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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

LITHUANIA

Situation in LITHUANIA
8 March, 2011

1. Access to courts

- a) May legal proceedings be instigated by electronic means?

A complaint instigating legal proceedings may be sent to an administrative court by electronic means (e. g., fax or e-mail). However, within three days an original written copy of the complaint should be submitted or sent to the respective administrative court.

In addition, in civil cases legal proceedings for issuing a payment order may be instigated by electronic means.

- b) Is there relevant legislation?

Currently there is no specific legislation on this matter. However, it is expected that within 2011 the Parliament of Lithuania will pass respective amendments on e-justice of the Code of Civil Procedure and the Law on Proceedings in Administrative Cases.

- 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.

A complaint instigating legal proceedings may be sent to an administrative court by electronic means (e. g., fax or e-mail). Qualified electronic signature is not required. However, within three days an original written copy of the complaint should be submitted or sent to the administrative court concerned.

If an interested party wishes to submit a request for issuing a payment order in a civil case via internet, it has to download special (computer) program and using it fill in certain forms (information). The claim must to be submitted with a qualified electronic signature.

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

It is not common practice to instigate legal proceedings in administrative cases by electronic means. Popularity of electronic filing of a request for issuing a payment order in civil cases is growing. Currently this system is not common, because officially it will commence on 4th April 2011.

2. Procedure within courts

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

No.

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

There is no general electronic procedure in Lithuania yet.

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 type="checkbox"/> both?	<input type="checkbox"/> both?

Usually by traditional means.

Usually by traditional means.

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

There is no generally applicable or specific means of electronic communication between lawyers and courts.

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?

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

There is no electronic case file in Lithuania.

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 special regulations and safeguards for such documents irrespective of their format.

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

There are no general rules on this issue.

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?

There is no electronic case file in Lithuania. If a party wishes to submit document which is not in an electronic form, it must submit (via post or directly) the original document. Certified or even a simple copy of a document is also allowed, but the court may ask to provide the original one. After the receipt of the document, the court usually makes at least preliminary check of its admissibility and then puts it into paper case file.

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

There is no electronic case file in Lithuania. The term of keeping paper case file depends on the type of a case. For example, an ordinary administrative case file should be kept for 10 years, a civil case file – from 5 to 75 years.

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

Judges always make hand signatures. The digital signature is not used in court proceedings yet.

- 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.

Parties have access to the complete court file, unless part of it is protected by the law.

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

The parties or their lawyers may follow the state of the proceedings via internet only in civil cases regarding payment order. In other cases they can only find the date of the court hearing. Judgments of higher courts as a general rule are also publicly available at the internet.

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

There is no electronic case file in Lithuania.

- 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 type="checkbox"/> only to files within their jurisdiction?	<input type="checkbox"/> only to files within their jurisdiction?

If it is necessary, as a general rule the judge or court staff may access to all court files.

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?

The document may be sent to an interested judge via e-mail or accessible via internal network of the court.

- 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 have such equipment.

- e) Are oral hearings audio or video recorded?

Oral 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.

- 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?

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Electronic files access	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Electronic data base of jurisprudence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Screen projectors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Internet access	<input 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 conferencing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Video recording	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Audio recording	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Most judges, court clerks and parties are not used to, do not want (need) to and do not use electronic equipment during oral hearings. So there is no pressing demand for full electronic equipment during oral hearings, except audio recording which is peremptory according to the law. However, in cases of necessity, most (if not all) courts are able to provide internet access (via internet – access to data base of national jurisprudence) and with an assistance of the National Courts Administration – video recording, video and audio conferencing, screen projectors (some courts have such equipment itself). Still one should note that there are no clear rules or traditions, laying down the courts' obligation to provide parties with respective electronic equipment during the hearing of the case. As far as access to the internet is concerned, the party may simply use its own mobile internet technologies (which are widely available in Lithuania), if it wishes to access the internet in the court-room. So the answer to this question basically depends on the situation at issue and mutual

respect, understanding and cooperation between the courts and participants of the case.

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 <input type="checkbox"/> national legislation	<input type="checkbox"/> national legislation
X <input type="checkbox"/> European legislation	<input type="checkbox"/> European legislation
X <input type="checkbox"/> national case-law	X <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.

Database of national case-law – JSC “Leksinova”.

5. Practical court work

- a) What is the work of the judge:
- in writing the documents?

The judge writes judgments, decrees of the court and other documents of judicial nature.

- in delivering the documents?

The court staff takes care of delivering the documents.

- in registering the documents?

The court staff takes care of registering documents.

- b) What is the work of the court staff:
- in writing the documents?

The court staff writes notices, requests, draft judgments and decrees and other documents of non-judicial nature.

- in delivering the documents?

The court staff usually submits relevant documents to the postal company for the delivery to the addressee.

- in registering the documents?

The court staff registers necessary documents in the information system of Lithuanian courts – LITEKO.

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

Yes.

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

Yes.

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

In specific cases model decisions for writing judgments are used by judges. Most of the courts have internal rules specifying formal structure of the decision.

- 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 cases and most significant events of the procedure are registered in the information system of Lithuanian courts – LITEKO. All judgments of the courts can be found in this system. LITEKO system may provide information about the length of the proceedings, number of resolved cases, etc.

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 without any limitations.

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

Most courts (some local, all regional courts, the Court of Appeals, the Supreme Administrative Court and the Supreme Court) have their own websites. According to the law, the website of the institution should contain at least information about the functions, structure, activities, contacts, as well as news, actual legal and other data within the sphere of the institution.

For example, the website of the Supreme Administrative Court contains this information:

- *About the Court: general information about the court and the judges; how to apply to court; how the court works; the system of administrative courts; information about public works, supply or service contracts; financial reports; statistics;*
- *Laws related with the work and competence of the Court;*
- *Pending normative cases;*
- *Case-law of the Court: search engine of judgments and decisions; summaries of the Court's case-law; Court's bulletins and annual reports; the classifier of cases;*
- *Dates (calendar) of hearings (search engine);*
- *Structure and contacts: structure and contacts; how to find us; useful links;*
- *Admission of interested persons: rules for serving persons; how to communicate with the Chairman of the Court; visits to the Court;*
- *News;*
- *Open courts to open society: information about the measures to make the work of the Court more transparent and open to the society;*
- *Questions.*

In addition, on the front page of the website of the Supreme Administrative Court one can find topical news of the Court, information about the opportunities of career in the Court and possibility to order the bulletin of the Court via internet, 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?)

There are no general rules regarding the use of judge's private PC/laptop for professional purposes. However, there can be local regulations within a separate court on this issue. In practice, private PC/laptops are sometimes used for professional purposes.

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

There is no generally applicable and explicit prohibition to do it. However, there can be local regulations within a separate court on this issue.

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

There are no general rules on this issue. However, there can be local regulations within a separate court on this issue. Nevertheless, an obligation to ensure the security of the information may be derived from the status and functions of the judge as such.

- 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?

Yes. This data may be supplied to the other institutions, if this information is necessary in order to perform functions of these institutions set by the law. In addition, this data may be used for statistics, increasing transparency and openness of the courts (for example, by providing public access to judgments and decisions of the courts), scientific and academic purposes, etc.

- f) Is this data used for statistics?

Yes.

- g) If yes:

- who produces these statistics?

It depends on the type and purpose of the data. Some information may be produced by the court personnel (e. g., the amount of pending or resolved cases of a certain judge), while the other – only by the administrator of the court information system (LITEKO).

- how and by whom are these statistics used?

It depends very much on the type and purpose of the data. For example, some statistical data (e. g., number of resolved and pending cases, stability of judgments, duration of proceedings, etc.) may be used by the court when submitting its assessment in an evaluation procedure regarding the judge who applies for a higher position in a 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?

There is established the State Data Protection Inspectorate. According to the law, however, the mentioned institution has no right to monitor processing of personal data in courts.

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

No.

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?

It depends on the type and purpose of the infrastructure. The budgetary allocations to the court system should first of all be approved by the Parliament of Lithuania. So the Government (who submits draft budget law to the Parliament) and the Parliament have some influence and decision making power on the development of the electronic infrastructure of the courts. As far as a development of the electronic infrastructure relating to the whole court system (within the approved budgetary allocations) is concerned, the main decisions are made by the Judicial Council – an executive body of the self-governance of courts ensuring the independence of courts and judges. This institution consists only of judges (partly elected and partly taking a position by a virtue of their office). The Judicial Council may also appoint a working group (consisting of judges, courts' servants, specialists, etc.) for analysis and preparation of proposals on various issues concerning electronic infrastructure, its use and development. As a general rule all courts concerned is asked (may) submit their opinion and/or comments on all specific programmes, questions, issues and/or solutions related with major IT projects. Within a single court, maintenance and development of the electronic infrastructure is a responsibility of court's chancellor (if there is no chancellor – chairman of the court). Participation of judges in this procedure depends on the

traditions (practice) and/or rules of organizing the work (activities) within the court (if existing).

11. Conclusion

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

The development of IT in courts has more advantages than disadvantages. The use of information technologies in the litigation process has among other the following visible benefits:

- 1. an increase in the openness of the activities of the courts;*
- 2. transparency of the courts' activities;*
- 3. an optimisation, simplification and facilitation of the litigation process;*
- 4. a shorter litigation process;*
- 5. lower litigation costs;*
- 6. the dissolution of physical distances; the courts are drawn closer to the society;*
- 7. an increase in the efficiency of using public funds made available to the courts;*
- 8. the reduction of workload of the court staff and judges.*

Thus proper, thoughtful and careful use of secure and reliable IT technologies may increase the quality of litigation as a whole.

Still I think that in any case electronic procedures should fully comply with fundamental procedural principles (e. g., oral hearing, direct participation, publicity, fairness, etc.). But the latter do not constitute an obstacle to the introduction of IT into court proceedings – sometimes we just have to reconsider the content of some general tenets of the proceedings by taking into account fast development of the way we live our lives today.