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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 - HUNGARY

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/court staff

1. Access to courts

a) May legal proceedings be instigated by electronic means?

Yes, in the following types of procedure:

- **company registration proceedings and amendment notification proceedings**
- **civil procedure**

b) Is there relevant legislation?

- **Articles 32-64 of Act V of 2006 on Public Company Information, Company Registration and Winding-up Procedure**
- **Articles 394/B – 394/E of Act III of 1952 on Civil Procedure (the rules have to be applied stepwise: from 1 July 2011 to 30 June 2012, then from 1 July 1 2012)**

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?

2. Procedure within courts

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

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

Yes, for example different rules pertain to litigious and non-litigious proceedings.

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 checked="" type="checkbox"/> by using electronic communication?	<input type="checkbox"/> by using electronic communication?
<input type="checkbox"/> both?	<input checked="" type="checkbox"/> both? Depending on whether the proceeding is litigious or non-litigious, and whether the party is a company or not.

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

Yes, via the legal counsel's official port of entry.

- e) Do electronic files exist?
- If an electronic file exist, is there a paper file as well?
- If both exist, which is the “authentic” file?

If the necessary means of communication between the party and the court is electronic, the electronic is considered authentic.

- f) If yes, is there relevant legislation?

- Act on Civil Procedure.
- Act XXXV of 2001 on Electronic Signature.

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

It depends on the type of the electronic document. The electronic document can be – according to the Act on Civil Procedure – authentic instrument or private document.

A private document shall – until proven otherwise – have full probative value verifying that the issuer has in fact made the statement it contains, or undertakes to consider himself bound by such statement if – e. g. – the electronic document is executed by the issuer’s certified electronic signature (Articel 196 of the Act on the Civil Procedure).

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

No, general rules are guiding (Article 119.§ of the Act on Civil Procedure).

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

There is no special rule; The court shall evaluate the evidence as a whole, and shall rule relying on its conviction.

- 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 cannot submit documents other than electronic if electronic communication is a must in a given procedure.

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

Yes, length depends on the type of case.

- l) What is the procedure when a judge’s or court clerk’s hand signature is prescribed? Does digital signature exist? **Yes.**

- 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.

- Act V of 2006 on on Public Company Information, Company Registration and Winding-up Procedure

- Act on Civil Procedure (Article 119.§)

n) Do the parties or their lawyers have the possibility to follow the state of the proceedings via internet (secured)? **No.**

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

Yes, access is regulated and the rules are laid down by judicial IT staff.

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?
<input checked="" type="checkbox"/>	only to files within their jurisdiction?	<input checked="" 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)? **Yes, see f.**

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? **No.**

e) Are oral hearings audio or video recorded?

As considered necessary, for example if:

- there is a witness absent or abroad

- there is some hindrance

- within the framework of witness protection

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.

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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Electronic	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

data base of jurisprudence				
Screen projectors	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Internet access	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Video conferencing	X*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Audio conferencing	X*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Video recording	X*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Audio recording	X*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*** The National Council of Justice operates two mobile equipment that allows the audiovideo conferencing and recording in every court according to the ordering of the given court.**

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>
X national legislation	X national legislation
X European legislation	X European legislation
<input type="checkbox"/> national case-law	X national case-law
<input type="checkbox"/> international case-law	X international case-law
<input type="checkbox"/> law review articles	<input type="checkbox"/> law review articles

Please specify the private institution.

Every court has a contract with at least one private institution.

5. Practical court work

- a) What is the work of the judge:
- in writing the documents? **none**
 - in delivering the documents? **none**
 - in registering the documents? **none**

- b) What is the work of the court staff:
- in writing the documents? **yes**
 - in delivering the documents? **yes**
 - in registering the documents? **yes**

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

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

As a general rule, no. However, more and more judges write their decisions themselves.

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

Yes. Decision sample, dictaphone.

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

Yes, there is a special monitoring system, called BIIR (Integrated Information System of Court), with which heads of courts and professional divisions can track the procedures.

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

Yes. The database of BIIR is suitable indicate the workload of the judges and number of the pending cases and timeliness of the cases.

6. Internet

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

Yes, without restrictions.

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

No, the 65% of the courts has own website.

The content of the websites is:

- the organisation and structure of the court (divisions, panels)**
- profile of heads of courts**
- list of judges**
- distribution of cases**
- other information for the public**

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.**

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

Yes, if there is no restriction on the entitlement to this.

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

No, this field has internal regulation of informatics.

- 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?

Not the data concerning the merits the case.

f) Is this data used for statistics?

Yes.

g) If yes:

- who produces these statistics?

The courts; and the parts are put together and analyzed by the Office National Council of Justice.

- how and by whom are these statistics used?

The courts, the National Council of Justice and the President of the Supreme Court use the statistics for increasing the capacity of the justice.

The statistical report should be suitable for the comparative analysis of the performance and the effectiveness and for creating the proportional workload.

On to the proposal of the president of the National Council of Justice, the Supreme Court can exceptionally assign another court having the same competence as the competent court to decide on the given case or on the group of particular cases. A precondition of such an order shall be the reasoning why the judgement on the given case or on the group of the given cases can not be ensured within a reasonable time and all data related to the number of cases, human resources of the court, etc. should be listed as well that justify the extraordinary and unproportional workload of the given court. Before submitting the proposition the opinion of the concerned court – and of the prosecutor general in criminal cases – should be obtained.

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?

The Data Protection Commissioner has no competence in this matter.

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

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?

The National Council of Justice.

11. Conclusion

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

Electronic communication makes proceedings faster and more effective. It is very important for the companies, as actors of business, to get a decision in time, therefore Hungarian legislation primarily focuses on regulating electronic communication in procedures in which one or both of the parties are companies.

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