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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

QUESTIONNAIRE

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1. Access to courts

- a) May legal proceedings be instigated by electronic means? Yes, It may be initiated but only in those courts where electronic case management systems are used.
- b) Is there relevant legislation? There are no specific provisions concerning filing of lawsuit in an electronic way.
- 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. It is also possible to file a type written paper lawsuit in the Court (which is most frequent way to file a lawsuit).
- d) To what extent are legal proceedings instigated by electronic means in practice? Very seldom

2. Procedure within courts

- a) Once a claim has been issued electronically, does the procedure differ from a traditional procedure? No the procedure is the same, because the defendant may not have access to internet or to computer facilities.
- b) Does the electronic procedure differ according to the type of case (civil, criminal, administrative, etc.)? It may be different however, at this stage it's difficult to make any conclusion how different they are because this system is under construction.
- c) How does the court communicate with the parties:

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

- d) Do specific electronic means exist for the communication between lawyers and courts? Please specify. There are no specific electronic means except of e-mail however, it is very common to communicate with lawyers and parties in general by telephone and inform about the date of the hearing or any other procedural matter. Such telephone conversation is recorded and is considered as official communication.
- e) Do electronic files exist? Yes
 - If an electronic file exist, is there a paper file as well? Yes, together with electronic file there are paper files which are included in case file. Electronic files are on the web page of the appropriate court to be viewed and downloaded by the parties who access them through their passwords.

- If both exist, which is the “authentic” file? The authentic is the one which is signed by the judge i.e. the one included in the case 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)? There are no special procedural regulations, however, it is a general rule that some information (through various Acts of Parliament) are regarded as private or commercial secrets and certain rules are applied in relation to such information. Usually, the parties are sent their own passwords for their own case which allows them to view the proceedings related with that particular case. No one can access to that site without password.

i) What happens when the authenticity of an electronic document is doubtful/controversial among the parties? The electronic document at this stage exists only to facilitate the parties to have access to them through internet. The authentic documents (signed by judge) as mentioned above are included in case file.

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? The parties may either send them through ordinary post, or file them in the court’s chancellery. They can also bring paper documents at the trial however, the issue whether or not such documents are attached to the case file shall be solved by the judge according to procedural rules.

k) Must paper documents be kept? If yes, how long? The case files (consisting of paper documents) are usually kept for 10 years although there is no specific stipulation how long they can be kept.

l) What is the procedure when a judge’s or court clerk’s hand signature is prescribed? Does digital signature exist? Electronic signature is used by secretary of hearing when the minutes are recorded on the CD. In such case, an electronic signature code (numbers) is printed on the paper and included in the case file.

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

Yes, always. The Civil Procedural Code stipulates the parties should have access to all case file.

Yes, but only with specific conditions

No

Please indicate, if appropriate, the relevant legislation.

n) Do the parties or their lawyers have the possibility to follow the state of the proceedings via internet (secured)? The parties and their lawyers can, may have access to all procedural documents that are uploaded to appropriate web-page. However, the judgements and the minutes of the hearings are uploaded within certain period of time after hearing and not immediately after the hearing.

o) Is the access to electronic files within the court regulated? Please specify. As I mentioned above the parties receive their own password which allows them to view that particular case and not all cases.

p) Have judges/court staff access:

<i>Judges</i>		<i>Court staff</i>	
<input checked="" type="checkbox"/>	to all court files?	<input checked="" type="checkbox"/>	to all court files?
<input type="checkbox"/>	only to files within their jurisdiction?	<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)? Many courts use electronic recording systems which allows to record the hearing on CD which is attached to the case file.
- b) Are the expertise, the draft decision written by the rapporteur and personal notes accessible for judges in computer? Only the judgment which was announced at the hearing and signed by the judge can be accessed in an electronic way.
- c) Is the complete file accessible for the parties or their lawyers during the hearing (also in computer)? Usually, during hearing the case file is situated at the table of the judge who reviews it at the hearing, so technically it is not accessible, but if the parties would like any document to be explored they may do so through filing a motion at the hearing.
- d) Has technical equipment been installed in courts enabling to project documents on screens visible to judges, parties and audience? In some court rooms there are special equipment installed to allow the parties to view at the monitors situated at their tables in the court room any recording on CD or DVD.
- e) Are oral hearings audio or video recorded? In many courts hearings are audio recorded.
- 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. This tool is not installed yet, however there are plans to install it in near future.

- 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"/>	<input checked="" type="checkbox"/>
Electronic data base of jurisprudence	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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 type="checkbox"/>
Audio	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

conferencing				
Video recording	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Audio recording	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input 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 type="checkbox"/> European legislation	<input type="checkbox"/> European legislation
<input checked="" type="checkbox"/> national case-law	<input type="checkbox"/> national case-law
<input type="checkbox"/> international case-law	<input type="checkbox"/> international case-law
<input type="checkbox"/> law review articles	<input type="checkbox"/> law review articles

Please specify the private institution.

5. Practical court work

- a) What is the work of the judge:
 - in writing the documents? Writing of the judgment and ruling is a direct function of the judge as well as general solution of the cases.
 - in delivering the documents? It is not the function of the judge;
 - in registering the documents? It is not the function of the judge;
- b) What is the work of the court staff:
 - in writing the documents? Writing of the procedural documents are the main function of the staff.
 - in delivering the documents? Delivery of the documents can also be attributable to the staff./
 - in registering the documents? Registration of the documents are done by the chancellery.
- c) Is there enough staff to do this work? Please specify. Yes, there is enough staff to do all the above mentioned.
- d) Do judges write their decisions themselves on their computer? Sometimes the judges write the decisions themselves (when the decision may be on a complicated case). Sometimes they use their assistance of the clerks in writing decisions.
- e) Do judges use specific technics (e.g. voice recognition, structure or model of decision available in a database)? Please specify. Structure and Model decisions are always used when writing a procedural document.
- f) Is modern technology used to monitor the length of proceedings and for case flow management within the court (eg. alert system)? Yes, electronic case management system is used to monitor time frames.
- g) Are data concerning the work of each judge contained in a database which can be used for statistics, evaluations, etc.? Please specify. Yes, electronic case management system allows to collect certain statistics.

6. Internet

- a) Is internet accessible for each judge in his/her office? Is this access limited? Please specify. Yes, internet is accessible for each judge in his/her office.
- b) Do all courts have their own website? Please specify which court and the content of the website. Most of the courts have their own web pages.

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, the judge may use his/her private computer.
- b) May e-mails be send from the court to a judge's private e-mail address and vice versa containing professional information? There are no restrictions on sending such information.
- c) Does this require special technical safeguards (e.g. excluding access by third persons, family members, etc.)? Please specify. There are no such requirements so far.
- d) Is the situation the same for all court staff? The situation is the same for all court staff.

8. Use of data

- e) Is the data contained in the procedure used for another aim than the procedure itself? It can only be used for statistics or for academic purposes, in the latter case the materials may be issued in a form excluding reveal of any personal information.
- f) Is this data used for statistics? Yes, it is used for statistics.
- g) If yes:
- who produces these statistics? The Supreme Court produces such statistics.
- how and by whom are these statistics used? The yearly statistics are published in a special edition and circulated within general public and court system.

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? No, there is no such institution.

- d) Is there a special Data Protection Commissioner in each court (e.g. a judge with this additional task)? No, there is no such institution.

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?

Usually, the court management makes the decision about the electronic infrastructure, the judges sometimes usually take part in decision making process as well as in creating the case management systems together with IT professionals.

11. Conclusion

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

IT development is essential in court because it allows to make many things faster and make the courts activity more transparent and more user friendly.