

GENERAL INSTRUCTIONS FOR THE DRAFTING OF A REPORT ON THE OBSERVATION OF ORAL TRIALS

The purpose of the present document is to provide those responsible at the national level with basic instructions for observing and collecting background data and the subsequent drafting of a final report, with reference to observation guidelines for oral trials.

1. - Drafting of the final report:

1.1.- Drafting and responsibility for the final report:

The final report for the observation of oral trials should be drafted by whosoever is in charge of the project, based on the information provided in the three working guidelines that have already been distributed. The text of the report will be signed by and accredited to the person in charge of the project in all dissemination activities, as well as any subsequent publications. Additionally, the name of the local institution that facilitated the drafting of the report should be indicated next to the name of the person responsible for the document and his or her basic curriculum, along with all the names of those who collaborated in research tasks.

1.2.- Content and format of the report:

The final report should include a systematized presentation of all of the data gathered under the different working guidelines, beginning with the general information included in working guideline No. 1, followed by Nos. 2 and 3.

The presentation of information gathered for the different issues should be carried out according to the question order set out in the working guidelines and the number sequence of the guideline questions should be maintained. The presentation of information should be set out in a narrative format, and tables should be included offering general data collected during the study. Each table should be numbered according to its corresponding question. A final section should be set aside for general observations by the person in charge of the report, based on observations that have been carried out by those who surveyed trials; these general observations should cover all relevant circumstances for the due comprehension of information gathered during the investigation.

2.- Research activities:

2.1.- General Aspects:

Observation of oral trials will cover a period of one month, and should begin after the second half of August. Generally, the person in charge at the national level may establish the exact date that the observations are to commence for each particular country, which may vary by a few days. He or she should take into account the fact that some of the guideline questions require follow-up after the trial has ended, which may exceed the observation period (for example, question 7 in guideline No. 2, and question 14 in guideline No. 3). It is important to bear this in mind and consider that the deadline for handing in the report is 31 October 2004, and, consequently, all data should be gathered sufficiently in advance so as to allow for the drafting of the final report.

Minimum research activities to be carried out so as to gather information required for the guidelines are as follows:

- Recording of general statistical data related to the implementation of oral trials during the observation period; this should be carried out by researching the statistics of those courts covered by the study.
- Complete observation of all oral trials undertaken during the period of observation (the only exception being those trials which are excessively long).
- Revision of cases background information (files or folders) once the trial has concluded and the time period for lodging an appeal has expired.
- A brief interview with the defending attorney at the start or finish of each trial to be observed.

2.2.- Specific instructions for the drafting of guidelines:

With the aim of supporting the investigation, the observation of oral trials has been divided into three working guidelines, each one of which requires different research activities implemented by the study team. In the following we will set out some of the aspects to take into account when following the different working guidelines.

Guideline No. 1:

The first part of the guidelines deals with collecting more general information via observations. This should include information related to the period of observation, the number of courts in which oral trials are observed, the number of trials programmed for the period in question and the number effectively carried out. Accompanying the above should be a brief description of the types of oral trial observed, seeing that each particular country has a different form of trial (e.g., correctional, simplified, common, etc.). This description should be precise,

stressing the composition of the court charged with resolving the case, and the rules for providing the trial with evidence.

Due to the fact that they contain general information about observations, it is important to remember that these question guidelines should be filled out just once when drafting the final report of the project. As such, guidelines should not be copied and distributed for the observation of each individual trial.

Guideline No. 2:

These guidelines are aimed at obtaining general information related to the observation of oral trials, to be gathered via the background information of cases (judicial file or folder). The guidelines can, to a great extent, be completed prior to the oral hearing; however, they need to be revised with the relevant background information following the trial process. In effect, various items contained in the guidelines require a review of sentence (e.g. guideline no. 1) and even after sentence has been passed when, for example, the researcher is aware that an appeal has been filed (guideline no. 7).

In various questions the answers have been categorized so as to facilitate filling in the question guidelines (e.g. question no. 3). In the event that the observer is not categorizing an answer, the person in charge of the final report will be expected to do so according to information contained in the respective guideline.

Guideline No. 3:

This guideline is intended for gathering data in trial hearings themselves, which requires that the observer be present throughout the trial. Various guideline questions are focused on the observation of specific activities within the trial, but some focus on the methods and conduct of the protagonists of the trial throughout the procedures (e.g. question no. 2). It is therefore crucial that the observer be present throughout the process so as not to distort the final results.

Numerous questions (5, 8, 9 and 15.3) contain a space so that the observer may specify the information gathered at the beginning. In such cases it is up to the person in charge of the final report to categorize said answers in such a way as to present groups of quantified specifications.

At the end of the guideline there is a chapter dedicated to final observations. The chapter is designed to allow the observer to record any information related to conduct observed during the trials that was not covered by previous questions and offers some insight into trial development. The person in charge of the final report should incorporate this information when drafting said report if it is found to enhance the reader's understanding of the general results obtained from trial observations.