belgium</b> .....	<b>22</b>
<b>Bulgaria</b> .....	<b>23</b>
<b>Denmark</b> .....	<b>24</b>
<b>Estonia</b> .....	<b>25</b>
<b>England and Wales</b> .....	<b>26</b>
<b>Finland</b> .....	<b>28</b>
<b>France</b> .....	<b>29</b>
<b>Germany</b> .....	<b>31</b>
<b>Italy</b> .....	<b>33</b>
<b>Northern Ireland</b> .....	<b>35</b>
<b>Portugal</b> .....	<b>36</b>
<b>Scotland</b> .....	<b>37</b>
<b>Spain</b> .....	<b>38</b>
<b>Sweden</b> .....	<b>40</b>
<b>Switzerland</b> .....	<b>42</b>
<b>Moving on: The European Network of Associations of Lay Judges</b> .....	<b>43</b>

## Imprint

### Editor

European  
Academy Berlin  
Bismarckallee 46/48  
14193 Berlin  
Germany

### Layout

Knobel-Design

### Photo credits

Unless marked  
otherwise, all photos  
are the property of the  
European Academy  
Berlin.

This publication reflects  
the views only of the  
European Academy  
Berlin. The Commission  
cannot be held  
responsible for any use  
which may be made  
of the information  
contained.

Berlin, 2012

# WHAT IS THE EUROPEAN DAY OF LAY JUDGES?

The European Day of Lay Judges was first initiated on May 11, 2012, in order to consolidate the necessity of citizens' participation in jurisdiction. It is the result of an eight-year process which over the course of time brought together honorary judges from 17 countries. All of them have the common conviction that the participation of the people in jurisdiction is "a fundamental principle in any democratic society" (Charter).

From 2010 to 2012, activities on elaborating the Charter and inaugurating the European Day of Lay Judges were financially supported by the European Commission and organised by the European Academy Berlin.

The participating organisations expressed their conviction in a "European Charter of Lay Judges". The lay judge organisations defined minimum standards in the Charter, which jurisdiction in the European states have to conform with regard to the participation of lay judges. This includes not only the guarantee of equitable participation in the negotiations with the career judges but also the ban on discriminations in profession.

The Charter describes participation of representatives from the people in the jurisdiction as an essential element of democracy. Even more so than in the case of people's legislation and referendums, in the administration of justice lay judges assume direct responsibility for adherence such as interference in basic right of the affected persons, such as freedom, property, exercising professions, social security, etc.

The Charter therefore also calls for an appropriate choice of suitable persons as well as their preparation and advanced training while they are performing the duties of their office.

The European Commission, which is providing financial support for the European Day of Lay Judges, also believes it is necessary for citizens to participate in jurisdiction:

**Quotation from Viviane Reding, EU Justice Commissioner** *"The Commission fosters the participation of citizens as lay judges. It has done so in the past and it will continue to consider further support in areas such as the training for lay judges, in particular concerning European Union law. I am convinced that the involvement of lay judges helps improving the citizens' access to justice and narrowing the gap between the citizens and the judiciary."*

Viviane Reding,  
Vice-President  
of the European  
Commission,  
EU Justice  
Commissioner



*The project organisers: Dr. Mechthild Baumann, Hasso Lieber, Claudia Rehms*



# PARTICIPATION OF CITIZENS IN JURISDICTION

Participation of citizens should not be simply restricted to elections and rallies. It is also absolutely essential in jurisdiction:

- **In their capacity as representatives of the people lay judges contribute their good human judgement and as expert lay judges they contribute actual specialist knowledge to the jurisdiction.** Thanks to their involvement, processes and decisions become more comprehensible and plausible. They not only provide an increase in life experience but also introduce additional specialist knowledge into the process in some areas of jurisdiction. Consequently they not only make the jurisdiction more democratic but also more effective.
- **Lay judges contribute their specialist expertise.** Many legal disputes cannot be decided with just legal expertise. In commercial and agricultural

matters, in disputes at labour and social courts as well as processes against minors, lay judges with knowledge and experience in these fields are consciously involved. They complement the juristic competence of the career judge.

- **Lay judges increase the acceptance of the decisions.** They should be capable of speaking the same language as the participants and empathising with their professional or societal situation. This makes it easier for them to accept the judgement.
- **Lay judges increase the transparency of the processes.** In the collegial courts they represent the public in the conclave. They force the professional jurists to use generally comprehensible language and argumentation.

Dr. Mechthild Baumann  
European Academy Berlin, Project coordinator



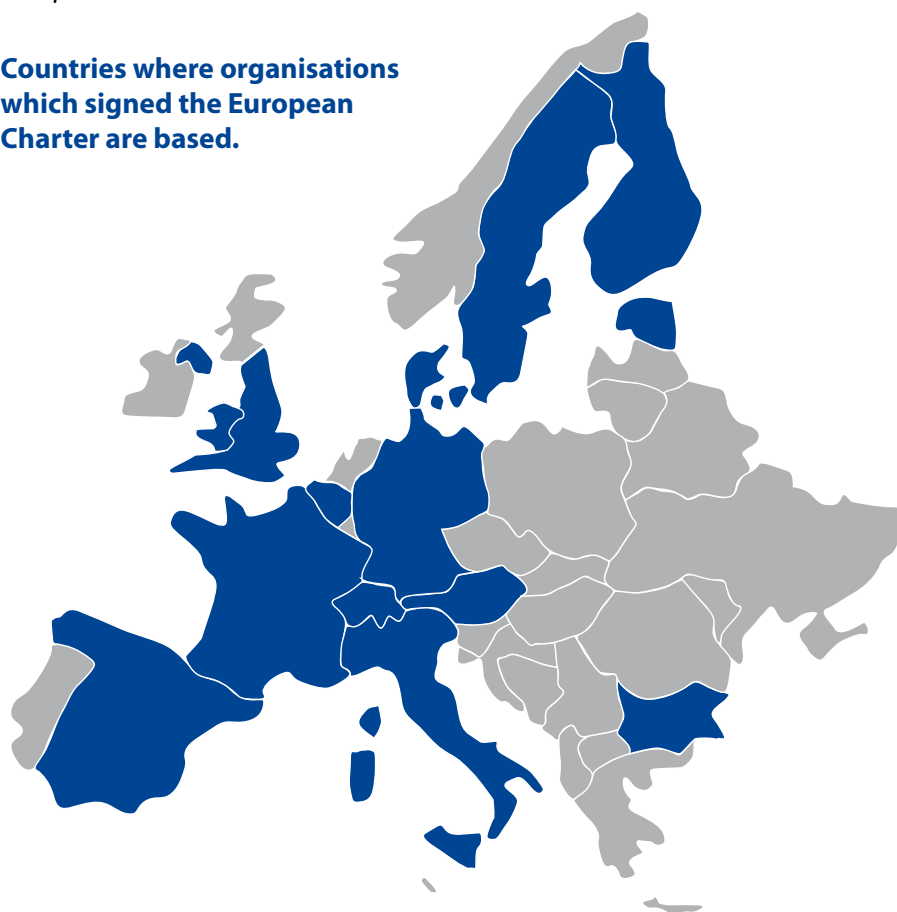
*f.r.t.l. Matti Laukkanen,  
Chairman, Finnish Lay Judge Association;  
Hasso Lieber,  
Chairman, Federal German Association of Honorary Judges*

# CHARTER SIGNATORY ORGANISATIONS AND LOCATIONS



*Delegates from 17 lay judge organisations who signed the European Charter of Lay Judges on 11 May 2012 at the European Parliament in Brussels.*

**Countries where organisations which signed the European Charter are based.**



**Austria**  
**Belgium**  
**Bulgaria**  
**Denmark**  
**Germany**  
**England**  
**Estonia**  
**Finland**  
**France**  
**Italy**  
**Northern Ireland**  
**Spain**  
**Sweden**  
**Switzerland**  
**Wales**

# EUROPÄISCHE CHARTA DER EHRENAMTLICHEN RICHTER

I. Die europäischen Staaten haben unterschiedliche Systeme der Beteiligung von Richtern, die ohne Laufbahn an der Rechtsprechung mitwirken, entwickelt. Ehrenamtliche Richter und Schiedspersonen nehmen ihre Aufgaben in unterschiedlicher Ausgestaltung wahr:

- mit juristischer Vorbildung oder als juristische Laien;
  - auf der Grundlage einer besonderen Sachkunde oder als allgemeine Repräsentanten des Volkes;
  - in alleiniger Verantwortung oder als Mitglieder eines Kollegialorgans;
  - gemeinsam und gleichberechtigt mit Berufsrichtern (Schöffensystem) oder mit eigenem Entscheidungsbereich (Jury-System);
- streitentscheidend oder streitschlichtend.

II. Ehrenamtliche Richter im Sinne dieser Charta sind alle Personen, die an rechtsprechenden oder streitschlichtenden Entscheidungen mitwirken und

- nicht an einer Laufbahn innerhalb der Justiz teilnehmen;
- nicht besoldet werden, aber eine Aufwandsentschädigung erhalten können;
- auf Zeit in das Amt gewählt oder berufen werden.

III. Das Recht auf Beteiligung des Volkes an der Rechtsprechung ist ein Akt staatsbürgerlicher Emanzipation und ein tragender Grundsatz jeder demokratischen Gesellschaft. Die Mitwirkung trägt zur Erhöhung von Plausibilität und Verständlichkeit der Verfahren und Urteile bei und erhöht damit das Vertrauen in die Justiz. Ehrenamtliche Richter bringen wertvolle Lebenserfahrungen und ein natürliches Verständnis von Gerechtigkeit ein. Sie leisten damit einen Beitrag zur Verbesserung der Effizienz der Justiz und der Erhöhung der Akzeptanz der Entscheidungen.

IV. Ehrenamtliche Richter, die auf Grund beruflicher oder sonstiger Kenntnisse ein spezielles Wissen in das

# EUROPEAN CHARTER OF LAY JUDGES

I. European countries have developed a variety of systems for non-career judges regarding participation in dispensing justice. Lay judges and arbitrators exercise their duties in a variety of forms:

- with prior training in the law or as juridical lay persons;
- based on their particular actual specialist knowledge or as general representatives of the public;
- judging alone or in a collective body (bench);
- in conjunction with and on equal standing as salaried judges or taking decisions as an individual on one's own authority as in a jury system; determining disputes or conciliating.

II. This Charter refers to all persons that take part in legal decision-making and / or arbitration who

- do not make a career as judges;
- may receive compensation but no salary;
- are elected or appointed for a period of time.

III. The right of Participation by the people in dispensing justice is an element of civil emancipation and a fundamental principle in any democratic society. It helps to increase plausibility and comprehensibility in proceedings and judgments, and thus enhances confidence in the legal system. Lay judges bring valuable wide experience of life and familiarity with human nature to justice. It is also a means to improve efficiency in justice and increase acceptance of decisions.

IV. Those judges, who are able to make specialist knowledge available to

# CHARTRE EUROPÉENNE DES JUGES NON PROFESSIONNELS

I. Les pays européens ont mis en place différents systèmes faisant appel à la participation de juges qui ne sont pas des juges de carrière pour rendre la justice. Ces juges et arbitres non professionnels exercent leur charge sous des formes variées :

- soit en ayant une formation antérieure en droit, soit sans compétence en droit;
  - soit sur la base de leur compétence dans une spécialité particulière, soit en tant que représentants du public en général;
  - soit en tant que juge unique, soit au sein d'une formation collective de jugement;
  - soit en délibérant en association et à égalité avec des juges professionnels, soit en prenant seul leur décision en tant que juré.
- soit en rendant un jugement, soit en conciliant.

II. La présente Charte s'applique à toutes les personnes qui prennent part à un processus de décision judiciaire ou d'arbitrage et qui

- ne sont pas des juges de carrière;
- peuvent recevoir une indemnisation mais non un salaire,
- sont élus ou nommés pour une période de temps limitée.

III. Le droit des citoyens de participer aux décisions de justice est un élément d'émancipation de la société civile et un principe fondamental dans toute société démocratique. Cette participation contribue à accroître la crédibilité et la compréhension des procédures et des jugements, et renforce ainsi la confiance dans le système judiciaire. Les juges exerçant à titre non professionnel apportent une contribution utile au processus judiciaire en raison de leur grande expérience de la vie et de la nature humaine. Cette participation est aussi un moyen d'améliorer l'efficacité de la justice et d'accroître l'acceptation des décisions rendues.

IV. Les juges exerçant à titre non professionnel, qui peuvent apporter leurs connaissances de spécialistes grâce à leur

Verfahren einbringen, erhöhen z.B. durch kaufmännische, technische, ökonomische, medizinische oder pädagogische Sachkunde die Qualität der Rechtsprechung in bestimmten Fällen.

V. Ehrenamtliche Richter und Schiedspersonen verbessern den Anspruch der Bürger auf Justizgewährung, indem sie die Berufsrichter entlasten, in einigen Regionen auch ersetzen und so einen Beitrag zu einer zeit- und kostengünstigeren Justiz leisten.

VI. Alle Mitglieder eines Gerichts genießen in gleicher Weise die persönliche und sachliche Unabhängigkeit und haben die gleichen Rechte bei der Urteilsfindung. Sie sind den gleichen Verhaltens- und disziplinarischen Regeln unterworfen.

VII. Wahl, Ernennung und Berufung der ehrenamtlichen Richter und Schiedspersonen erfolgen nach objektiven Kriterien unter Berücksichtigung der Eignung ohne politische Einflussnahme. Der Zugang zum Amt des ehrenamtlichen Richters oder zum Schiedsamt soll den EU-Bürgern in allen EU-Mitgliedstaaten eröffnet werden.

VIII. Ehrenamtliche Richter und Schiedspersonen haben in Erfüllung ihrer Amtspflichten die gleiche Verantwortung wie die Berufsrichter zu Unparteilichkeit und Unvoreingenommenheit, Einsatzbereitschaft, Fairness, Zurückhaltung und Wahrung der Menschenwürde. Auch außerhalb ihres Dienstes als ehrenamtliche Richter oder Schiedspersonen haben sie jedes Verhalten zu vermeiden, das ihre Glaubwürdigkeit beeinträchtigt, gegen die guten Sitten verstößt oder sonst das Ansehen des Amtes beschädigt.

IX. Ehrenamtliche Richter und Schiedspersonen sind in ihrem angestammten Beruf gegen jede Diskriminierung oder Benachteiligungen zu schützen.

X. Ehrenamtliche Richter und Schiedspersonen haben das Recht, auf

a proceeding through their expertise in fields such as commerce, technology, economics, medicine and education, increase the quality of justice in special cases.

V. Lay judges and arbitrators enhance citizens' access to justice by relieving or replacing salaried judges in some areas and therefore provide a more time- and cost-effective delivery of justice.

VI. All members of a court are independent both in person and in fact and have equal rights in decision-making. They should be subject to the same codes of conduct and disciplinary proceedings.

VII. Election, nomination or appointment of lay judges and arbitrators must be in accordance with objective criteria and in consideration of suitability without political interference. The opportunity to be appointed as lay judges or arbitrators in EU member states should be open to all EU citizens.

VIII. The lay judges have the same responsibility as salaried judges to perform their duties with impartiality, diligence, hard work, fairness, balance and restraint, respecting the dignity of the person exercising the functions. In addition, outside the exercise of their functions lay judges avoid any behavior that compromises their credibility, prestige and decorum, or the prestige of the judicial institution.

IX. Lay judges and arbitrators are to be protected from any discrimination or any disadvantage in their original profession.

X. Lay judges and arbitrators are to be represented at every level in the govern-

expertise dans des domaines tels que le commerce, la technologie, l'économie, la médecine et l'éducation, améliorent la qualité de la justice dans les procédures concernant ces domaines particuliers.

V. Les juges et arbitres non professionnels renforcent l'accès des citoyens à la justice en déchargeant ou remplaçant les juges professionnels dans certains domaines et apportent ainsi la possibilité d'une justice plus rapide et moins coûteuse.

VI. Tous les membres d'un tribunal sont indépendants tant dans leur personne que dans leurs actes et ont des droits égaux dans le délibéré. Ils doivent être soumis aux mêmes règles de conduite et aux mêmes procédures disciplinaires.

VII. L'élection, le choix ou la nomination de juges ou arbitres exerçant à titre non-professionnel doivent être effectués selon des critères objectifs et en tenant compte de leur adéquation aux fonctions à exercer, sans ingérence politique. La possibilité d'être nommé juge ou arbitre non-professionnel dans les Etats membres de l'Union Européenne devrait être ouverte à tous les citoyens de l'Union européenne.

VIII. Les juges exerçant à titre non professionnel ont la même responsabilité que les juges exerçant à titre professionnel de remplir leur charge avec impartialité, diligence, en accomplissant le travail nécessaire, en traitant chaque partie de la même façon et sans parti pris, avec réserve, en respectant la dignité de la personne dans l'exercice de leurs fonctions. De plus, lorsqu'ils ne sont pas en fonctions ils doivent éviter tout comportement de nature à compromettre leur crédibilité, le prestige attaché à leur fonction ou celui de l'institution judiciaire.

IX. Les juges et arbitres exerçant à titre non professionnel doivent être protégés de toute discrimination ou de toute mesure constituant une perte d'avantage dans la profession dont ils sont issus.

X. Les juges et arbitres exerçant à titre non professionnel doivent être repré-

allen Ebenen der Justiz- und der Gerichtsverwaltung in den sie betreffenden Angelegenheiten vertreten und beteiligt zu sein.

XI. Die ehrenamtlichen Richter und Schiedspersonen sind auf die Übernahme des Amtes vorzubereiten und haben das Recht auf Fortbildung. Sie haben Zugang zu allen für die Amtsausübung erforderlichen Mitteln einschließlich der Informations- und Kommunikationstechnologien.

XII. Zur Durchsetzung der Ziele dieser Charta vereinbaren die unterzeichnenden Organisationen eine abgestimmte europäische Zusammenarbeit durch eine europäische Organisation, die mit den Gremien der Europäischen Union und des Europarates zusammenarbeitet und zu diesem Zweck gegebenenfalls ein gemeinsames Büro und ein wissenschaftliches Forschungsinstitut unterhält.

XIII. Ziel der Zusammenarbeit ist die Verbreitung des Gedankens der Beteiligung ehrenamtlicher Richter an der Rechtsprechung in den europäischen Staaten und bei den europäischen Gerichten.

XIV. Die unterzeichnenden Staaten sind darin einig, dass eine kollegiale Zusammenarbeit mit

- den Organisationen der Berufsrichter und Staatsanwälte und
- gesellschaftlichen Organisationen angestrebt wird, um das Verständnis über die Rolle der Bürger in der Rechtsprechung im öffentlichen Bewusstsein zu verstärken.

XV. Dieser Charta können weitere Organisationen ehrenamtlicher Richter, ehrenamtlicher Staatsanwälte und Schiedspersonen beitreten.

Brüssel, den 11. Mai 2012

ance and administration of matters relevant to their office.

XI. Lay judges and arbitrators are to receive properly funded initial and continuing training and to have access to appropriate resources including information technology.

XII. In order to implement the objectives of this Charter, the signatory organisations agree on coordinated European cooperation through a European wide organisation and to maintain contact with the bodies of the European Union and the Council of Europe supported as appropriate by a bureau and a research institute.

XIII. The objective of such coordination is to disseminate the idea of participation by lay judges in jurisdiction in European countries and in European courts.

XIV. The signatory organisations are encouraged to cooperate with

- organisations representing salaried judges and prosecutors;
- civil society organisations to enhance public confidence in the role of citizens in justice.

XV. Additional organisations or associations of lay judges and arbitrators and of lay prosecutors are invited to subscribe to this Charter.

Brussels, 11 May 2012

sentés à chaque niveau de prise de décision et d'administration dans les domaines qui concernent leur office.

XI. Les juges et arbitres exerçant à titre non professionnel doivent recevoir une formation initiale et continue avec un financement assuré, et avoir accès aux moyens appropriés pour exercer leur fonction y compris ceux relevant de la technologie de l'information.

XII. Afin de mettre en œuvre les objectifs de la présente Charte, les organisations signataires conviennent de coopérer dans le cadre d'une organisation européenne coordonnée ainsi que de maintenir des contacts avec les organes de l'Union Européenne et du Conseil de l'Europe, avec le support approprié d'un bureau et d'un institut de recherche.

XIII. L'objectif d'une telle coordination est de diffuser l'idée de la participation de juges exerçant à titre non professionnel dans le système judiciaire des pays Européens et dans les tribunaux Européens.

XIV. Les organisations signataires sont encouragées à coopérer avec

- les organisations représentant les juges professionnels et les procureurs;
- les organisations de la société civile afin de renforcer la confiance du public dans le rôle des citoyens dans le système judiciaire.

XV. Les organisations ou associations de juges et arbitres exerçant à titre non professionnel et de procureurs exerçant à titre non professionnel non signataires de la présente Charte sont invitées à y adhérer.

Bruxelles, le 11 mai 2012



## THE DELEGATES WHO SIGNED THE CHARTER



*The Delegates who signed the Charter:*

*sitting from left to right: Maria Paola di Nicola (Italy), Margherita Morelli (Italy), Deirdre Kennedy (Northern Ireland), Krasimira Georgieva-Stamenova (Bulgaria), Elle Topaasia (Estonia)*  
*standing from left to right: Vicente Miguel Bermejo Sanchez (Spain), Lars Lassinantti (Sweden), Jean-Pierre Roques (France), Hasso Lieber (Germany), Heinz Winkler (Germany), Antonino di Renzo Mannino (Italy), Matti Laukkanen (Finland), Fritz Ganzhorn (Denmark), Jacqueline Gils (Belgium), John Fassenfelt (England and Wales), Paulette Vercauteren (European Union of Judges in Commercial Matters, UEMC), Gérard Chambard (France), Francisco Lasheras Dominguez (Spain)*

# THE HISTORY OF EUROPEAN LAY JUDGE COOPERATION

Three initiatives from different European countries paved the way to the “European Charter of Lay Judges”:

## 2004 Turin

### The Mediterranean Initiative: Phoenix from the Ashes

The abolishment of lay judges was repeatedly discussed in Spain. To counter this, in October 2004 peace judges from Spain, Italy and France met for the first time in Turin. There they worked on a joint strategy for strengthening the participation of lay judges in jurisdiction.

## 2007 Berlin

### The Dawn of the European Day of Lay Judges

Independent of the Mediterranean Initiative the Federal Association of Honorary Judges pursued the same objective in Germany, but they did so using other means. A “European Day of Lay Judges” was to be initiated, in order to secure more attention and recognition for lay judges. For this purpose it contacted the European Parliament, all European embassies and finally the European Academy Berlin.

## 2009 Helsinki

### Mobilisation of the Associations

While the German association and the European Academy Berlin sought support at a political level, the Finnish association (Suomen Lautamiehet ry) created facts on the ground and in October 2009 invited to Helsinki the representatives of the associations of honorary and lay judges from England and Wales, Scotland, Germany, Austria, Malta, Sweden and Finland. The joint request quickly became clear:

- expansion of the presence and influence of honorary judges’ organisations in Europe, in order to preserve this democratic legacy in Europe;
- participation of honorary judges’ organisations in the political formulation in Europe;
- improving the reputation of honorary judges in general.

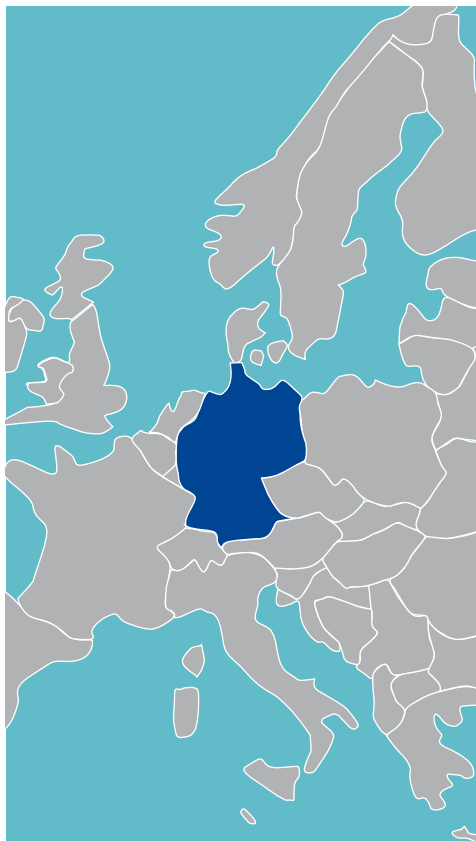
Read on the following pages how these initiatives were followed up.

Hasso Lieber,  
Federal German Association of Honorary Judges

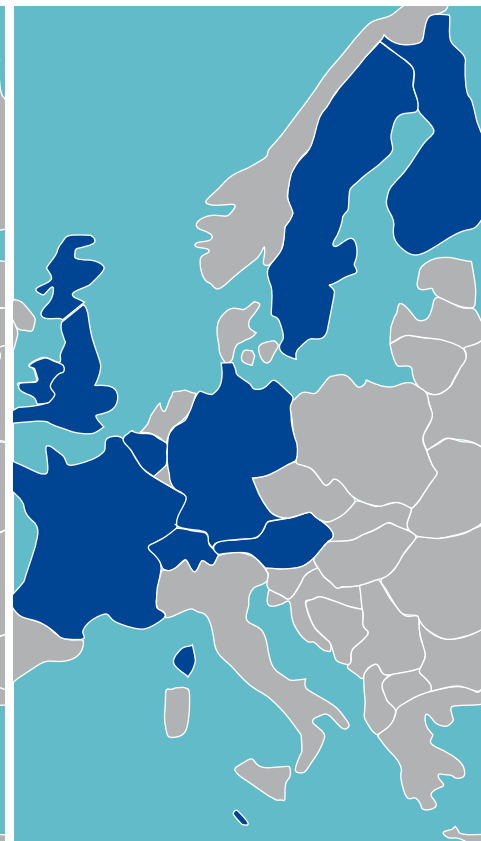
Turin 2004



Berlin 2007



Helsinki 2009



## MERGING THE INITIATIVES: BERLIN 2010

In order to merge these initiatives, the Federal German Association of Honorary Judges and the European Academy Berlin applied for funding to the European Commission within the 'Civil Justice' programme. The application was successful and all lay judge organisations were able to continue their cooperation in a joint effort.

The European Commission promotion of cooperation began with the conference in Berlin in 2010. The German Federal Ministry of Justice also provided financial support.

30 lay judges from Sweden, England and Wales, Scotland, Spain, Finland, Germany and Austria met together in the European Academy Berlin, in order to learn from and with each other about the various forms of participation of citizens in jurisdiction.

During the course of this conference the lay judges drafted a statement which formed the cornerstone for the European Charter.

## VISITING COURTS IN BERLIN

*The impressive hallway of the Criminal Court in Moabit*



*The portal of the former Criminal Court in Berlin, Moabit district. It was built under Emperor William between 1902 and 1906 and is one of the most important buildings of this era.*



# LAY JUDGES AT WORK IN THE EUROPEAN ACADEMY BERLIN

## Declaration of the 2nd European Symposium of lay involvement in the justice system 17-19 July 2010 in Berlin

1. The representatives of organisations of lay involvement in criminal and civil matters<sup>1</sup> – from England and Wales, Scotland, Spain, Sweden, Finland, Austria and Germany - at their second meeting in Berlin on 18 July 2010, conclude the following:

The participation of volunteers and lay judges in court decisions and dispute resolution are a vital element of democratic justice in the European Union and its Member and other European States. Lay judges/arbitrators are representatives of civil society and of the people in general. Their value is that they contribute experiences or special expertise from their own lives and their employment. The participation of lay judges/arbitrators and jurors, volunteer labour, social, agricultural and commercial judges, as well as arbitrators/mediators, and of justices of the peace seems in part due to centuries-long tradition. It is a political principle in and for Europe.

2. The participation of volunteer judges and arbitrators is increasingly restricted by judicial reform which are mainly due to economic constraints. With concern the organisations note that the principle of democratic participation in state power and the effective participation of informed citizens will be sacrificed on the altar of saving policies.

The representatives of the above organisations agreed that:

They will work closely together to:

- share information and good practices;
- establish a European wide organisation;
- develop a Charter to outline the role of lay involvement as an essential component of a democratic society;
- support and encourage other European states to establish national organisations, as appropriate, and become involved at the European level.

---

<sup>1</sup> Lay involvement can mean persons acting as jurors, (honorary) lay judges and expert lay judges, magistrates, justices of the peace, arbitrators and tribunal members.



Ulla Sens, Chairwoman, Association of Honorary Judges, North Rhine-Westphalia/Germany



John Fassenfelt, Magistrates' Association, England & Wales



# ELABORATING THE CHARTER: LONDON 2011

## London 2011

In July 2011 the Magistrates' Association of England and Wales welcomed representatives from fifteen European countries to London for the third European conference on the role of lay judges. It also celebrated the 650<sup>th</sup> anniversary of the institution in statute of the office of 'Justice of the Peace' in 1361.

The Act established the principle of ordinary citizens performing the functions of judges in local courts thus bringing justice closer to the people. The representatives of different types of lay judge organisations explained how ordinary citizens perform judicial functions in both civil and criminal jurisdictions.

The delegates confirmed the view that such involvement was fundamental to a democratic society. The conference discussed the publication of a Charter for Lay Judges to outline the essential role ordinary citizens perform in European justice.

The conference further established the European Network of Lay Judges to promote their image and involvement across Europe.

John Thornhill, Magistrates' Association

Welcome at the Magistrates' Association by its Chairman John Thornhill

The office of  
the Magistrates'  
Association in  
London





### London Declaration of Lay Judges in Europe

The participants of the Third Lay Judge Forum taking place on 22 - 24 July 2011 in London representing organisations from the following European countries:

Austria  
Belgium  
Bulgaria  
England/Wales  
Estonia  
Finland  
France  
Germany  
Italy  
Portugal  
Scotland  
Spain  
Sweden  
Switzerland

have agreed the following declaration as a result of their meeting:

1. The participation of lay judges<sup>1</sup> is an essential element of any justice system which wishes to be transparent and comprehensible.
2. In many countries the participation of lay judges is founded in a tradition going back hundreds of years. In a world which is becoming more and more differentiated and specialised, the continued involvement of lay judges will ensure that the justice system is accessible and understandable by the people and always responds to changes in society.
3. Lay judges are an essential element of Civil Society. And therefore this Lay Judge Forum explicitly opposes the efforts of any individual European government and parliament to reduce or abolish participation of lay judges.
4. The Third Lay Judge Forum decided that the national organisations of lay judges will cooperate even closer by publishing a "European Charter of Lay Judges" and

---


<sup>1</sup> The term lay judge covers several types of involvement in the delivering of justice and there a number of roles undertaken by the lay judge such as: lay magistrates, justices of the peace, arbitrators, judges in criminal and civil courts, lay assessors in criminals, expert judges as in juvenile, commercial or agricultural matters.

founding a "European Organisation of Lay Judges". Its purpose will be to promote the participation of citizens in justice systems.


5. The Third Lay Judge Forum in London is grateful to the European Commission for supporting this valuable exchange of ideas and knowledge.


Austria 


Belgium 

Bulgaria 

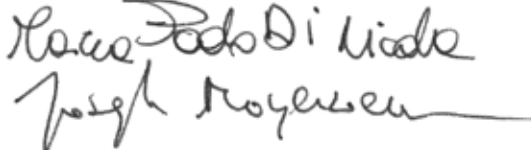
England/Wales 


Estonia 

Finland 

France 

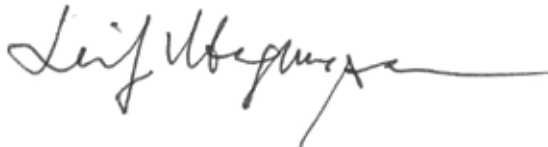
Germany 

Italy   
 

Portugal   
 

Scotland   
 

Switzerland   
 

Sweden   
 

# DEFINITION OF LAY AND HONORARY

In the course of discussions on the European Charter of Lay Judges, the question of defining and / or correctly applying the various terms in connection with the matter in hand, i.e. “lay” or “honorary”, as well as the relations between these terms, were problematic.

## On the subject of “layman” and / or “lay judge”

This clearly does mean a NON-career judge. And, for example, using a “jury” in criminal trials is addressed in most countries in Europe in such a way that the jury may or must consist of ordinary members of the public, i.e. average citizens, with no education or training in law, selected randomly and then assigned to a criminal trial according to specific rules.

The term becomes more problematic when used in the context of lay judges who need specific educational background or professional experience in order to execute their office. Admission requirements differ from country to country, as does the name given to these persons, for instance in commercial trials (BE and FR use the name “juges consulaires” – a term from the Middle Ages, where a “consul” was in charge of settling disputes arising at markets etc; AT “Fachmännischer Laienrichter aus dem Handelsstand” = expert lay judge in commercial matters, CH “Fachrichter” = expert judge, DE “Handelsrichter” = commercial judge) or in labour and social trials (for example in AT: “Fachkundiger Laienrichter” = expert lay judge). These “lay” judges do not consider themselves to



Rainer Sedelmayer, Union Européenne des Magistrats statuant en matière Commerciale (UEMC)

be “laymen” or “amateurs” and indeed are not such persons, the term “lay” judge was only developed in order to distinguish them from career (i. e. employed) judges.

## On the subject of “honorary”

This term, too, refers first of all to a NON-career judge. Additionally, it refers to the fact that the office is usually held for a specific period of time – often renewable – and not in a (vocational) life-long capacity. The question of monetary, financial or in kind, i.e. time in lieu compensation for such services performed voluntarily or on an honorary basis is quite diverse. In some countries, any monetary or time in lieu compensation is frowned upon, whereas in some countries it is self-evident. However, this compensation is in no circumstances a wage or salary, but on the contrary merely an “expense allowance” or remuneration. Compensation or remuneration for travel and material expenses or costs, etc. are not areas of debate, they never have an impact on the question of an honorary commitment.

## Conclusion

An “honorary” judge is in no circumstances a career (i.e. employed) judge, and in some situations in regard to a judicial service is a “lay person”, who undertakes an office for a specified period of time on an “honorary” basis, i.e. without receiving a wage or salary for assuming official duties, deciding on or settling disputes within the framework of civil society. In the European tradition, both aspects of “lay judges” as non-career judges and “honorary judges” as judges without a wage or salary are always co-terminous.

Rainer Sedelmayer, Union Européenne des Magistrats statuant en matière Commerciale (UEMC)

*Lay Judges at the Supreme Court in London*





# PARTICIPATION OF LAY JUDGES IN JURISDICTION

With the exception of just a few countries (including the Netherlands and Latvia, citizens everywhere in Europe participate in jurisdiction. However, the form of this participation differs greatly.

The debate on the European Charter of Lay Judges revealed different types of participation of citizens in jurisdiction which were brought together through the project:

## COURT AFFILIATION

First of all there is the criterion of court affiliation. There are judges who judge at courts and arbitrators, who arbitrate disputes outside courts.

## LAY OR HONORARY

The judges can then be differentiated in terms of whether they

- cooperate in the process purely on the basis of their “good human judgement” and bring the perspective of the normal citizen into the jurisdiction; they are then referred to as lay judges (lay from the Greek laikos = belonging to the people);
- or whether they are honorary judges, who cooperate in the adjudication with their specialist knowledge and experiences, for instance in commercial or agricultural matters.

## VOTING RIGHTS

But these are not the only differences. Lay judges can also be differentiated by their voting rights.

- In most countries of the EU, such as Germany and Finland, lay judges sit together on the judges’ bench with one or several career judges. The numerical ratio of career judges to honorary judges or lay judges is also arranged very differently.
- In contrast, in Scotland, England and Wales “justices of the peace” and “magistrates” make independent judgements without any cooperation from a trained, career judge. They decide on petty offences, such as breaking speed limits or minor attacks.

## LEGAL TRAINING

There are also a wide variety of regulations determining the authorisation conditions for honorary and lay judges. The individual countries have a different ap-

proach to the issue of whether honorary or lay judges require legal training. While in Finland, for example, legal training exempts the citizen from the office of lay judge, in France it is a prerequisite for the “juges de proximité”.

## APPOINTMENT

There are further differences regarding the term of office. Some countries appoint their honorary, respectively lay judges, for lifetime whereas other countries appoint them for a limited term. The term of office can be extended in some countries whilst this possibility does not exist in others.

## VARIOUS FORMS - ONE COMMON AIM

The relationship to the career judges is also not the same everywhere. The lay judges who make judgements together with career judges often feel they are not properly recognised. In contrast, honorary judges involved with commercial or agricultural matters have a better image amongst career judges thanks to their expertise, which is regarded as valuable and often makes it easier to come to a decision.

Despite these great differences, the project has clearly shown that citizens participating in jurisdiction have common concerns and a mutual objective: they would like better training and preparation for their tasks. Since they bear the same responsibility as career judges and decide on guilt and innocence, justice and injustice, and they also demand a greater recognition of their honorary office. They would all like to have more intensive networking and representation of their interests at a European level, in order to introduce the involvement of citizens in jurisdiction not only in their own countries but also at European level.

Claudia Rehrs,  
European Academy Berlin  
Project Organisator



# LAY JUDGES UNDER THREAT: THE CASE OF SPAIN

Civil participation in the judiciary is under threat in various European countries. Latvia for example, has already abolished the institution of lay judges. In other countries the abolishment has been discussed. Our European initiative supported organisations in Estonia, Finland and Spain in their struggle to maintain civil participation in the judiciary. Read here the appeal of the Spanish justices of the peace opposing the reduction of lay judges in Spain.

Federacion Estatal de Asociaciones de Justicia de Paz y Proximidad

## **Extract of a document submitted to the Spanish minister of Justice in view of the envisaged reform of the judicial administration**

With respect to the change of tenure of the Ministry of Justice and, in consequence, continuing with the reform of the administration of justice, we present guidelines for consideration based on the European Charter of Lay Judges and Arbitrators, which, in the view of our federation, should be laid down to ensure the greater participation of lay judges in jurisdictional matters, especially considering the foreseeable reduction in numbers, regrouping and renaming of the Courts of First Instance and Trial who will be concentrated in larger areas where they will act as Courts of First Instance. This means that, if Point 1 of Art. 99 of the Organic Law of Judicial Power (LOPJ) is not changed, lay judges will be the ones to occupy the positions that remain vacant:

*Point 1. There shall be a lay judge in every municipality where there is no Court of First Instance and Trial, who shall have jurisdiction in the corresponding district.*

Considering that the Ministry of Justice is planning some legal changes, it would be appropriate to follow the prevailing provisions outlined in the European Charter of Lay Judges, particularly with regard to Points seven, ten and eleven:

*Point 7. The election, designation and appointment of lay judges and arbitrators should be compliant with the objective criteria and be appropriate, without political interference.*

With more frequency than would be desirable, those who are proposing this - the majority of members in the municipal plenary - do not recognise its functions and it is often the case that they propose some person who is closely affiliated to the party of the local government and who reflects party policy - we

would like this aspect to be given special consideration - which is what is occurring at the highest echelons of the judicial ladder, most evidently in the General Council of the Judiciary (GGPJ). We support the declaration made by the Minister of Justice that "the moment has arrived to separate the powers", and we think it would be advisable to begin with the lowest echelon of the Administration of Justice.

*Point 10. The lay judges and arbitrators must be represented at all government and administrative levels in matters that are relevant to their functions.*

And this is one of the first demands regarding jurisdiction in our state, whose opinion is considered alongside that of prestigious legal experts, which is to amend the systematic disregard of Point 3 of Art.122 of the Treaty on the European Union, since they are not members of any judicial category among the components of their government and, what is worse, there has been a systematic failure to comply with the intention declared in Point 3 of Art. 113 of the Organic Law of Judicial Power (LOPJ), in which a written brief must be submitted by the associations about any draft regulations being developed that might affect them.

*Point 11. The lay judges and arbitrators must receive initial training, which is properly funded during their period of service, as well as have access to adequate resources, including IT.*

Those proposed by the local governments to act as lay judges must, before taking up office, take part in a training course for lay judges using IT which will enable them to acquire the knowledge they need to perform their work with a sufficient level of competence. After successfully completing a small questionnaire via telematics, they will receive a certificate of aptitude to be able to fill the aforementioned post. The oath stipulates that in taking up the post one may also dedicate oneself to another activity, and has sufficient time to pursue one's task, including assisting in successive courses offered, so that the significance of the lay judges is not called into question. The lay judge's approach to conflict shall be without the reverence given to the career judge.



Francisco Lasheras Dominguez, President of the Federacion Estatal de Asociaciones de Justicia de Paz y Proximidad (FEDEAJUPA) and Asociaciones Democrática de Justicia de Paz (ADJP)

# LAY JUDGES UNDER THREAT: THE CASE OF FINLAND

Since the year 2003 there has been a trend of diminishing the role of lay judges in jurisdiction in Finland. That year a report was published by the *Commission to inquire into the development trends of the court system in Finland*. Parts of that report have been used in government policies since then.

About the same time the tradition also ended of inviting representatives of lay judges to these commissions inquiring about the development. The main argument for diminishing the role of lay judges, and in some cases even suggestions of abolition, has been economic. Ten years ago we still had 3,700 lay judges in the entire country, and each of them had about 12 to 15 hearings a year. The expenses of lay judges in the entire court system were about 0.9 %, and that all came from the budget of the Ministry of Justice. After that the expenses became part of the budgets of District Courts, and it has become more difficult to get information about them.

It is also noteworthy that in the media it is the Finnish Bar Association which has been the most active in criticizing and demanding the abolition of this thousand years old lay judge system. Various organisations of judges, prosecutors and public legal aid attorneys have organised their own federations, which have actively cooperated with the Bar Association. The Ministry of Justice and government officials have also strongly supported them economically.

The Finnish Lay Judge Association does not have such resources, and it has traditionally not had such role in lobbying. The president of the Lay Judge Association, Mr. Matti Laukkanen, already said in 2006 that "it seems to be very much a question of the future employment of the children of those in legal professions today."

After the Report of 2003 and the legislation based on it, at least the following changes have actually taken place in the role of lay judges in Finland.

- Lay judges were removed from all the civil and family cases.
- Number of District Courts was reduced from 54 to the present 27.
- Written procedures, without persons concerned, are used in many cases.
  - Structure of the bench has been changed
  - Only one legally qualified judge in the cour-

room if the sentence in the beginning of the hearing is supposed to be a maximum two years of imprisonment. If after the beginning of the hearing there are going to be more charges against the defendant, the same judge can continue and sentence even seven years.

- Three legally qualified judges and no special regulations when this should be applied.
- One legally qualified judge and three lay judges; used only in the aggravated cases.
- Trainee District Judges have more judicial power, either alone or together with lay judges.
- New category of Junior District Judges, and the number of them has increased.

All these measures have made the number of hearings per lay judge decrease dramatically, and although the number of lay judges since the year 2008 has been only 2,202, that is nearly 1,500 less than earlier. At the same time there are also plans to cut down the number of lay judges to about a half of the present when the next lay judges will be appointed in 2013.

The Finnish Lay Judge Association considers it necessary that the European Lay Judge Organisation should begin its activities immediately to defend the values presented in the European Charter of Lay Judges.

Jouni Elomaa and Matti Laukkanen, Suomen Lautamiehet ry - Finlands nämndemän rf

Jouni Elomaa,  
Finnish  
Lay Judge  
Association

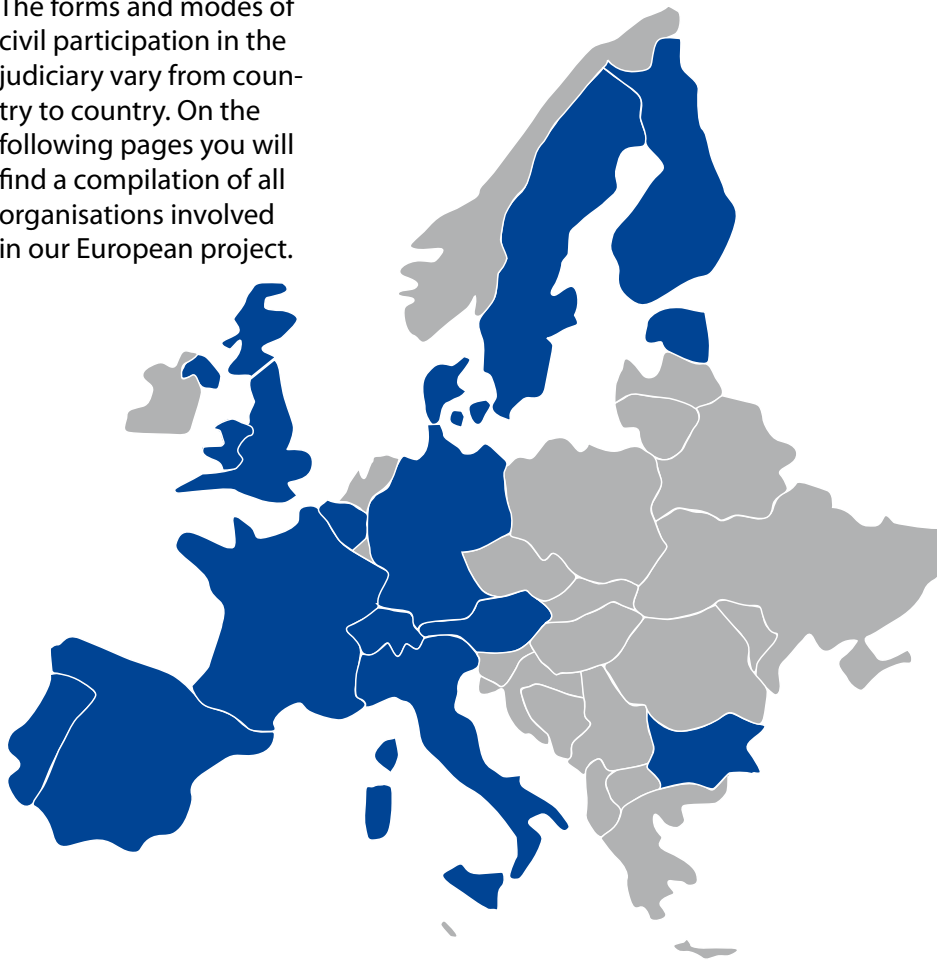


Matti  
Laukkanen,  
Finnish  
Lay Judge  
Association



# PARTICIPANTS IN THE PROJECT

The forms and modes of civil participation in the judiciary vary from country to country. On the following pages you will find a compilation of all organisations involved in our European project.



- Austria**
- Belgium**
- Bulgaria**
- Denmark**
- England**
- Estonia**
- Finland**
- France**
- Germany**
- Italy**
- Northern Ireland**
- Portugal**
- Scotland**
- Spain**
- Sweden**
- Switzerland**
- Wales**

Participants at the European Lay Judge Forum in London 2011



# AUSTRIA



<i>Name of Organisation</i>	<i>Vereinigung der fachmännischen Laienrichter Österreichs</i>
<i>Founding year</i>	<i>1922</i>
<i>Legal status</i>	<i>Association</i>
<i>Organisational structure (management board, general meeting, decision-making, who controls?, finances etc..)</i>	<i>President, up to 5 vice presidents, in total up to 20 board members, decisions by general assembly with ordinary majority, 2 financial auditors</i>
<i>Number of members</i>	<i>60 regular members</i>
<i>Number of board members</i>	<i>Actually 19</i>
<i>What kind of judges do you represent (honorary, lay, non-paid etc.)</i>	<i>Expert judges in commercial matters, honorary (non-paid)</i>
<i>In which fields of law are your members involved in jurisdiction?</i>	<i>Civil commercial law</i>
<i>Internet</i>	<i><a href="http://members.vienna.at/sed/lr.index.htm">http://members.vienna.at/sed/lr.index.htm</a></i>

## How are lay judges involved (procedure)?

There is ONE lay judge in a 3-member senate (chamber), who has the same position and power as the other two career judges.

## What relations does your organisation have with the judiciary and judicial administrative bodies?

No official one, but a good personal contact to all career judges related to commercial civil litigation, a link on the ministry homepage ([www.bmj.gv.at](http://www.bmj.gv.at)), exchange of information concerning new, personal changes, integration of professional judges in the yearly training sessions, etc.

## What other associations or groups of lay judges are there – besides your own organisation – in your country?

None

## What reforms, effects of judicial regulations in your country have significance for your organisation's work and aims?

The permanent increase of the minimum litigation amount – currently EUR 100,000.00 – for civil commercial litigations with a 3-judge senate, including an expert judge in commercial matters (and not as normal with a single professional judge) complicates more and more the participation of these lay judges.

## Where and in what context do you envisage prospects for cooperation on a European level?

Exchange of experience with other countries which have participation of expert judges in civil commercial litigation helps to provide improvement proposals to the juridical administration and politics on how to increase the quality of civil commercial litigation.

Rainer Sedelmayer

# BELGIUM

Name of Organisation	UNION DES JUGES CONSULAIRES DE BELGIQUE asbl UNIE DER RECHTERS IN HANDELSZAKEN VAN BELGIE vzw
Founding year	1969
Legal status	
Organisational structure (management board, general meeting, decision-making, who controls?, finances etc..)	<b>General Assembly</b> = sovereign body Composed of all the members <b>Board of Directors</b> = 27 presidents (lay judge) 1 of each commercial court + executive committee <b>Executive committee</b> = max. 8 persons National president, two vice presidents, a secretary general, a treasurer, a judicial advisor, the editor in chief of IN FORO, any subsidisation, annual membership fee
Number of members	+/- 75 % (1035 lay judges)
Number of board members	35
What kind of judges do you represent (honorary, lay, non-paid etc.)	Lay judges in commercial matters
In which fields of law are your members involved in jurisdiction?	Commercial law
Internet	<a href="http://www.urhb-ujcb.be">http://www.urhb-ujcb.be</a>

## How are lay judges involved (procedure)?

Lay judges have the same rights as the professional judges in deliberate format and in the decisions in the commercial court of first instance.

Lay judges can be designated in bankruptcies as official receiver.

Lay judges can be designated as delegate in procedures "protection against creditors".

Lay judges can be judges in charge of legal enquiries.

## What relations does your organisation have with the judiciary and judicial administrative bodies?

They co-operate in the organisation of schooling.

There is consultation in cases of construction/modification of commercial law.

## What other associations or groups of lay judges are there – besides your own organisation – in your country?

There are lay judges in the court for the settlement of industrial disputes composed of one magistrate and representatives of employers and wage earners.

No national organisation.

## What reforms, effects of judicial regulations in your country have significance for your organisation's work and aims?

## tion's work and aims?

The law of 30/1/2009 on the continuity of enterprises had a serious impact on our tasks as magistrate.

Companies in difficulty can ask the court "protection against creditors" (chapter 11 in the USA) which permits reorganisation.

To control / support those companies the law imposes the appointment of a lay judge to fulfil this delicate time consuming task.

Our national organisation was asked to organise training, etc. as the government had – in a short time – neither the expertise nor the people to organise the training.

## Where and in what context do you envisage prospects for cooperation on a European level?

As more and more companies have a registered office in different European countries the most interesting prospects for cooperation in Europe are the judges in commercial matters who are involved in bankruptcy-problems and international payment transactions (cp. the new European directive).

They can be helpful to start a European crossroads bank for enterprises.

Paulette Vercauteren

# BULGARIA



<i>Name of Organisation</i>	<i>National Association Of Lay Judges Bulgaria</i>
<i>Founding year</i>	<i>2004</i>
<i>Legal status</i>	<i>NGO</i>
<i>Organisational structure (management board, general meeting, decision-making, who controls?, finances etc..)</i>	<i>The General Assembly of all the members of the Association is the decision-making body. Board of the Association: 3 to 5 members.</i>
<i>Number of members</i>	<i>180 (none of them pays a membership fee - Bulgaria is the poorest country in the EU; most of them don't have a mandate anymore, so they have lost interest.)</i>
<i>Number of board members</i>	<i>3</i>
<i>What kind of judges do you represent (honorary, lay, non-paid etc.)</i>	<i>Lay judges</i>
<i>In which fields of law are your members involved in jurisdiction?</i>	<i>Criminal law; administrative law only in cases of parental custody rights.</i>

## How are lay judges involved (procedure)?

Law on Judiciary stipulates: Lay Judge is a Bulgarian citizen 21–65 years old, good reputation, not been convicted. General Assembly of judges of respective court determines number of lay judges to be proposed by each Municipal Council (MC). Municipal councils elect committee, which reports back after collecting candidatures; conditions electronically advertised in advance by municipality. Biggest political group in MC presents the biggest number of candidatures; second one – less ... Councillors vote, then send their decision to court. At General Meeting, judges vote en block the municipal decision. 5 years mandate, judiciary budget.

## What relations does your organisation have with the judiciary and judicial administrative bodies?

The Association has established regional sections to some of the courts which interact with the administrative authorities.

## What other associations or groups of lay judges are there – besides your own organisation – in your country?

There are councils of lay judges established to all respective courts: requirement of the Supreme Judicial Council (SJC). They are supposed to facilitate administrative and organisational issues, addressed by the lay judges to the court and to the SJC. Those councils exist on paper only. Their main task is “to organise improving of qualification of lay judges” (SJC). None of this has ever happened: no initiative and no means of support (membership fee). According to NGO

research, the great majority of Bulgarian lay judges lack any kind of knowledge and understanding of law jurisprudence.

## What reforms, effects of judicial regulations in your country have significance for your organisation's work and aims?

Bulgaria has been subjected to strong criticism by EU because of its judicial system. None of the reforms have so far targeted lay judges: court remains unaffected. It is unacceptable that lay judges are not involved – neither in the general strategy against corruption, nor in separate training. Besides training being our main goal, we would also like to achieve a new approach in the election process of lay judges that will finally provide transparency and non-partisan model of a preliminary selection.

## Where and in what context do you envisage prospects for cooperation on a European level?

Unfortunately, we could not contribute money. But we will be happy to learn and further implement good practices. European criteria for selection/election of lay judges might be of great help to ensure that lay judges are true representatives of civil society. Co-operation with other countries could open the way for exchanging training activities and experts. Practical advice and directions are also needed. Some food for thought: as from April 2012, Bulgarian lay judges are paid less than 2.5 (two and a half) EUR per day if they attend a court case that lasts less than an hour. Shocking, isn't it?

Lydia Lecheva



## DENMARK

<i>Name of Organisation</i>	<i>Foreningen af Sø- Handelsrettens sagkyndige dommere (The association of the expert judges appointed to the Maritime and Commercial Court)</i>
<i>Founding year</i>	<i>The Maritime and Commercial Court in 1862 - our association in 1924</i>
<i>Legal status</i>	<i>Our association is in constant dialogue with the President of the Maritime and Commercial Court. Our function is purely advisory.</i>
<i>Organisational structure (management board, general meeting, decision-making, who controls?, finances etc..)</i>	<i>Our members are the current and former expert judges in the Maritime and Commercial Court. Membership is voluntary. The association's only source of income comes from an annual membership fee of approx. 100 euro per member</i>
<i>Number of members</i>	<i>Approx. 85% of all 119 expert judges appointed to the Maritime and Commercial Court are members of our association. Also approx. 50 former judges are members.</i>
<i>Number of board members</i>	<i>The Board consists of 8 members incl. the chairman</i>
<i>What kind of judges do you represent (honorary, lay, non-paid etc.)</i>	<i>All expert judges are appointed among leading business people and nominated by 31 organisations (including the Danish Chamber of Commerce, Confederation of Danish Industry, Ship Owners' Association)</i>
<i>In which fields of law are your members involved in jurisdiction?</i>	<i>The Danish Trade Marks Act, The Design Act, the Marketing Practices Act, the Competition Act. Cases concerning international trade conditions, and other commercial matters, as well as Maritime matters. Particular employment disputes.</i>
<i>Internet</i>	<i><a href="http://www.domstol.dk/soehandelsretten/Pages/default.aspx">http://www.domstol.dk/soehandelsretten/Pages/default.aspx</a></i>

Before answering the above questions it makes most sense to explain as follows:

### **The Danish juridical system:**

The Danish Courts are composed of the Supreme Court, the two High Courts, the Maritime and Commercial Court, and 24 district courts, the courts of the Faroe Islands and Greenland, the Appeals Permission Board, the Special Court of Indictment and Revision, the Danish Judicial Appointment Council and the Danish Court Administration.

### **Lay judges, magistrates, lay assessors, jurors, arbitrators, and expert judges**

Except for expert judges, appointment of the above-mentioned is a civic, which means a task imposed by government and which one has a duty to defend. You are normally appointed only for a period of 4 years. Those persons are involved solely in criminal cases, mostly in the district courts.

Until 2006 expert judges were used almost exclusively in the Maritime and Commercial Court, where judgements have appeal directly to the Supreme Court. From 2007 it was determined that the expert

judges to a certain extent also had to be involved in the District Court and the High Court, the practice here has not been any major deployment.

Appointment of expert judges at the Maritime and Commercial Court are considered an honorary position. The appointment is for a four year period, but unlike the above most persons are reappointed until they are 70 years of age. As a result of this practice these people achieve very much practical experience in the court and experience with assessment and judgement.

The jury in the Maritime and Commercial Court in a hearing is usually composed of one professional judge and two or four experts. In major cases 3 professional judges and 4 experts. Each person has one vote.

Our association has consultation, if legal changes are made, otherwise no contact.

There are no other associations or organisations in Denmark performing lay judges' interests.

Ministry of Justice, Judicial Council, and Court Agency have significance for our organisation.

Allan Suhrke





<i>Name of Organisation</i>	<i>Estonian Union of Lay Judges</i>
<i>Founding year</i>	<i>2012</i>
<i>Legal status</i>	<i>NGO</i>
<i>Organisational structure (management board, general meeting, decision-making, who controls?, finances etc..)</i>	<i>Management Board, once a year the annual meeting, control is exercised by the annual meeting, which can call for a review</i>
<i>Number of members</i>	<i>15</i>
<i>Number of board members</i>	<i>2</i>
<i>What kind of judges do you represent (honorary, lay, non-paid etc.)</i>	<i>Lay judges</i>
<i>In which fields of law are your members involved in jurisdiction?</i>	<i>Criminal law and criminal policy, NGO network</i>

### **How are lay judges involved (procedure)?**

Members can participate in the general meeting and all activities of the organisation.

### **What relations does your organisation have with the judiciary and judicial administrative bodies?**

Consultative relations and potential partnership in projects.

### **What other associations or groups of lay judges are there – besides your own organisation – in your country?**

There are no other associations or groups in Estonia for lay judges.

### **What reforms or effects of judicial regulations in your country have significance for your organisation's work and aims?**

The Estonian Union of Lay Judges sent the application to the Estonian Parliament (Riigikogu) on 25th May 2012. The Estonian Union of Lay Judges is of the opinion that the decision of the Legal Affairs Committee to add a new Section 7 to the draft law, amending the text of Section 18 of the Code of Criminal Procedure does not fully achieve the objectives of legislative drafting. Under the current law lay judges are involved in proceedings concerning criminal offences in the first degree.

The Estonian Union of Lay Judges finds that Section 7 of the draft is not in full compliance with the principles of the rule of law and of democratic administra-

tion of justice because it restricts the participation of lay judges in the administration of justice. Democratic administration of justice in accordance with European values cannot be regarded as an unreasonable waste of resources.

The Estonian Parliament decided not to re-word the whole of Section 18 of the Criminal Procedure Act and partly accepted the application.

The Estonian Union of Lay Judges sent the European Charter of Lay Judges to the Estonian Parliament (Riigikogu).

### **Where and in what context do you envisage prospects for cooperation on a European level?**

The Estonian Union of Lay Judges has participated in the drafting and signing of the European Charter of Lay Judges. It envisages prospects for cooperation on a European level in the following fields:

- Cooperation in teaching lay judges in Estonia;
- Cooperation in exchanging the information and knowledge;
- Participation in law-making processes and activities for lay judges on EU level.

Merle Haruoja



## ENGLAND AND WALES

<i>Name of Organisation</i>	<i>The Magistrates' Association</i>
<i>Founding year</i>	<i>1920</i>
<i>Legal status</i>	<i>An Incorporated Body, given legal charter status in 1962 by Her Majesty Queen Elizabeth II. A supplemental charter was given in 2005 which altered responsibilities and invested more powers in the board of trustees.</i>
<i>Organisational structure (management board, general meeting, decision-making, who controls?, finances etc..)</i>	<p><i>The Magistrates' Association is a membership organisation, organised through a branch structure representing magistrates' in England and Wales.</i></p> <p><i>Two representatives from each of the 61 branches sit on the National Council which meets twice a year. Members of the board of trustees and committees are drawn from the Council. The three national officers - chairman and two deputy chairmen, sit on the Board of Trustees(BoT) and are elected from within the council membership annually, but can stand for re-election to serve for up to three years in the role. The honorary treasurer is appointed by the BoT.</i></p> <p><i>The AGM is held usually in the autumn in London but every third year out of London. The AGM is open to all members and is a valuable opportunity to debate issues, meet colleagues and put questions to the Association officers.</i></p> <p><i>At the AGM the statutory motions include the election of auditors for the ensuing year and the consideration and adoption of the Annual Report and Accounts.</i></p> <p><i>Motions submitted by branches are debated to establish MA policy on topical subjects.</i></p>
<i>Number of members</i>	<i>23,500 (as of June 2012)</i>
<i>Number of board members</i>	<i>12</i>
<i>What kind of judges do you represent (honorary, lay, non-paid etc.)</i>	<i>Lay judges who are not paid</i>
<i>In which fields of law are your members involved in jurisdiction?</i>	<i>Criminal law including youth (young persons aged 10-17) and adult those aged 18 and over; family law to include private and public law, limited civil cases e.g. Council Tax or dealing with some licensing appeals. In the Crown Court two magistrates sit with a Crown Court judge to hear appeals on decisions of guilt and innocence and on sentence.</i>
<i>Internet</i>	<i><a href="http://www.magistrates-association.org.uk/">http://www.magistrates-association.org.uk/</a></i>



### How are lay judges involved (procedure)?

In England and Wales magistrates or JPs are selected by committees on behalf of the Lord Chancellor and Lord Chief Justice and almost anyone can apply. They do not need to be legally qualified.

Magistrates usually sit in court as a panel of three but the chairman is the only one to address the court. Legal advice is given by a qualified legal adviser. However, the magistrates decide on guilt or innocence and give the sentence. A single magistrate does have limited powers regarding custody and search warrants.

In England and Wales there are three categories of criminal offence:

1. Summary offences i.e. less serious offences heard only in magistrates' courts;
2. Either way offences which can also be heard in the Crown Court;
3. Indictable offences can only be heard in the Crown Court.

Magistrates have powers to issue warrants, also to give discharges, financial penalties, community sentences and custody up to six months (or for 12 months for two separate either-way offences; for youths under 18 years custody up to two years).

### What relations does your organisation have with the judiciary and judicial administrative bodies?

The Magistrates' Association works closely with the senior judiciary especially the Senior Presiding Judge who gives guidance to magistrates.

Other key organisations include several Government bodies and departments such as the Home Office, Ministry of Justice. It briefs members of Parliament and peers on legislation. Other key bodies include: the Crown Prosecution Service, National Offender Manager Service and the Youth Justice Board and the Sentencing Council.

The MA works with many partner organisations such as Victim Support, Howard League for Prison Reform.

### What other associations or groups of lay judges are there – besides your own organisation – in your country?

There is no independent formal organisation for all the lay assessors / tribunal members who sit on quasi-judicial tribunals hearing employment, tax or issues.

### What reforms, effects of judicial regulations in your country have significance for your organisation's work and aims?

Parliament through its legislation, case law produced after appeals and changes to the Sentencing Council's guidelines.

### Where and in what context do you envisage prospects for cooperation on a European level?

The MA supports the charter for lay judges signed on 11 May 2012 and sees prospects for cooperation on specific paragraphs including those such as:

- The right of participation by the people in dispensing justice is an element of civil emancipation and a fundamental principle in any democratic society. Lay judges bring valuable wide experience of life to justice and can improve efficiency and increase acceptance of decisions.
- All members of a court are independent and have equal rights in decision making. They should be subject to the same codes of conduct and disciplinary procedures.
- Lay judges and arbitrators are to be protected from any discrimination or any disadvantage in their original profession.
- Lay judges and arbitrators are to be represented at every level in the governance and administration of matters relevant to their office.
- Where lay judges are to receive properly funded training and to have access to appropriate resources including information technology.

The MA has recently worked on a project to promote an "active, accessible and engaged magistracy for the 21st Century" funded by The Monument Trust. Cooperative research at European level would seem essential for the future of the magistracy.

John Fassenfelt



## FINLAND

<i>Name of Organisation</i>	<i>Suomen Lautamiehet ry Finlands nämndemän rf</i>
<i>Founding year</i>	<i>1971</i>
<i>Legal status</i>	<i>Registered Association. Only national lay judge organisation in Finland.</i>
<i>Organisational structure (management board, general meeting, decision-making, who controls?, finances etc..)</i>	<i>Annual general meeting once a year in March. This assembly elects members of the board (3-8 persons) and a president for two years. Board has four meetings a year. Board elects an executive committee consisting of president and two members of the board. This committee submits its proposals for the decisions to the board. Finances of the Association come mainly from membership fees and a contribution from the Ministry of Justice. These are used for publishing the bulletin 'Lautamies' and organising training for lay judges.</i>
<i>Number of members</i>	<i>There are persons and associations amongst members, altogether about 980 members, eight of which are local associations.</i>
<i>Number of board members</i>	<i>President and six members</i>
<i>What kind of judges do you represent (honorary, lay, non-paid etc.)</i>	<i>Only lay judges</i>
<i>In which fields of law are your members involved in jurisdiction?</i>	<i>Criminal law, only aggravated cases</i>
<i>Internet</i>	<i><a href="http://www.suomenlautamiehet.fi">http://www.suomenlautamiehet.fi</a></i>

1. Lay judges are summoned to the session of the district court, usually three lay judges with one legally qualified judge. Both lay judges and the career judge have one vote each. When there is a tie in vote, the one most advantageous to the defendant will prevail.

2. The Finnish Lay Judge Association has very good relations of high standing with the Ministry of Justice as well as with all the other parties, such as the Supreme Court, Courts of Appeal, District Courts, Prosecutor General of Finland, universities etc. There are participating training seminars for lay judges. Representatives of the Association are invited to the regional meetings of judges and prosecutors, events often participated in also by advocates.

3. Besides the national Association of Lay Judges, there are eight local associations. Other types of lay judges are not organised.

4. In the legislation the need of lay judges is defined in District Courts. At the same time the number of lay judges and sessions they participate in have been

reduced. Lay judges only participate in hearings where aggravated cases (imprisonment of two years or more) are dealt with. Also in these cases the legally qualified judge can decide if lay judges are summoned or if the court will consist of three professional judges.

5. For the role of lay judges in dispensing justice to be maintained, there is an urgent need for a European organisation which looks after lay judges' interests. We already have a draft for the statutes of that organisation. This organisation can be in co-operation with various bodies of the European Union and the Council of Europe. In this way there will also be possibilities for economic resources to be used for common information and training. The administration of the organisation should be elected in an assembly organised together with a training session. Expenses for the national associations can be minimized when most of the activities, like meetings of the executive board, are organised using the internet.

Jouni Elomaa



Name of Organisation	Association nationale des juges de proximité (ANJP)
Founding year	2004
Legal status	Association loi de 1901
Organisational structure (management board, general meeting, decision-making, who controls?, finances etc..)	Management Board with 1 President, 2 Vice Presidents, 1 Secretary, 1 Treasurer Annual General Meeting of members which votes on the budget and on Board activity reporting Resources come from membership fees
Number of members	290
Number of board members	13
What kind of judges do you represent (honorary, lay, non-paid etc.)	Lay judges
In which fields of law are your members involved in jurisdiction?	Civil and criminal
Internet	<a href="http://www.anjp.fr/">http://www.anjp.fr/</a>

### 1. How are lay judges involved (procedure)?

“Juges de proximité” are involved as single judge in small claims (civil cases up to 4,000 euros) and petty offences (criminal cases punished by a fine up to 750 euros). They can also be a winger in a criminal court dealing with lesser offences (up to 10 years jail).

### 2. What relations does your organisation have with the judiciary and judicial administrative bodies?

At national level ANJP has relationships with the Ministry of Justice, Department of Legal Services, on the topics of general interest for the members such as: regulations defining our competence, recruitment, training, compensation policy, organisation of the work in the courts, legislation in preparation for our competence and organisation of our activity.

At local level, regional delegates of the association are related to the Heads of Courts of Appeal for local questions (administration and organisation of work).

### 3. What reforms, effects of judicial regulations in your country have significance for your organisation's work and aims?

Up to 1st January 2013 “jurisdiction de proximité” will be suppressed as a specific first level jurisdiction for civil and criminal cases.

Juges de proximité will remain in charge of petty offence cases as judges in “Tribunal de Police”

Juges de proximité will be integrated in District Court (Tribunal de Grande Instance) and will have new charges as winger in collegial Court dealing with civil cases more than 10,000 euros.

### 4. Where and in what context do you envisage prospects for cooperation on a European level?

A European Network of Lay Judges Associations seems necessary in order to support, implement and develop the role and the situation of lay judges in the whole of the European Union.

To this effect contacts would be made with the European Commission and also with European Parliament, which is an approach for the expression of democratic representation of citizens.

Also there should be a search for contacts with other European networks of professional judges or courts.

Initial work would be to create a booklet presenting the current involvement of lay judges in the judiciary of different European countries, as a support for the future contacts with European bodies.

This would be also a first step for a research activity which could make the action of the network more credible.

Another aim of the Network would be to set up exchanges of information and experience between member organisations.

G rard Chambard

## FRANCE - FNAPTE

Name of Organisation	Fédération Nationale des Assesseurs Près les Tribunaux pour Enfants (FNAPTE / National Federation of Juvenile Court Associate Judges)
Founding year	Declaration of establishment registered at Bordeaux on 16 January 1993
Legal status	Association as provided by the act of 1901 (non-profit making association)
Organisational structure (management board, general meeting, decision-making, who controls?, finances etc..)	The association's organisational set-up consists of a president, an administrative board and a general assembly. The president represents FNAPTE in all legal transactions. He or she orders expenditure, and is authorised to institute legal proceedings. The administrative board meets at least twice a year. The general assembly, the association's active members, meets at least once every two years.
Number of members	About 180 members
Number of board members	12 members
What kind of judges do you represent (honorary, lay, non-paid etc.)	FNAPTE represents juvenile court lay judges.
In which fields of law are your members involved in jurisdiction?	The members of FNAPTE, who are associate judges (lay judges), dispense justice for minors by participating in the deliberations of juvenile courts set up under the 1945 Order.
Internet	<a href="http://www.fnapte.free.fr">www.fnapte.free.fr</a>

### How are lay judges involved (procedure)?

Juvenile courts consist of a professional judge, who presides over the hearing, and two associate judges.

### What relations does your organisation have with the judiciary and judicial administrative bodies?

FNAPTE maintains relations with the ministry of justice, which assists us financially according to the terms of an annual agreement, which, on the one hand, states the goals that our association has to accomplish and, on the other hand, the amount of the subsidy allocated to us by the ministry.

FNAPTE members also maintain excellent relations with professional juvenile court judges. A number of associate judges (lay judges) belong to the Association Française des Magistrats de la Jeunesse et de la Famille (French Association of Juvenile and Family Court Magistrates).

### What other associations or groups of lay judges are there – besides your own organisation – in your country?

On the occasion of the signature of the European Charter on Lay Judges, it came to my notice that the

Association Nationale des Juges de Proximité (National Association of Local Magistrates), which represents these lay judges, was present and a signatory to the Charter.

### What reforms, effects of judicial regulations in your country have significance for your organisation's work and aims?

In recent years, most of the reforms of the 1945 Order governing the juvenile justice system have been aimed at eliminating the particular features of this system and at bringing it closer to the adult justice system. It is to be hoped that this goal is no longer the order of the day.

### Where and in what context do you envisage prospects for cooperation on a European level?

As regards the legal form of a European cooperative body the most suitable one would be a non-profit organisation. The situation of lay judges ought to be harmonised in the various countries of the European Union on the basis of the commitments embodied in the European Charter signed on 11 May 2012.

Jean-Pierre Roques

# GERMANY - DVS



Name of Organisation	Bundesverband ehrenamtlicher Richterinnen und Richter Deutsche Vereinigung der Schöffinnen und Schöffen e.V.
Founding year	1989
Legal status	Registered association
Organisational structure (management board, general meeting, decision-making, who controls?, finances etc..)	Umbrella organisation of the 7 state associations, 3-person honorary federal executive board, the association has a federal structure and a members' meeting every two years: this elects the federal executive board, which draws up the basic resolutions on association policy and finances. The finances are collected through the membership contributions of the state associations. The federal association publishes a magazine, which is sent to all members and to subscribers.
Number of members	The federal association has seven members (state associations), which in turn organise approx. 1,200 persons.
Number of board members	3
What kind of judges do you represent (honorary, lay, non-paid etc.)	Lay judges / honorary judges
In which fields of law are your members involved in jurisdiction?	Civil law (agricultural judges – commercial judges have their own), criminal law (jury), administration law, labour law, social law, financial law, constitutional law.
Internet	<a href="http://www.schoeffen.de/">http://www.schoeffen.de/</a>

## How are lay judges involved (procedure)?

See web site <http://www.schoeffen.net/ehrenamtliche-richter/lay-judges-in-germany>

## What relations does your organisation have with the judiciary and judicial administrative bodies?

Lay labour and social judges are represented at all courts in a "committee of lay judges". The federal association is a member in the "German Foundation for International Legal Cooperation", in the "Bündnis für Recht – Law made in Germany" and in the Sino-German dialogue on states under the rule of law. The federal association is consulted as expert association for legislation projects by the German Federal Ministry of Justice (BMJ).

## What reforms, effects of judicial regulations in your country have significance for your organisation's work and aims?

Most recently in 1993 the Administration of Justice Relief Act, which reduced the participation of the jury at Local Courts by approx. 50 %. In June 2012 the Standing Conference of Justice Ministers requested

the BMJ to introduce further restrictions for lay social judges.

## Where and in what context do you envisage prospects for cooperation on a European level?

Above all in preventing further restrictions and in exercising influence on the European committees for securing the participation and expansion also to European courts.

## What other associations or groups of lay judges are there – besides your own organisation – in your country?

Federal Association of Commercial Judges

German Federation of Arbitrators

At individual courts of labour and social jurisdiction there are associations which are restricted to the respective court.

Hasso Lieber



## GERMANY - BDS

<i>Name of Organisation</i>	<i>Bund Deutscher Schiedsmänner und Schiedsfrauen e. V.</i>
<i>Founding year</i>	<i>1950</i>
<i>Legal status</i>	<i>Registered association</i>
<i>Organisational structure (management board, general meeting, decision-making, who controls?, finances etc..)</i>	<i>Umbrella organisation, 12 state associations, 77 district associations, each with their own executive committees. The federal representatives' meeting decides on fundamental issues (every 4 years). The association is financed by contributions from the towns and local authorities. Controls are carried out in the members' meetings in the subdivisions.</i>
<i>Number of members</i>	<i>Approx. 1,5000</i>
<i>Number of board members</i>	<i>Federal association approx. 20; approx. 15 in each of the 12 state associations; approx. 8 in in each of the district associations.</i>
<i>What kind of judges do you represent (honorary, lay, non-paid etc.)</i>	<i>Arbitrators</i>
<i>In which fields of law are your members involved in jurisdiction?</i>	<i>Pre-litigation arbitration of disputes in accordance with Section 380 of the German Code of Criminal Procedure (StPo).</i>
<i>Internet</i>	<i><a href="http://www.schiedsamt.de/">http://www.schiedsamt.de/</a></i>

1. Arbitrators work in the field of pre-litigation. They try to arbitrate in criminal law in accordance with Section 380 of the German Code of Criminal Procedure in the case of private action delicts, in civil law in the case of neighbourhood disputes and in disputes about money. In some German Länder (states) arbitration is mandatory in the field of civil law.

2. The arbitrators are affiliated to the Local and Regional Courts. The arbitrators are deployed and sworn in there and the content of their activities is examined there. The arbitrators are elected by the parliaments in the local authorities.

In some Länder the implementation of Section 15 a of the Introductory Act to the Code of Civil Procedure has strengthened because mandatory arbitration of disputes was introduced in civil cases.

3. Through the cooperation with other European organisations the BDS is hoping for broad recognition and an increase in pre-litigation arbitration.

In the Federal Republic of Germany there are different mediator associations whose importance has been enhanced by the Mediation Act in July 2012. In addition to this the Chamber of Industry and Commerce, the Berlin Chamber of Handicrafts, the Berliner Lawyer's Association and the Consumer Advice

Centre offer out-of-court arbitration opportunities. There are also ombudsmen in specialist fields (in insurances, in medicine, etc.).

Many arbitrators are members of the German Federal Association of Lay Judges, insofar as they work as lay judges.

The Bund Deutscher Schiedsmänner und Schiedsfrauen e.V. is listed as an interest group for arbitrators in the "Berliner Bündnis – Außergerichtliche Streitbeilegung" (Berlin association for out-of-court settlement of disputes).

Heinz Winkler





Name of Organisation	Associazione Nazionale Giudici di Pace
Founding year	1994
Legal status	Association of the Judges of Peace
Organisational structure (management board, general meeting, decision-making, who controls?, finances etc..)	The National Steering Committee meets twice a year and adopts the decisions It approves the annual budget. Other bodies are the Board of Governors, the Arbitration Committee and The College of Auditors.
Number of members	
Number of board members	- nine members in the executive council (Giunta Esecutiva) - twenty-six members in the board of governors (Consiglio Direttivo) - five members in the arbitration committee (Collegio dei Probiviri) - five members in the college of the auditors of the accounts
What kind of judges do you represent (honorary, lay, non-paid etc.)	Judges of Peace
In which fields of law are your members involved in jurisdiction?	We are present in the judicial proposals of every Court of Appeal.
Internet	<a href="http://www.angdp.it/page/Organi.aspx">http://www.angdp.it/page/Organi.aspx</a>

## How are lay judges involved (procedure)?

The judge of peace is the first step of the Italian jurisdiction. He/she has competence for subject and for value. He/she is occupied with the civil subject and penalty and the clandestine immigration.

In Italy there are two categories of honorary lay judges:

1) The judges of peace which represent the first step of the jurisdiction have an autonomy of office and function of subject foreseen by both the civilian and penal code of procedure.

The President of the Court has performed vigilance on these offices.

2) The honorary judges of court and the deputy honorary attorneys are auxiliaries of the professional judge and they depend on him for dealing with causes that are assigned with criteria that the President of the Court or the Attorney of the Republic near the Court decides.

## What relations does your organisation have with the judiciary and judicial administrative bodies?

The judge of peace has some magistracy to all the effects, in the offices there is the coordinator that is the head office and he develops the functions of administration inside the office both as he regards the personnel that to entertain relationships with the other hierarchical offices, Court, Court of Appeal.

## What other associations or groups of lay judges are there – besides your own organisation – in your country?

In Italy besides the Judges of Peace there is the Honorary Judges of Court and the Deputy Honorary Attorneys. The Judge of Peace belongs to the jurisdiction with an own autonomy. The GOTs and the VPOs are an auxiliary of the professional titular Judges.

## What reforms, effects of judicial regulations in your country have significance for your organisation's work and aims?

The Judges of Peace that are anticipated from the Italian Constitution (art.116) have been fighting for a long time to have continuity of the charge and recognised possession of the right to foresight. The job is paid on the basis that it produces sentences and definition of the issues.

## Where and in what context do you envisage prospects for cooperation on a European level?

The European Community should itself deal with the lay judges that are a reality and push Member States to regulate the relationships with these figures of Judges that provide a notable contribution towards justice: without the GdPs, the GOTs and VPO, Italy would face a collapse in the field of justice.

Margherita Morelli

## ITALY- FERDERMOT

<i>Name of Organisation</i>	<i>Federazione dei magistrati onorari di Tribunale (FERDERMOT)</i>
<i>Founding year</i>	<i>2001</i>
<i>Legal status</i>	<i>Association</i>
<i>Organisational structure (management board, general meeting, decision-making, who controls?, finances etc..)</i>	<i>Board members elected by the associates every four years Assembly of all members meets once a year</i>
<i>Number of members</i>	<i>About 2000</i>
<i>Number of board members</i>	<i>Nine</i>
<i>What kind of judges do you represent (honorary, lay, non-paid etc.)</i>	<i>Honorary judges, public prosecutors of Tribunale</i>
<i>In which fields of law are your members involved in jurisdiction?</i>	<i>Representative in every circuit of Tribunale Civil and criminal law</i>
<i>Internet</i>	<i><a href="http://federmot.it/home.htm">http://federmot.it/home.htm</a></i>

### **How are lay judges involved (procedure)?**

Most of them are employed on a full-time basis and don't have any other occupation. They perform the same duties and the same work of professional judges but they don't get a salary.

### **What relations does your organisation have with the judiciary and judicial administrative bodies.**

The parliament and the government regularly convene our association to get to know our opinion on draft law involving honorary judges and also the justice system.

We have also stable relationships with representatives of professional judges.

### **What other associations or groups of lay judges are there – besides your own organisation – in your country?**

Federmot is the most important association of honorary judges of Tribunale.

In Italy there are other lay judges like the judges of peace and the honorary judges of the Juvenile Court, who are represented by other associations. They perform different functions in the administration of the justice than for honorary judges of the Tribunale (and the professional judges).

### **Where and in what context do you envisage prospects for cooperation on a European level?**

Independence of the judges and also of the lay judges

Maria Paola di Nicola



<i>Name of Organisation</i>	<i>Northern Ireland Lay Magistrates Association</i>
<i>Founding year</i>	<i>2005 (preceded by NI Association of Justices of the Peace [JPs] and NI Association of Lay Panellists)</i>
<i>Legal status</i>	<i>Association</i>
<i>Organisational structure (management board, general meeting, decision-making, who controls?, finances etc..)</i>	<i>Run by Executive Committee consisting of Chairman; Vice Chairman; Honorary Treasurer; Honorary secretary; Divisional Chairmen (7); Training Sub-committee representative; Presiding Lay Magistrate. Chairmanship of the Association is on a two yearly cycle and the incumbent is not eligible for re-election at the end of the term.</i>
<i>Number of members</i>	<i>Approx 200</i>
<i>Number of board members</i>	<i>13 members on Executive Committee (de facto Board)</i>
<i>What kind of judges do you represent (honorary, lay, non-paid etc.)</i>	<i>Lay magistrates</i>
<i>In which fields of law are your members involved in jurisdiction?</i>	<i>Family Proceedings and youth in magistrates' courts Assessors on (youth) appeals in county courts Signatory duties on warrants etc. out of court.</i>

### How are lay judges involved?

Each sitting in both Family Proceedings Court and Youth Court is presided over by a bench of two Lay Magistrates and one District Judge (from full time judiciary) – decisions made by simple majority, except on a purely legal issue where the presiding district judge has sole authority.

Sitting on emergency protection orders either: (a) alone; in an Ex Parte Application or (b) in panel with District Judge for Inter Partes Application.

### What relations does your organisation have with the judiciary and judicial administrative bodies?

Strong ties with Judicial Studies Board (for training) and Judicial Services Group (for miscellaneous admin issues) – regular meetings held with both by Chairman and Vice Chairman.

### What other associations or groups of lay judges are there – besides your own organisation – in your country?

None.

### What reforms, effects of judicial regulations in your country have significance for your organisation's work and aims?

None at present.

### Where and in what context do you envisage prospects for cooperation on a European level?

Sharing of experiences via regular (albeit perhaps infrequent) meetings and training sessions on common themes.

Deirdre Kennedy



# PORTUGAL

Name of Organisation	Justice Of Peace Court
Founding year	2001
Legal status	Court
Organisational structure	Justices of Peace Association
Number of members	22 Justices of Peace
Number of board members	22 Justices of Peace
What kind of judges do you represent (honorary, lay, non-paid etc.)	Nominated by the Ministry of Justice for three-year mandates, which are renewable. Whilst exercising their functions, they may not carry out any other public or private function of a professional nature. Remuneration corresponds with that of a superior technician of Public Administration.
In which fields of law are your members involved in jurisdiction?	Competence over conflicts whose values in question do not exceed 5,000 euros. Competence to hear and pronounce verdicts with regard to: fulfilment of obligations excludes mass litigations; delivery of property; rights and obligations of condominium fees; neighbouring properties; possession and squatting; common ownership areas of a property; contractual or extra-contractual civil responsibility; non-fulfilment of contract obligations, except work contracts and rural letting. Are also competent for civil compensation whenever a formal criminal complaint has not been filed or if the complaint has been dropped from simple physical offences; physical offences by negligence; defamation; slander; simple theft; simple damage; alteration of territorial boundaries; fraud to obtain food, drink or services. The hearing of civil compensation cases precludes the possibility of filing a formal criminal complaint regarding that same complaint.

### How are lay judges involved (procedure)?

Peace Judges strive for conciliation between the parties previously. In making their decisions they are not restricted by legal criteria, so they can base the decision on equity if the parties should want this and if the value in question is not up to € 2,500 which corresponds to half of the value the Court of 1st instance has competence over.

### What relations does your organisation have with the judiciary and judicial administrative bodies?

If a party requests expert evidence to be submitted in the case, the Justice of Peace Court loses competence, and the case is sent to the competent Court. The decision proffered by the Justices of Peace carry the same value as the sentences proffered by the Court of 1st Instance. Only sentences which exceed half the value of the 1st instance can be appealed for Judicial District Court.

### What other associations or groups of lay judges are there – besides your own organisation – in your country?

Social Judges as Lay Judges in minor courts (educational guardianship and child protection) and Portuguese Association of Arbitration.

### What reforms, effects of judicial regulations in your country have significance for your organisation's work and aims?

The basis is foreseen and recognised in Article 209, No 2 of the Portuguese Republic Constitution and has its own law associated, (Law 78/2001 of July 13th) approved unanimously by the Portuguese Parliament, to allow for civic participation by interested parties and to encourage a fair and appropriate composition of proceedings agreed upon by all parties.

### Where and in what context do you envisage prospects for cooperation on a European level?

Allows civic participation of stakeholders and encourage a fair and appropriate composition of the procedures agreed by all parties. Recognise the Judge of Peace as an agent of restorative justice, with legal training, specific curriculum and highly qualified.

Dulce Nascimento

# SCOTLAND



<i>Name of Organisation</i>	<i>Scottish Justices Association</i>
<i>Founding year</i>	<i>2007</i>
<i>Legal status</i>	<i>Members Association, with funding from Scottish Government</i>
<i>Organisational structure (management board, general meeting, decision-making, who controls?, finances etc..)</i>	<i>Association run by Executive. Three representatives from each Sheriffdom elected onto Executive. Executive Office bearers elected by Executive.</i>
<i>Number of members</i>	<i>350</i>
<i>Number of board members</i>	<i>18</i>
<i>What kind of judges do you represent (honorary, lay, non-paid etc.)</i>	<i>Lay unpaid Justices of the Peace</i>
<i>In which fields of law are your members involved in jurisdiction?</i>	<i>Summary Criminal Law</i>
<i>Internet</i>	<i><a href="http://www.scottishjustices.org/">http://www.scottishjustices.org/</a></i>

## **How are lay judges involved (procedure)?**

Justices sit as single or triple bench, dependant on local tradition. They have access to a Legal Advisor, if required. Justices hear cases, deliberate, judge and sentence. Sentencing limited to 60 days imprisonment and fines up to £2500. Justices also consider granting out of hours warrants, utility warrants, for the Police/Authorities. They also sign some other official forms for the public.

## **What relations does your organisation have with the judiciary and judicial administrative bodies?**

As an Organisation we are invited to sit on various groups by the Judiciary. And have contact with the administrative body.

## **What other associations or groups of lay judges are there – besides your own organisation – in your country?**

There are no other Justices' groups in Scotland.

## **What reforms, effects of judicial regulations in your country have significance for your organisation's work and aims?**

The organisation was set up following the last major reform. Ongoing effects of judicial regulations are addressed as they arise by the Association's Policy and Legislation sub-committee.

## **Where and in what context do you envisage prospects for cooperation on a European level?**

The Association may benefit from dialogue within the European Arena on items of mutual interest.

Susan Kirkwood



## SPAIN - ADJP

<i>Name of Organisation</i>	<i>Asociaciones Democrática de Justicia de Paz</i>
<i>Founding year</i>	<i>1994</i>
<i>Legal status</i>	<i>Ministry of the Interior</i>
<i>Organisational structure (management board, general meeting, decision-making, who controls?, finances etc..)</i>	<i>Permanent committee, president, secretary, treasurer and eight members</i>
<i>Number of members</i>	<i>432 associates</i>
<i>Number of board members</i>	<i>13</i>
<i>What kind of judges do you represent (honorary, lay, non-paid etc.)</i>	<i>lay judges</i>
<i>In which fields of law are your members involved in jurisdiction?</i>	<i>penal, civil, conciliation, civil registry</i>
<i>Internet</i>	<i><a href="http://www.arrakis.es/~adjp/topic/index.html">http://www.arrakis.es/~adjp/topic/index.html</a></i>

### **How are lay judges involved (procedure)?**

Lay judges are nominated by politicians.

### **What relations does your organisation have with the judiciary and judicial administrative bodies?**

They belong to the judicial power without having any representation, voice or voting rights. The administration of justice provides the means of functioning together with the local governments. Lay judges are chosen for a period of four years and can be reelected if they are fit to carry out their duties and comply with other requisites.

### **What other associations or groups of lay judges are there – besides your own organisation – in your country?**

Points 7, 10 and 11 laid down in the European Charter of Lay Judges are of a special relevance for us.

### **What reforms, effects of judicial regulations in your country have significance for your organisation's work and aims?**

The harmonisation of justice is not viable in a short term, but it is a goal to be achieved in the long run. It would be interesting to have a European mandate that empowers lay justice, urging the Member States to consider the value of this form of justice as a means of evaluating, in turn, the judicial system in general, which is already so disrespected, at least in our country. If the citizens of a country do not at least have faith in their justice system, then it will be difficult to view this country as a democratic and responsible one.

Francisco Lasheras Domínguez



<i>Name of Organisation</i>	<i>Federacion Estatal de Asociaciones de Justicia de Paz</i>
<i>Founding year</i>	<i>2003</i>
<i>Legal status</i>	<i>Ministry of the Interior</i>
<i>Organisational structure (management board, general meeting, decision-making, who controls?, finances etc.)</i>	<i>Board of Directors comprised of presidents of associations. Each participant is funded individually.</i>
<i>Number of members</i>	<i>5 associations</i>
<i>Number of board members</i>	<i>5 presidents</i>
<i>What kind of judges do you represent (honorary, lay, non-paid etc.)</i>	<i>lay judges</i>
<i>In which fields of law are your members involved in jurisdiction?</i>	<i>penal, civil, conciliation, civil registry</i>

### How are lay judges involved (procedure)?

Lay judges are nominated by politicians

### What relations does your organisation have with the judiciary and judicial administrative bodies?

They belong to the judicial power without having any representation, voice or voting rights. The administration of justice provides the means of functioning together with the local governments. Lay judges are chosen for a period of four years and can be reelected if they are fit to carry out their duties and comply with other requisites.

### What other associations or groups of lay judges are there – besides your own organisation – in your country?

Points 7, 10 and 11 laid down in the European Charter of Lay Judges are of a special relevance for us.

### What reforms, effects of judicial regulations in your country have significance for your organisation's work and aims?

The harmonisation of justice is not viable in a short term, but it is a goal to be achieved in the long run. It would be interesting to have a European mandate that empowers lay justice, urging the Member States to consider the value of this form of justice as a means of evaluating, in turn, the judicial system in general, which is already so disrespected, at least in our country. If the citizens of a country do not at least have faith in their justice system, then it will be difficult to view this country as a democratic and responsible one.

### Where and in what context do you envisage prospects for cooperation on a European level?

The functioning and working means of the FEDEAJUPA are highly restricted by the lack of funding from the administration. This means that all the expenses are provided by the association's members.

Francisco Lasheras Domínguez



## SWEDEN

<i>Name of Organisation</i>	<i>Nämndemännens riksförbund NRF, The Swedish National Association of Lay Judges</i>
<i>Founding year</i>	<i>1980</i>
<i>Legal status</i>	<i>NRF is a non- governmental and non-profit association</i>
<i>Organisational structure (management board, general meeting, decision-making, who controls?, finances etc..)</i>	<i>The General Meeting, where all member organisations are represented, convenes every fourth year. The meeting appoints the Board and its Chairman, approves annual reports and decides on statutory changes, budgets, operational planning and membership fees.</i>  <i>The Management Board consists of 15 members of which 4 members are deputies. A Working Committee of 5 board members makes proposals for decision by the full board.</i>  <i>The association is financed through membership fees and by an annual grant from the Swedish National Courts Administration.</i>
<i>Number of members</i>	<i>Around 3,000 members organized in 58 local lay judge associations.</i>
<i>Number of board members</i>	<i>15 ( see above)</i>
<i>What kind of judges do you represent (honorary, lay, non-paid etc.)</i>	<i>Lay judges who are not legally qualified who serve on an honorary basis to maintain public confidence in judicial administration</i>
<i>In which fields of law are your members involved in jurisdiction?</i>	<i>Our members serve in district courts, courts of appeal, administrative courts including migration courts and in administrative courts of appeal.</i>
<i>Internet</i>	<i><a href="http://hem.passagen.se/n.r.f/">http://hem.passagen.se/n.r.f/</a></i>

### How are lay judges involved (procedure)?

In district courts and courts of appeal lay judges participate in most criminal and family cases. In administrative courts including migration courts lay judges participate in most cases but in the courts of appeal only in cases regarding compulsory care. In the first instance courts there are three lay judges who together with the judicial judge take the decisions. Each lay judge votes individually and his vote has the same weight as the vote of the judicial judge. In the courts of appeal there are two lay judges who participate in the decisions together with three judicial judges.

### What relations does your organisation have with the judiciary and judicial administrative bodies?

By the Ministry of Justice and the National Courts Administration our association is seen as spokesman for the lay judges in Sweden. In judicial matters re-

garding lay judges our association is the instance for remittance of proposals for changes in the legislation.

### What other associations or groups of lay judges are there – besides your own organisation – in your country?

Nämndemännens riksförbund NRF is the only association for lay judges on the national level in Sweden. Our members belong to different local organisations knitted to a special court or a judicial district. Most such organisations are our members but a couple of them have chosen to remain unaffiliated.

### What reforms, effects of judicial regulations in your country have significance for your organisation's work and aims?

A Government Committee was recently appointed to make a review of the Swedish lay judge system. The aim is to modernise the system and make sure that it





© Kari Mustonen

*Participants at the meeting in Berlin 2010*

contributes to maintain public confidence for the judicial administration. The committee has as its special tasks to review the recruitment of lay judges and to see to that they have the right competence through improved information and education. It is also within the mandate of the committee to review the extent to which lay judges should participate at the different levels of the judicial process. NRF will be consulted during the course of the committee's work.

**Where and in what context do you envisage prospects for cooperation on a European level?**

In the context of deepening European integration in terms of legislation and law it is vital for the NRF as an integral part of the Swedish judicial system to increase the level of communication with our sister organisations in Europe. An exchange of information and experiences will benefit us all.

Marika af Winklerfelt



# SWITZERLAND

<i>Name of Organisation</i>	SVRH <i>Schweizer Verband der Richter in Handelssachen</i>
<i>Founding year</i>	1991
<i>Legal status</i>	<i>Association in accordance with Art. 60 ff. of Swiss Civil Code (ZGB), juristic person (German = e.V.)</i>
<i>Organisational structure (management board, general meeting, decision-making, who controls?, finances etc..)</i>	<i>General Meeting once a year Board</i>
<i>Number of members</i>	<i>ca. 110</i>
<i>Number of board members</i>	<i>ca. 10</i>
<i>What kind of judges do you represent (honorary, lay, non-paid etc.)</i>	<i>Expert judges (according to Swiss Law) = expert judges = commercial judges Expenses approx. CHF 560 per session at Court AND: Professional Judges at the Swiss Commercial Courts</i>
<i>In which fields of law are your members involved in jurisdiction?</i>	<i>Commercial Law in all aspects, e.g.: Banking Insurance Construction Intellectual Property Contract Law in all aspects Torts Competition Law, etc.</i>
<i>Internet</i>	<i><a href="http://www.handelsrichter.ch">www.handelsrichter.ch</a></i>

## How are lay judges involved (procedure)?

Swiss Expert Judges are involved in all procedures in commercial cases.

## What relations does your organisation have with the judiciary and judicial administrative bodies?

The Swiss Union of Judges in commercial matters is a private institution; but acknowledged by the state and the judiciary.

## What other associations or groups of lay judges are there – besides your own organisation – in your country?

Conciliation Judges („Judges of Peace“ = German: „Friedensrichter“);

at the district Courts sometimes lay judges are elected by the people (Switzerland: people’s elections of lay judges / USA model).

## What reforms, effects of judicial regulations in your country have significance for your organisation’s work and aims?

The new Swiss procedural law has been in force since 2011 (neue Schweizer Zivilprozessordnung), expert judges have therefore a legal status at the Commercial Courts.

## Where and in what context do you envisage prospects for cooperation on a European level?

The Union of the Judges at the Swiss Commercial Courts is member of the UEMC (see link at: [www.handelsrichter.ch](http://www.handelsrichter.ch)).

Alexander Brunner

# MOVING ON: THE EUROPEAN NETWORK OF ASSOCIATIONS OF LAY JUDGES

## After the match is before the match

In May 2012 representatives of 17 organisations from 14 countries came together to sign the European Charter in a ceremonial act. A genuine European spirit was present at this meeting in the house of the peoples of Europe.

Memories of lively debates and very cordial encounters twinkled now and then in the eyes of participants. They had managed to adopt the Charter following tough negotiations, and had brought into being the "European Day of Lay Judges".

But this was only a first step. If the efforts of the past eight years were to have produced more than just neatly printed paper, this Charter had to be experienced and implemented.

From 19 to 21 August 2012 lay judge organisations from eight countries met at the European Academy Berlin. They decided to move on and founded the **European Network of Associations of Lay Judges**. The aims of the Network are

- representing to governments and relevant organisations the Charter of Lay Judges signed in Brussels on 11 May 2012;
- maintaining contact with the bodies of the European Union and the Council of Europe;
- improving the cooperation between the member organisations;
- supporting lay judges and lay prosecutor organisations;
- promoting equality of treatment for lay and salaried judges;
- encouraging cooperation with organisations representing salaried judges and prosecutors as well as civil society organisations;
- researching lay involvement in jurisdiction.

*Congratulations on the birth of the European Network of Associations of Lay Judges (ENALJ)!*

Dr. Mechthild Baumann, European Academy Berlin

**Moving on ...**



The delegates elected a Troika-Presidency which is composed of the chairmen of the elected member organisations (FRTL): *Gérard Chambard*, National Association of Judges of Proximity (France), *Hasso Lieber*, Federal Association of Honorary Judges (Germany) and *John Fassenfelt*, Magistrates' Association (England & Wales).



