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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**

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**1. Access to courts**

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

Certain legal proceedings (e.g. land register, civil, insolvency and enforcement proceedings) may be instigated by electronic means.

- b) Is there relevant legislation?

The instigation by electronic means is regulated by respective legislation, e.g. the Rules on electronic commerce in civil proceedings.

- 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

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

The use of electronic means in civil and insolvency proceedings is new - therefore it is too early to evaluate its significance in practice. The significance of electronic means in enforcement proceedings is big – in 2008 a fully computerized system for filing of requests and issuing of warrant of executions on the basis of “authentic instruments” (certain types of documents which can establish merely a probability of the existence of a claim, including e.g. invoices) was introduced.

**2. Procedure within courts**

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

If the debtor in enforcement proceedings files an objection after the warrant of execution has been issued the case is transferred to ordinary civil procedure.

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

Yes.

- c) How does the court communicate with the parties:

<i>With parties who use electronic means themselves:</i>	<i>With other parties:</i>
	by traditional means
by using electronic communication	
both (depending on the proceedings)	

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

In a fully computerized system for filing of requests and issuing of warrant of executions on the basis of “authentic instruments” in enforcement proceedings warrants of executions are issued and serviced to parties in electronic form only. In insolvency proceedings too, court decisions are issued in electronic form only. In civil proceedings “paper” decisions are issued as well.

- e) Do electronic files exist? Yes, see above d.
  - If an electronic file exist, is there a paper file as well? See above d.
  - If both exist, which is the “authentic” file? If both exist, they are equal.
- f) If yes, is there relevant legislation? Yes, there is relevant legislation – the Electronic commerce and electronic signature act (based on the EU Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures) is its most important source.
- g) What are the main requirements with respect to electronic files? The main requirements are: an electronic signatures which is based on a qualified certificate and which is created by a secure-signature-creation device; provided certain conditions are fulfilled an electronic signature has the same legal effectiveness and admissibility as evidence in legal proceedings as a handwritten signature.
- h) Are there special regulations and safeguards with respect to electronic files containing particularly sensitive information (e.g. health information, information concerning secret services)? Data protection is regulated by law.
- i) What happens when the authenticity of an electronic document is doubtful/controversial among the parties? The main rule is that the authenticity of a document an electronic signature is not denied legal effectiveness solely on the grounds that it is in electronic form. Standard rules of evidence apply.
- 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? If submitting of documents on paper are not provided by law (e.g. in enforcement proceedings on the basis of “authentic instruments”) such legal actions shall have no legal effect.
- k) Must paper documents be kept? If yes, how long? If both, paper and electronic forms of a document exist, standard rules for keeping documents apply.
- l) What is the procedure when a judge’s or court clerk’s hand signature is prescribed? Does digital signature exist? The electronic signature exists – the main prerequisite is an electronic signatures which is based on a qualified certificate and which is created by a secure-signature-creation device.
- m) Do parties have access to the complete court file:
  - Yes, but only with specific conditions
- 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? It is regulated by special guidelines established by the Board of service-users (a body founded at the Supreme Court). About the board of service-users see 10.
- p) Have judges/court staff access:

<i>Judges</i>	<i>Court staff</i>
only to files within their jurisdiction	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)? Video conferences.
- 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? Yes.
- e) Are oral hearings audio or video recorded? The system for audio recording of oral hearings was introduced recently and it is still in its pilote stage.
- f) Is video conference in public hearing used:
  - for the hearing of witnesses
  - for the hearing of experts
  - for the hearing of parties

These matters are regulated by the Civil procedure Act and Criminal procedure Act. Both of them allow the use of videoconferences.

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

All databases are accessible for judges via the Supreme Court's website, only partly that information is provided by a private company.

#### 5. Practical court work

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

Judges write/dictate their documents.

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

Court staff writes, delivers and registers documents.

- c) Is there enough staff to do this work? In general, yes.
- d) Do judges write their decisions themselves on their computer? It is up to a judge to decide whether to write a document by himself or to dictate it.
- e) Do judges use specific technics (e.g. voice recognition, structure or model of decision available in a database)? No.
- 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. ? Yes – data concerning the quantity and quality (number of cases reviewed at the appeal court) of work.

#### 6. Internet

- a) Is internet accessible for each judge in his/her office? Is this access limited ? Internet is accessible without limitations.
- b) Do all courts have their own website? Please specify which court and the content of the website. All courts have their website concerning e.g. a basic information about a court, a list of judges and court staff, schedule of oral hearings, auctions, a catalogue

of standard forms, latest news, a link the Supreme Court website including case law...

#### **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, provided certain safeguards are respected.
- b) May e-mails be send from the court to a judge's private e-mail address and vice versa containing professional information? No.
- c) Does this require special technical safeguards (e.g. excluding access by third persons, family members, etc. )? See above b.
- 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.
- f) Is this data used for statistics? Yes.
- g) If yes:
  - who produces these statistics? These statistics are produced by courts.
  - how and by whom are these statistics used? They are used by courts, the Judicial Council and the Ministry of Justice to evaluate the workload and the work of courts and judges.

#### **9. Data security**

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

Yes
- 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
- c) If there is a general Data Protection Commissioner, has he or she already dealt with IT at the judiciary? There is no Data Protection Commissioner, this is a task of a court staff member at the Supreme Court who is responsible for public information.
- 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?

The decisions about the electronic infrastructure are taken by judiciary, that is by a special body founded within the framework of the Supreme Court – the Information Centre. The Information Centre (chaired by a judge) is responsible for the selection and supply of IT equipment for all courts, its maintenance, construction of specialized software, special emphasis is given to cooperation in the education of end users. Judges play a major role in the relevant decisions concerning the implementation of IT in courts as they constitute the majority in the Board of users which (pursuant to the Courts Act) defines the strategy of the IT development in courts.

## **11. Conclusion**

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

In my opinion there are two major advantages of the IT development in Slovenia:

- the decisions about the electronic infrastructure are taken by judges who know what suits best their needs (see above 10):
- a fully computerized system for filing of requests and issuing of warrant of executions on the basis of “authentic instruments” which substantially reduced the backlogs in enforcement proceedings.