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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

MALTE

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?

Not at the moment. But there are certain projects going on that may lead to electronic filing and notification of judicial acts.

b) Is there relevant legislation?

The Code of Civil Procedure (Chapter 12 of the Laws of Malta) provides regulations for procedure with electronic means. However, these regulations have not yet been implemented.

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

- 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? N/A

2. Procedure within courts

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

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

c) How does the court communicate with the parties: by traditional means.

<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?

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

On the Justice services website (gov.mt) lawyers can access the records of proceedings and check the adjournment of all civil cases. They can only access inputted data, and not communicate directly with the Court.

e) Do electronic files exist? Yes, in the other island of Gozo. There is a paper file as well which is considered as the 'official' file.

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

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

f) If yes, is there relevant legislation? no

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

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

Documents have to be filed personally and have to be signed.

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

Paper files are always kept. When the case is decided, all the documents are archived.

- l) What is the procedure when a judge's or court clerk's hand signature is prescribed? When such signature is prescribed, the judge or court clerk has to sign. No digital signatures exist for court acts.
- m) Does digital signature exist? No

- n) Do parties have access to the complete court file: Yes always.

- Yes, always
- Yes, but only with specific conditions
- No

Please indicate, if appropriate, the relevant legislation.

- o) Do the parties or their lawyers have the possibility to follow the state of the proceedings via internet (secured)? Yes. Data consists of records of proceedings and judgments.
- p) Is the access to electronic files within the court regulated? Please specify. Judges have access to all court files. Court Staff have limited access.
- q) Have judges/court staff access: see above.

<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?

3. Oral hearing

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

- a) Are the expertise, the draft decision written by the rapporteur and personal notes accessible for judges in computer? No
- b) Is the complete file accessible for the parties or their lawyers during the hearing (also in computer)? No
- c) Has technical equipment been installed in courts enabling to project documents on screens visible to judges, parties and audience? File is accessible during the hearing, and in some cases documents can be screened eg during Jury cases.
- d) Are oral hearings audio or video recorded? No
- e) Is video conference in public hearing used: in special cases, eg some family cases and certain commercial cases where foreign parties are involved for hearing witnesses.

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.

- f) 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? Electronic equipment is available in most halls.

	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 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 type="checkbox"/> national legislation	<input type="checkbox"/> national legislation
<input type="checkbox"/> European legislation	<input type="checkbox"/> European legislation
<input 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. Yes on Government Website.

5. Practical court work

- a) What is the work of the judge:
- in writing the documents? Judge writes judgement (mostly on computer)
 - in delivering the documents? Judgement is read and delivered in court.
 - in registering the documents? Decision is registered by Court staff.
- b) What is the work of the court staff:
- in writing the documents? They either type the handwritten document or format the document into the Court template.
 - in delivering the documents? Judgements are put on line for parties to download.

- in registering the documents? Decisions and records of proceedings are inputted in the Court system. Court recorders are in charge of audio recordings of all evidence. These are then transcribed.
- c) Is there enough staff to do this work? Please specify. Each judge is supposed to have a judiciary team, consisting of a deputy registrar, hall clerk, court assistant and a court recorder or court messenger.
- 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. No
- f) Is modern technology used to monitor the length of proceedings and for case flow management within the court (eg. alert system)? Not through modern technology.
- g) Are data concerning the work of each judge contained in a database which can be used for statistics, evaluations, etc. ? Please specify Yes, Data consists of records of proceedings and judgements.

6. Internet

- a) Is internet accessible for each judge in his/her office? Is this access limited ? Please specify. Yes. Sometimes access to certain sites is denied at certain hours.
- b) Do all courts have their own website? Please specify which court and the content of the website. There is one website. It contains all the information on pending cases which is available to all judges.

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 at the discretion of the judge. However, judges have a court email address which is more secure.
- c) Does this require special technical safeguards (e.g. excluding access by third persons, family members, etc.)? Please specify. The Court email address is available only to the judge and the support unit of this email address.
- d) Is the situation the same for all court staff? No.

8. Use of data

- e) Is the data contained in the procedure used for another aim than the procedure itself? No only for statistical purposes.
- f) Is this data used for statistics? Yes
- g) If yes:
 - who produces these statistics?
 - how and by whom are these statistics used?

Statistics are produced from data inputted in the computer system by the service providers. These statistics are used by the court staff whenever asked to produce certain data. These

are also put on line and may be viewed by the public without any restriction. They can be used for research purposes or parliamentary questions.

9. Data security

a) Does legislation exist to protect personal data processed through the electronic infrastructure of a court? No

- Yes
 No

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

- 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

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? ~~Court administration and chief justice is consulted.~~

11. Conclusion

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

I am in favour of IT in court because it facilitates our work and gives quicker results.