



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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**CONSULTATIVE COUNCIL OF EUROPEAN JUDGES
(CCJE)**

Questionnaire with a view of the preparation of Opinion No. 14 on the non-materialisation of the judicial process and the use of IT by judges and court staff

ANSWERS: CROATIA

**Answered by:
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Member of CCJE**

1. Access to courts

a) May legal proceedings be instigated by electronic means?

In last amendments to the Criminal Procedural Act and Act on Procedure Before Administration Court there is provision that proceedings can initiated bay electronic means.

For time being this provisions did not came into force because implementation of these rules are subject to delivering several bylaws and decisions which have not been delivered yet.

b) Is there relevant legislation?

Yes. See answer above.

c) What are the main requirements for instigating legal proceedings by electronic means? (multiple choice possible)

- The parties must submit the claim with a qualified electronic signature
- The parties must fill in a downloadable form to be submitted electronically
- Other, please specify.

d) To what extent are legal proceedings instigated by electronic means in practice?

Please see explanation under answer 1.a.

For time being there is no possibility to initiate proceeding electronically.

2. Procedure within courts

a) Once a claim has been issued electronically, does the procedure differ from a traditional procedure?

Once when it will be possible procedure will not differ from traditional procedure.

b) Does the electronic procedure differ according to the type of case (civil, criminal, administrative, etc.)?

Yes, because different laws are regulating different types of procedure.

c) How does the court communicate with the parties:

<i>With parties who use electronic means themselves:</i>	<i>With other parties:</i>
<input checked="" type="checkbox"/> by traditional means?	<input checked="" type="checkbox"/> by traditional means?
<input type="checkbox"/> by using electronic communication?	<input type="checkbox"/> by using electronic communication?
<input type="checkbox"/> both?	<input type="checkbox"/> both?

d) Do specific electronic means exist for the communication between lawyers and courts? Please specify.

e) Do electronic files exist?- **NO**

- If an electronic file exist, is there a paper file as well?

- If both exist, which is the "authentic" file?

f) If yes, is there relevant legislation?

g) What are the main requirements with respect to electronic files?

h) Are there special regulations and safeguards with respect to electronic files containing particularly sensitive information (e.g. health information, information concerning secret services)?

i) What happens when the authenticity of an electronic document is doubtful/controversial among the parties?

j) If parties wish to submit documents which are **not** in an electronic form (e.g. documents on paper), what procedure will the parties and the courts follow?

Parties are allowed to submit that kind on evidence during the hearings or out of the hearings by mail or delivering the documents directly to the court through office of the court.

k) Must paper documents be kept? If yes, how long?

Yes. All files have to be kept in the archive of the court. Length depends on the type of the case and type of the claim, but time goes form minimum five years to maximum 30 years with exception of the cases which have to be kept for ever (e.g. land register cases, cases of importance for historical or other reasons etc.)

Judgment in the case is kept permanently even when file is destroyed.

l) What is the procedure when a judge's or court clerk's hand signature is prescribed? Does digital signature exist?

NO

m) Do parties have access to the complete court file:

Yes, always

Yes, but only with specific conditions

No

Please indicate, if appropriate, the relevant legislation.

This is proscribed by procedural laws and Book of Rules

n) Do the parties or their lawyers have the possibility to follow the state of the proceedings via internet (secured)?

No, for time being with exception for land register cases where status of the case can be followed by internet. Croatia is in the faze of implementing so called e- file where court registry will be kept electronically and then parties will be able to follow status of the case via internet.

o) Is the access to electronic files within the court regulated? Please specify.

Please see answer under 2.n.

p) Have judges/court staff access:

<i>Judges</i>		<i>Court staff</i>	
<input type="checkbox"/>	to all court files?	<input type="checkbox"/>	to all court files?
x <input type="checkbox"/>	only to files within their jurisdiction?	X <input type="checkbox"/>	only to files within their jurisdiction?

3. Oral hearing

- a) Are there oral hearings based on electronic means (e.g. judges act based on electronic files accessible in computer)?

No.

- b) Are the expertise, the draft decision written by the rapporteur and personal notes accessible for judges in computer?

No.

- c) Is the complete file accessible for the parties or their lawyers during the hearing (also in computer)?

No.

- d) Has technical equipment been installed in courts enabling to project documents on screens visible to judges, parties and audience?

Some courts, biggest ones have such equipment.

- e) Are oral hearings audio or video recorded?

No, even in the Criminal Procedural Act there is such possibility and draft of new amendments of Civil Procedural Act leaves such possibility if the court has adequate equipment

- f) Is video conference in public hearing used:
- for the hearing of witnesses?
 - for the hearing of experts?
 - for the hearing of parties?
 - other? Please specify.

Please indicate the relevant legislation as well as the restrictions, if appropriate.

There is no such possibility.

- g) If possible, please detail how many courts have been equipped with an adequate and sufficient electronic equipment to assist judges, court clerks and parties during oral hearings?

	<i>100% of courts</i>	<i>+50% of courts</i>	<i>-50% of courts</i>	<i>-10% of courts</i>
Electronic files access	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X <input type="checkbox"/>
Electronic data base of	X <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

jurisprudence				
Screen projectors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Internet access	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Video conferencing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Audio conferencing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Video recording	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Audio recording	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4. Information services for judges

Are there central databases accessible for judges containing:

<i>Database run by State</i>	<i>Database run by a private institution</i>
<input checked="" type="checkbox"/> national legislation	<input type="checkbox"/> national legislation
<input checked="" type="checkbox"/> European legislation	<input type="checkbox"/> European legislation
<input checked="" type="checkbox"/> national case-law	<input type="checkbox"/> national case-law
<input checked="" type="checkbox"/> international case-law	<input type="checkbox"/> international case-law
<input type="checkbox"/> law review articles	<input type="checkbox"/> law review articles

Databases run by private institutions are accessible if they are on the internet.

Please specify the private institution.

5. Practical court work

a) What is the work of the judge:

- **in writing the documents?**
- in delivering the documents?
- in registering the documents?

b) What is the work of the court staff:

- in writing the documents?
- **in delivering the documents?**
- **in registering the documents?**

c) Is there enough staff to do this work? Please specify.

It is not possible to give exact answer to this question because situation is not the same in all courts. Majority of courts have sufficient number of court staff , and some courts where inflow of cases is larger suffer form constant lack of court personnel.

d) Do judges write their decisions themselves on their computer?

It depends how judge is organizing their work. First instant judges have their own secretary and they in most cases dictate the judgment to them. Appellate judges are mostly writing their own decisions or they are dictating them and tape is transcribed by the office of the court.

- e) Do judges use specific technics (e.g. voice recognition, structure or model of decision available in a database)? Please specify.

Judges are using model of decision from their own data base.

- f) Is modern technology used to monitor the length of proceedings and for case flow management within the court (eg. alert system)?

Yes.

- g) Are data concerning the work of each judge contained in a database which can be used for statistics, evaluations, etc. ? Please specify

Yes. All data concerning quantity and quality of work is kept in digital form it is used for evaluation of his/hers work.

6. Internet

- a) Is internet accessible for each judge in his/her office? Is this access limited ? Please specify.

Yes with no limitation.

- b) Do all courts have their own website? Please specify which court and the content of the website.

Courts have their own website. It is used for delivering major information about court, hearings , judges, office hours, information about decisions, case-law etc.

7. Use of private personal computers/laptops by judges and court staff

- a) May a judge use his private PC/laptop for professional purposes (e.g. at home or on the way home and back?)

Yes and they mostly do so.

- b) May e-mails be send from the court to a judge's private e-mail address and vice versa containing professional information ?

Yes.

- c) Does this require special technical safeguards (e.g. excluding access by third persons, family members, etc.)? Please specify.

No.

- d) Is the situation the same for all court staff?

Yes.

8. Use of data

- e) Is the data contained in the procedure used for another aim than the procedure itself?

No because it is prohibited by the law. Only by order of the court.

- f) Is this data used for statistics?

- g) If yes:

- who produces these statistics?
- how and by whom are these statistics used?

9. Data security

a) Does legislation exist to protect personal data processed through the electronic infrastructure of a court?

- Yes
 No

b) If yes, are there requirements applicable to processing data in courts?

- rules on access to data by the person concerned or other persons/institutions
 correction and deletion requirements
 other. Please specify.

c) If there is a general Data Protection Commissioner, has he or she already dealt with IT at the judiciary?

Such position does not exist in Croatia but data protections rights are protected through procedure before administrative courts.

d) Is there a special Data Protection Commissioner in each court (e.g. a judge with this additional task)?

No, but through procedure proscribed in Law on right for access to information each court has to have such officer

10. Participation of judges

Who decides about the electronic infrastructure of a court? Are judges implicated in the relevant decisions concerning the implementation of IT in courts?

Yes. Judges are involved in process of implementing IT technology in the court as consultants because final decision lay within the Ministry of Justice.

11. Conclusion

Please give your opinion on the advantages and disadvantages of the development of IT in courts?

In my personal opinion we should be cautious with use of IT technology in the courts. It can be used for statistical purposes and for tracing the case flow and to replace standards registration procedures.

Of course IT can be of outmost help to gain necessary information about case law, legislation and to share case law among courts.

In real judges work as it can be helpful in same scope it can block role of a judge because expectations form society on the courts and judges where there is wide

usage of new technologies can be unrealistic depending only on the fact that judges and courts are using IT.

Of course IT technology usage is welcomed for all standard procedures where there is no need for special creativity from judges or court staff.