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REPORT

Evaluation of the current state of affairs of IT tools for the Slovak judicial system and advise on their development

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Preamble

The present report focuses on two notions: “*Court Management*” and “*Information Technology*” (IT). Court management can be described as a compilation of activities and measures that ensure the delivery of justice and strive to enhance the efficiency and quality of the respective services. The goal of such a combination of actions is creating the conditions for a fair procedure of an independent and impartial tribunal without unreasonable delay. Court management can be conducted at different levels – at national level, at the level of courts or even at the level of individual judges. It is important that the activities at these levels remain aligned, producing synergetic effects. An efficient and qualitative administration of justice is therefore not exclusively in the hands of top level management and presidents of courts. It is essential that the goals and objectives of the court management reach each and every judge and employee within the system. Court management, similarly to the overall public management as an approach to government administration, draws on private sector management and business techniques. These business techniques aim to maximize efficiency and effectiveness and provide improved customer service.

The notion of IT covers all forms of computers, networks, forms of communication including telephony, wireless networks, other infrastructure, software and processes that enable creating, storing, retrieving, manipulation and exchange of data¹. The IT should be a tool or means to improve the administration of justice, to facilitate the user’s access to the courts and to reinforce the safeguards laid down in Article 6 of the European Convention on Human Rights (ECHR): access to justice, impartiality, independence of the judge, fairness and reasonable duration of proceedings.

The quality of judicial decisions presupposes, as a prerequisite, the proper organisation and functioning of the judicial system as a whole. The approach to quality is not then at the level of the judicial decision itself, but well beforehand, in the way in which the judicial system and the courts are going to be organised and will work. The postulate is therefore that a judicial decision of quality can be made only when the judicial environment lends itself to it, that it allows the judge to be effective and to carry out its work correctly. It is in this sense that we can speak of the administration of justice and management of courts as prerequisites for the quality of court decisions; and the assumption is that a quality court management will allow the courts/judges to make decisions of quality.

To conduct effective court management an adapted information system is needed, that would enable decision makers a good insight into the functioning of the courts. Qualitative analysis and decisions on the organisation of business procedures can only be taken upon reliable and consistent data on the performance of courts. Once a reliable case management system is in place, the court managers can start building on the information provided with different types of statistical analyses. These analyses help stakeholders to have a better understanding of the work of courts and reach better decisions. Decisions on the allocation of human and other categories of resources, on the distribution of tasks and organisation of the work, on time management – all these decisions are much better when made on informed grounds.

A strategic plan is required in which details are provided on the stages and terms of bringing IT systems into the courts. This plan should cover how justice is being administered and how the IT tools are integrated into court management, and be adapted to the needs and characteristics of the Slovak judiciary.

¹ The references to “*IT*” in this report will include what is also commonly referred to as Information and Communication Technology (ICT).

The main thematic Council of Europe documents to be taken into consideration when elaborating on IT for the justice sector are:

1. Recommendation Rec(2001)2 of the Committee of Ministers to member States on concerning the design and redesign of court systems and legal information systems in a cost-effective manner;
2. Recommendation Rec(2001)3 of the Committee of Ministers to member States on the delivery of court and other legal services to the citizen through the use of new technologies;
3. Recommendation Rec(2003)14 of the Committee of Ministers to member States on the interoperability of information systems in the justice sector;
4. CEPEJ thematic report *"Use of information and communication technologies (ICT) in European judicial systems"*, (CEPEJ STUDIES No. 7), 2007, Marco Velicogna, IRSIG-CNR;
5. CCJE Opinion No. 14 (2011) *"Justice and information technologies (IT)"*;
6. CEPEJ thematic report *"Use of information technology in European courts (CEPEJ STUDIES No. 24)"*, 2016.

Use of information technology in Slovak courts based on the data of CEPEJ evaluation cycle 2014-2016

A preliminary assessment of the use of IT in the Slovak justice system was conducted through the CEPEJ thematic report *“Use of information technology in European courts”*, published in October 2016. Through this study CEPEJ carried out a thorough evaluation of the use of IT in the judicial systems of the Council of Europe member States (46 member States and entities) as part of the CEPEJ’s 2014-2016 evaluation cycle. It is important to stress that, although adopted and published in 2016, the report refers to the situation attested in 2014. The aim of this study was not only to draw up an inventory of the development of information technology tools and applications in the courts and prosecution services but also to identify very first means of analysis of their impact on the efficiency and quality of the public service of justice.

The cited report differentiates the development of the information technology into three different stages: early development, on-going development and (almost) completed development. According to this study, Slovakia was considered to be in the *“on-going development”* in each of the three different areas of investigation: Equipment (the actual equipment rate of the courts), Legal framework (specific legislative framework governing the various uses of IT) and Governance (the level of project management and the level of strategic governance).

The report *“Use of information technology in European courts”* allows the identification of eventually strong and weak sides of the use of IT tools in the courts of CoE member States, including Slovakia. It must be emphasised that all the data used to produce this report were submitted by the responding States or entities. Therefore, it may be also regarded as a self-assessment, based on criteria and questions formulated by the CEPEJ and commonly replied by the corresponds from the member States. The national policy and decision makers will certainly look first and foremost at areas where the advancement of IT tools in their countries is lagging behind and will decide on the priorities they should focus in order to improve the situation (and eventually the rating in case of future editions of this study). In order to identify the ways of achieving better results in certain areas, it may be useful to check which States do very well in those areas and explore the solutions and good practices by which they achieved those results. CEPEJ encourages the cooperation between member States and the exchanges on best practices in view of improving the efficiency and quality of justice.

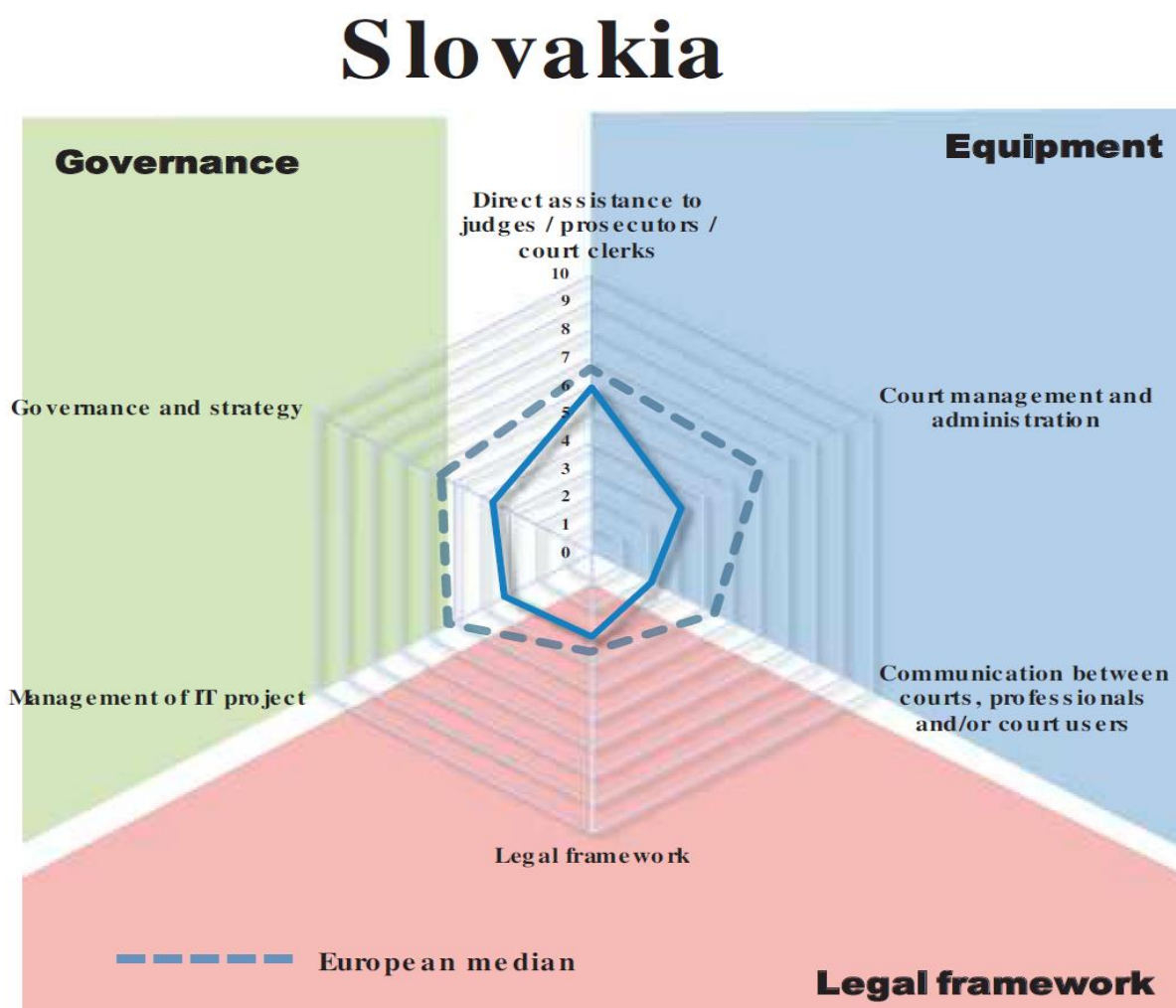
The report contains some comments, mostly formulated by the CEPEJ Working Group on the evaluation of judicial systems (CEPEJ-GT-EVAL), coordinated in a meeting of the network of national correspondents and acknowledged through the adoption of the report by the CEPEJ plenary meeting on 30 June – 1 July 2016. The Slovak Republic is specifically mentioned on several occasions, not always in a positive context, such as:

- It was among only 5 States and entities which used different case-law databases for different branches of law;
- It was among the 10 States and entities which had separate case management systems depending on the type of cases;
- It was among only 5 States and entities which did not have early warning tools (signalling the approach of deadlines in order to prevent an accumulation of cases or the overrunning of predefined timeframes) allowing proactive case management²;

² In 2017 the CMS monitors short-term and long-term deadlines. Highlighting by colour is used to distinguish the urgency of deadlines in respect to casefiles. CMS also allows the possibility to print the index of casefiles with their deadlines. Nevertheless, according to the representatives of the Ministry of Justice, there is room for improvement, especially because this functionality is current not a default option and has to be chosen manually. As so, its use seems not to be widespread.

- It was among only 6 States and entities in which there was no statistical tool employed to measure court activity and directly linked to the case management system; most data were still collected manually, although some were gathered electronically;
- It was among the 11 States and entities which did not have a central computerised criminal history system³;
- It was among 9 States and entities which reported not having measurement tools to assess the workload of judges, prosecutors and/or court clerks⁴.

Figure 1: Sum of IT developments indices in each field (equipment, legal framework and governance), Slovakia compared to the “European median” (as of 2014, source: CEPEJ STUDIES No. 24)



On every item, Slovakia is assessed as being close to average scores of the European justice systems (legal framework; equipment for direct assistance to judges/prosecutors/court clerks) or even significantly below them (esp. with regard to equipment enabling court management and the communication between courts, professionals and/or court users, as well as management of IT projects). In conclusion, investment in tools providing direct assistance to professionals has been a priority, but much efforts remain to be done in the area of court management and for the

³ In 2017 there exists a centralised register of penalties which is operated by the General Prosecution of the Slovak Republic.

⁴ In 2017 there exists a system that assigns cases randomly and ensures that the caseload is distributed evenly among the judges of the respective court. However, this system is not used to evaluate the workload of judges.

communication among the professionals which looked very low at the time the data were provided by the national correspondent to the CEPEJ-GT-EVAL Working Group. In addition, it seems that enhancement and adaptation of the legal framework may be a concern for the development and effectiveness of future services.

Table 1: Evaluation of IT developments per main areas and branches of law (source: CEPEJ STUDIES No. 24)

Equipment	Direct assistance to judges / prosecutors / court clerks	6,0	3,8
	Court management and administration	3,2	
	Communication between courts, professionals and/or court users	2,2	
Legal framework	Legal framework	3,0	3,0
Governance	Management of IT project	3,2	3,4
	Governance and strategy	3,7	
Level of development of the tools	To improve efficiency	2,3	2,5
	To improve quality	2,7	

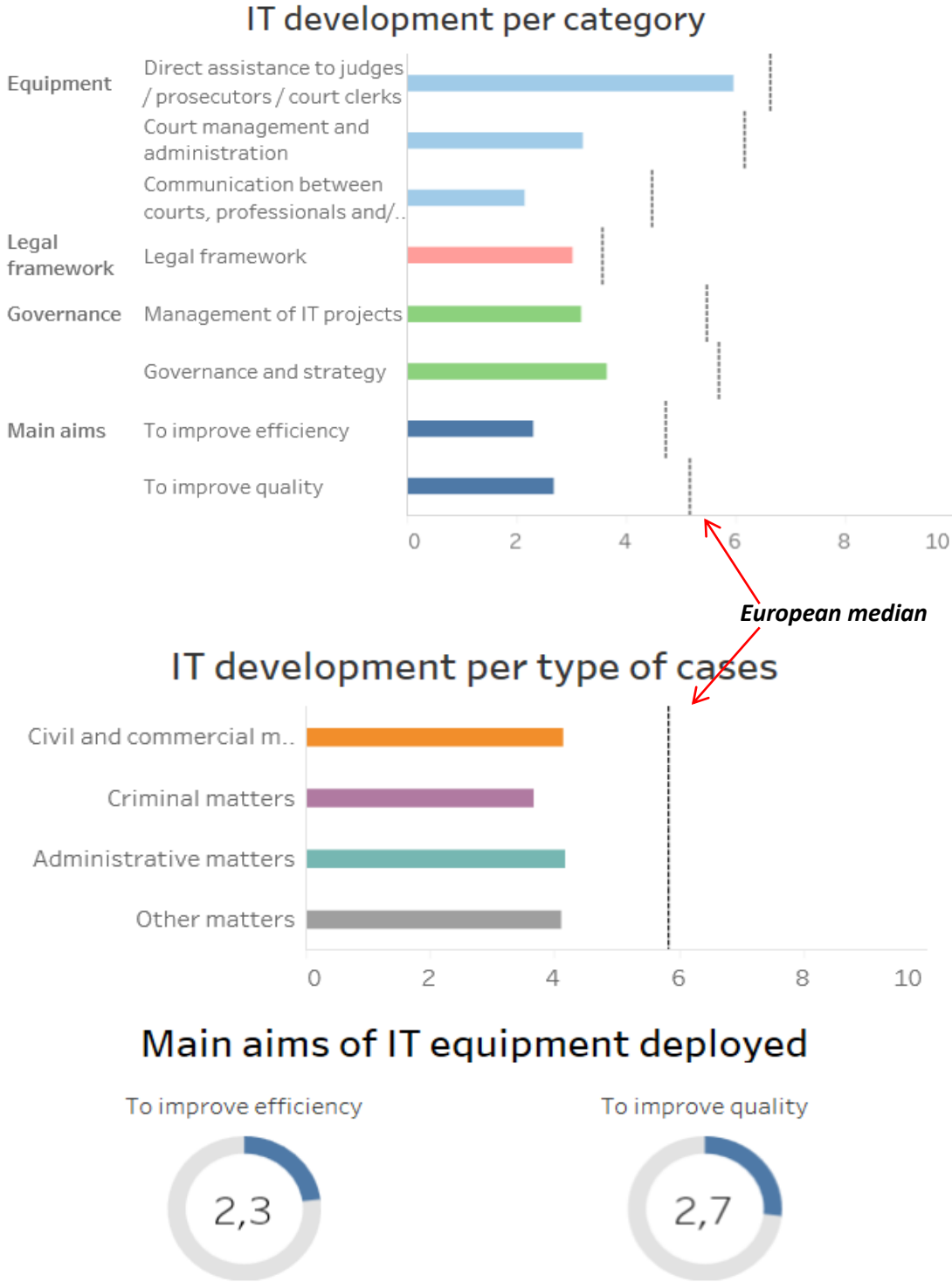
Global IT equipment per category

Civil and commercial	Direct assistance to judges / prosecutors / court clerks	7,3	4,2
	Court management and administration	3,1	
	Communication between courts, professionals and/or court users	2,1	
	Legal framework	2,4	
	Governance and strategy	3,6	
	Level of development of the tools to improve efficiency	2,1	
	Level of development of the tools to improve quality	2,4	
Criminal	Direct assistance to judges / prosecutors / court clerks	5,5	3,7
	Court management and administration	3,2	
	Communication between courts, professionals and/or court users	2,4	
	Legal framework	4,0	
	Governance and strategy	3,5	
	Level of development of the tools to improve efficiency	2,5	
	Level of development of the tools to improve quality	2,9	
Administrative	Direct assistance to judges / prosecutors / court clerks	7,3	4,2
	Court management and administration	2,9	
	Communication between courts, professionals and/or court users	2,4	
	Legal framework	2,7	
	Governance and strategy	3,6	
	Level of development of the tools to improve efficiency	2,3	
	Level of development of the tools to improve quality	2,6	
Other	Direct assistance to judges / prosecutors / court clerks	7,3	4,1
	Court management and administration	2,7	
	Communication between courts, professionals and/or court users	2,4	
	Legal framework	2,7	
	Governance and strategy	3,4	
	Level of development of the tools to improve efficiency	2,3	
	Level of development of the tools to improve quality	2,5	

The table above presents detailed ratings for all analysed parameters of the study and deserves appropriate attention on the part of national decision makers. For example, it shows that the IT tools for communication between courts, professionals and/or court users in civil and commercial proceedings

(scoring 2,1 out of 10) seems to be the least developed, which affects in particular the efficiency of courts in the respective agenda. The experience of Austria in (scoring 9,1 the same area) may suggest a solution to improving the situation in Slovakia.

Figures 2-4: Advancement of IT developments per category, type of cases and by the main aims (source: CEPEJ-STAT database)



The above charts show a consistent but rather slow development of IT in the different areas of adjudication, with a small negative difference for criminal matters. The figures also depict a system with

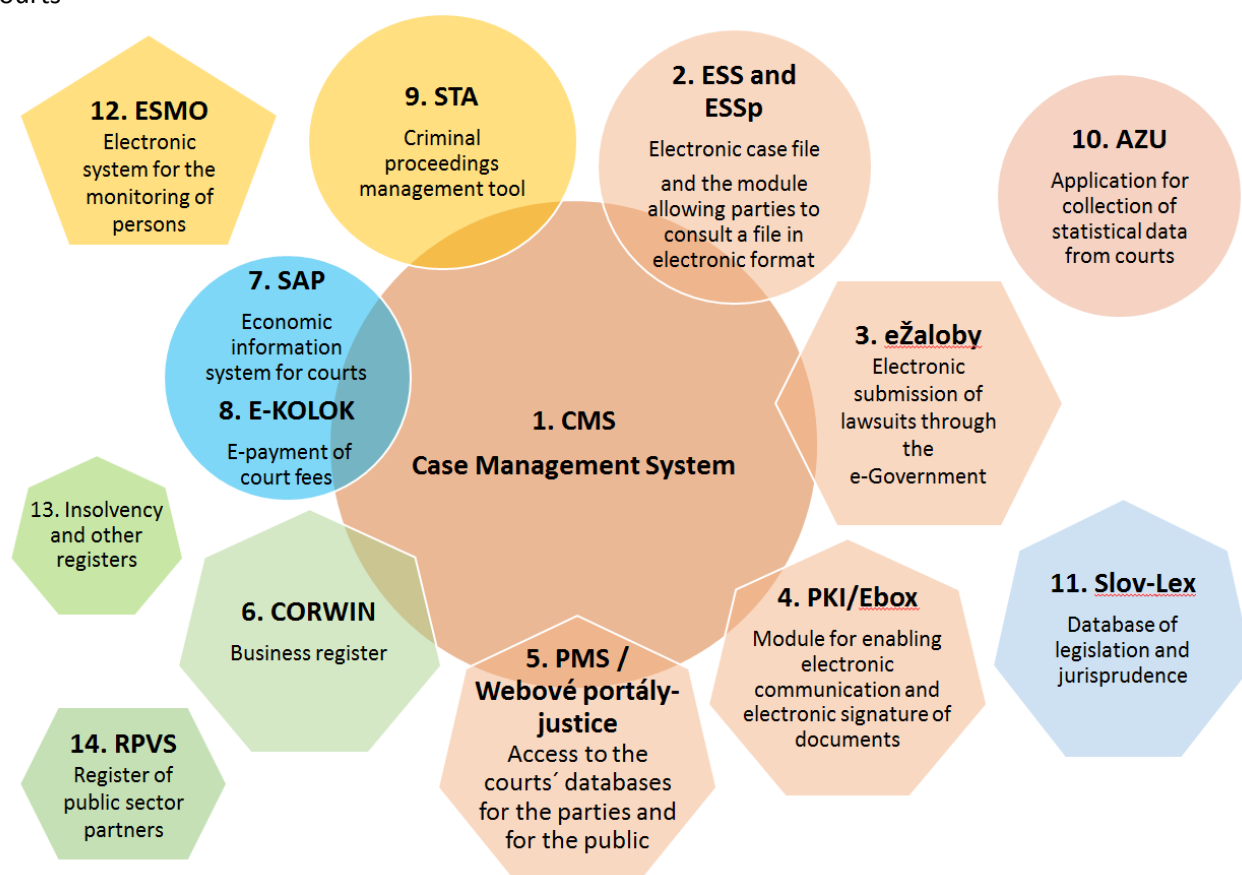
a lot of room for improvement. The IT tools have a huge impact on both efficiency and quality of justice and therefore they must be regarded with the utmost attention.

Although the analysis above is based mainly on data for the year 2014, the result of the CEPEJ expert team's visits to the Slovak Republic in June and October 2017 confirm the overall accuracy of this analysis, as well as the fact that the main conclusions remain largely valid for the current situation.

IT systems currently in use

The functioning of the Slovak judicial system is supported by different IT systems articulated into different tools, applications and solutions. The Figure below presents in a very schematic way the most important tools currently used, as well as the main connections between the central Case Management System (**CMS**) and other IT systems.

Figure 5: Map of the main IT systems and tools applied by or contributing to the functioning of Slovak courts



The main application within this architecture is the CMS and it is in use in district and regional courts (whereas the Supreme Court uses a version modified for its purposes).

In order to perform all the required tasks, the CMS is interconnected to other databases/sources such as the Electronic Casefile System (**ESS**) and the module to facilitate the access to courts' databases and the consultation of the casefiles in electronic format by the parties and their representatives (**ESSp**). The electronic submission of lawsuits is possible through a specially designed website (**eŽaloby**)⁵ or through the **e-Government portal**⁶.

Other very important parts of this architecture is the module which enables electronic communication with courts and other public authorities and the electronic signature (**PKI**, **Ebox** or "data box", as explained in more details below).

⁵ For more details see <https://obcan.justice.sk/ezaloby>

⁶ For more details see <https://www.slovensko.sk/sk/titulna-stranka>

There are other solutions for related information needs such as the database of Slovak legislation and jurisprudence (**Slov-Lex**)⁷, the portal enabling the access to the courts' databases for the public, from the web page of Ministry of Justice, and publishing the information on proceedings, court decisions and courts' agendas (**PMS and Webové portály-justice**)⁸, the Insolvency and other registries, etc.

As the Slovak court system is responsible for the Business Register (**Corwin**), the latter is interconnected with the CMS. Only a limited number of applications submitted to the business register are dealt with by a judge. The database is maintained by the Ministry of Justice which ensures its electronic publication. In a similar way, the users of the CMS can exchange information with the Register of public sector partners (**RPVS**), which contains data about natural and legal persons that have a business relationship with the state, the local government, or other public sector entities.

Most Slovak courts are also provided with kiosks for the payment of fees, part of the E-KOLOK – a service provided by the Slovak Post⁹. E-KOLOK is a new way to pay administrative and judicial fees through electronic stamps. The E-KOLOK payment system is part of the electronic solutions of public administration and is one of the most modern payment systems in Europe. Upon payment, the system issues a ticket with a QR code, which is then read/scanned by the registry office, attached to the file and linked to the Courts' Economic System in use (SAP). It has been reported that this facility is very much appreciated by the public.

At the moment, there is also a criminal proceedings management tool (**STA**) which is a system used for processing of submissions in criminal matters. Even if it is connected to the CMS, this application is only used for reading old proceedings and not for registering new ones as the CMS is now equipped with a new module for criminal matters. The migration from STA to the criminal module in the CMS is still underway.

The Analytical Centre has recently developed the concept of a new piece of software (**AZU**), which is designed for managing the collection of statistical data more efficiently. The testing phase of AZU within the pilot courts is now complete and final deployment is planned as from 1 January 2018.

The introduction of an electronic payment order (**EPO**) procedure is a proud accomplishment for the Ministry of Justice, but visits to courts and discussions with Ministry of Justice staff revealed a gap in the maturity of IT tools in general, comparing the EPO or execution orders and the basic tools available to courts for other matters.

The introduction of the electronic payment order had the positive effect of reducing costs. The court fee is reduced by 50% if the payment order is submitted electronically. Ministry of Justice estimates approximately 80.000-100.000 online payment orders per year, but other interlocutors believe that in reality there are less because it is a fairly new tool, it is a complicated system¹⁰ and thus big creditors are waiting for the system to simplify.

⁷ For more details see <https://www.slov-lex.sk/web/en>

⁸ For more details see

<https://www.justice.gov.sk/PortalApp/ObchodnyVestnik/Formular/FormulareZverejnene.aspx>

⁹ Slovak Post, <https://www.posta.sk/sluzby/platobny-system-e-kolok>

¹⁰ The defendant can raise an objection against the payment order, whereas this objection has to be justified in substance. Once the objection is submitted, it cannot be withdrawn. The submission of an objection, if it is not rejected, results in the abolition of the payment order procedure. If the objection is submitted by electronic means, a dedicated electronic form has to be used and authorised according to the relevant legal act, which does not exclude the possibility to submit the objection in a paper form.

In Slovak courts is practiced the **audio recording** of court hearings. The IT solutions are outdated (portable digital voice recorders are used) and the benefits of this recording is not clearly marketed. The CEPEJ team was explained by the representatives of the Ministry of Justice that the court hearing is always recorded. However, minutes are not always required according to current legal regulation. The minutes from court hearings are written in two ways: 1) the judge directly dictates to his assistant who present in the court room; 2) the judge dictates to another voice recorder, whereas this recording is subsequently transcribed by the assistant. The litigants will receive, upon request, a CD with the recording from the court hearing. As a matter of exception, the appellate courts may require the transcription of audio recordings of the hearings of first instance courts (there are no statistics on how widespread this practice is). Given the fact that there is no IT solution for the automatic transcription, this has to be done manually. Some court staff encountered by the CEPEJ team estimated that this transcription is requested systematically (probably varying between categories of cases and the preferences of individual judges), the transcription weighting heavily in the workload of court assistants.

In the practice of other judicial systems, one of the main purposes of conducting audio recording of court hearings is to simplify the work of court staff and to avoid the laborious production of detailed minutes or protocols of those hearings, along with a complete and objective proof of the content of the court hearings, easily available to all those interested. In some countries the records will be transcribed at the request of one of the parties or, for the convenience of judges of appellate courts, but only when the related decisions are appealed. In other countries the audio records are integrated through software solutions with a document in which the main elements of the hearing are outlined and the respective parts of the record are tagged¹¹. In the case of Slovakia, there is a serious doubt that the recording or the transcription, as they co-exist now, are necessary or, at least, reasonably balanced, having in mind the workload created by the transcription of records of court hearings.

As far as the **scanning facilities** are concerned, it must be said that the Slovak Judiciary is now moving towards the “*paperless*” e-Justice which requires that all paper documents submitted to the court are scanned, before being further processed. According to the Ministry of Justice, when launching of the Electronic casefile, there were different expectations as regards the ability of the courts to implement this solution. Although applicable to all categories of cases, currently the electronic casefile is used only for certain categories (especially commercial cases, certain bankruptcy cases, enforcement cases, electronic payment order)¹².

During their visit at the District Court of Bratislava I, the experts had the opportunity to follow all the steps that it takes for a document to “*travel*” from the registry desk to the judge chamber. Apart from business cases which are submitted predominantly online, the registry office has to deal mainly with paper submissions (e.g. by post, fax, in person). These applications need to be scanned before being inserted into the ESS and managed within the case management system. The experts agree that this process needs some adjustments as the courts are not equipped sufficiently and they can hardly cope

¹¹ In 2015 the Latvian Court Administration was awarded a special mention of the “*Crystal Scales of Justice Prize*” for the project “*Recording of court hearings with technical means*”, please see a presentation under the following link: www.coe.int/t/dghl/cooperation/cepej/source/Crystal_2015/Latvia.ppt

¹² The obligation to have the court files in electronic format is provided by the Instruction no. 1/2017 of Ministry of Justice in following agendas: Up, CoUp, Ek, CoEk, Pre; by the instruction no. 9/2017 of Ministry of Justice in: Pnre, Pnsre, Cb, Cbi, Cob; and by the instruction 24/2017 in agendas: OdK, OdS, Odi. All court files in abovementioned agendas, except for Cb, Cbi and Cob, are submitted to the courts in electronic format. Courts have the obligation to scan the incoming written submissions in agendas Cb, Cbi and Cob. Scanning is currently performed through the software program provided by *EPHESOFT*, which processes the submission in an asynchronous way – the processing of the scan occurs in the background, whereas the processing time of one submission takes approximately 10 minutes, depending on the size of the document.

with the amount of paper to be scanned. However, before investing into extra scanning facilities, the experts emphasise that there are other aspects to be taken into consideration, such as full integration of scanned inputs in the CMS and ESS, as well as further automatization of scanning processes.

As the courts have an obligation to scan the materials they receive, it is urgent to develop solutions simplifying the daily tasks and put the burden of e-filing on all users and not only the courts. The experts believe that the burden (if it can be called so) should be shared between both sides and some regulation in this regard is needed. In this context it is to be recalled that, according to CCJE Opinion No. 14 (2011) "Justice and information technologies (IT)", pp. 9 and 10), not all individuals have access to IT. The use of IT should not diminish procedural safeguards for those who do not have access to new technologies. States must ensure that parties without such access are provided specific assistance in this field. At present, traditional means of communication with the courts and access to information should not be abolished.¹³ Therefore, it should be carefully considered which category of court users may be required to lodge applications and other related files electronically, and whether this will increase the efficiency of courts or the quality of their services.

The current Case Management System

All Slovak courts have gradually adopted the CMS starting from 2001. From a technical point of view, the CMS is based on client-server architecture and each court has its own SM database (there are 63 databases in total), whereas on the regional level they are connected to 8 ESS/DS-LTA databases. These local databases are eventually connected to a single central database within the Ministry of Justice. This central database is updated daily with a limited scope of data.

The CMS is a complex application with a variety of functions to support the courts in registering, monitoring of cases, creation and management of electronic casefiles, support to court staff and to judges in different phases of proceedings and operations related to examination of cases by the courts. It provides limited functionalities for tracking of the casefile during its life-cycle. The CMS also provides information about the stage of the case and who is dealing with it. The Ministry of Justice uses the system to some extent in order to evaluate the courts' performance. The system is under a continuous development, new versions are released regularly, as different modules are added to the core system in order to face specific needs of the court (e.g. random distribution of cases, scheduling of judicial activities, providing templates of judicial acts, statistical reporting, etc.). These additional modules provide new services (functionalities, templates, etc.) and enable the system to communicate with other systems such as the STA, ESS, PMS, Corwin, SAP etc. In the context of this continuous development and moreover of the plans to have a new Court Management System, it is recommended that the updated/new system provides more detailed information and functions for the purpose of tracking down the casefiles from the beginning to the end of the case, including initiation of the case, hearings, final judgement, execution, archiving; for measuring average timeframes, the aged of pending cases and signalling eventual delays; for monitoring and comparing the performance of courts etc.

The current CMS also comes with a specific module for **statistics reporting**. However, the CEPEJ experts were told that these statistical reports are neither accurate nor reliable, in addition to being based on an outdated and ineffective methodology of courts' statistical data reporting. A lot of statistical data is being produced as the result of a long-term routine. Likely, some of them are not providing any useful information (content) anymore. It seems that these deficiencies are not to be blamed on the CMS – the system is working as required – while the methodology is to be updated at the "*supra*" level, and the lack of reliability is primarily due to the fact the court clerks do not feed the system properly. It is clear

¹³ In Slovakia the entitled person has a guaranteed access to the electronic court file via info points located in courts, through so-called "*TOKEN*". Also the possibility to submit objections in paper form has been introduced.

to the experts that CMS is currently used below its actual potential. In theory, it would be the right place where to look for robust and detailed statistics, but currently there is an issue with the production of data. The Ministry of Justice seems to be aware of the fact that the administrative personnel from courts demands additional and appropriate training, and it organises regular training for trainers from every regional and district court. Consequently, those trainers spread the knowledge among the employees of respective courts. At the same time, there is a direct communication channel established between the selected trainers and the Ministry of Justice, which enables the trainers to be informed about all newly-added or updated functionalities of the CMS. The CEPEJ experts appreciate these measures and recommend to evaluate the impact of the training efforts undertaken so far and look for possible ameliorations. It is not a question of training sessions being organised or communication channels being in place, but whether all those measures lead to the expected outcome. These aspects are reflected as a strong recommendation in the *Guidelines on how to drive change towards Cyberjustice (CEPEJ (2016)13)* and its implementation requires a lot of efforts and a regular, detailed assessment.

The implementation of this CMS is beneficial for all users: the courts staff, the judges, the court management and the central administration. Among the benefits for the courts staff is that they can manage certain casefiles electronically, and the parties are easily identified thanks to a series of modules which connect the system to external sources such as: population, business, land, tax registers etc. Another important advantage is the fact that the information on payment of court fees is uploaded automatically from the E-KOLOK payment system.

The benefits for judges are of a different nature. On one hand, the automatic random assignment of cases provided by the system results in a balanced distribution of the caseload at the level of individual courts. On the other hand, judges can easily access the register and their docket, to monitor the caseload and to work on any document available in electronic format. Moreover, apparently judges can rely on a number of templates for judicial acts and decisions. It is possible for them to insert customised samples of decisions and of documents in a section called "*Creation of the Decision*". Also it is possible to use a section of the CMS called "*drafts*". However the CEPEJ experts have been told that the latter functionalities are used insufficiently by judges. The Ministry of Justice reflects upon the requirement of proper training in related IT matters and offers training programmes. Once more, the impact of the implemented training programmes should be assessed and further awareness rising and training developed.

The CMS should be beneficial to the court management and to the central administration. It should allow its users to easily identify any backlog, to address the cases displaying excessive delays, and provide possibilities to monitor the workload and the efficiency of judges and courts. The potential of the current CMS is undermined by its inconsistent use and insufficient training. The experts perceived a big gap between many functionalities and sophistication of the current CMS and the understanding / usage at the court level. Court users are overwhelmed by the functionalities and everyone adapts individually, which creates discrepancies. A variety of new functions have been added but not all users seem familiar with them, unless courts have proactive presidents who make it mandatory to use the CMS for all purposes for which it is designed.

Towards a new Case Management System

Although the CMS is currently implemented below its potential, the CEPEJ experts believe that the decision taken by the Ministry of Justice to move towards a new CMS is the right one. There are several reasons to look for a new system. The current system, due to the limits of its technological platform, the integration and connection to external resources etc., tends to be very slow at times, which results in a frustrating experience for the court staff. In fact, as already mentioned by the CEPEJ expert team in the Report "*Efficiency and quality of the Slovak judicial system. Assessment and recommendations on the basis of CEPEJ tools*", of November 2017, the CMS seems to be managed by a single person (who, for historical reasons, seems to be the one having a full understanding, control, steering, further

development and crisis handling capacities). As a consequence, most of the efforts are mainly focused on maintenance.

The main challenge of the current CMS is that it was designed 17 years ago, based on a technology which became outdated, and each new module or functionality is built on top of this old machinery. The new CMS should be designed with the most recent technologies, languages and protocols. It should enable the communication with external resources natively.

The two keywords when designing the new system should be: interoperability and scalability. **Interoperability** is the ability of a system or a product to work with other systems or products efficiently. **Scalability** is the capability of a system or process to handle a growing amount of work, or its potential to be enlarged to accommodate that growth. In most countries the judicial systems are now dealing with an exponential growth of data. The casefiles are more and more digitalized and therefore the systems must be designed to accommodate such enormous amount of data. Even though the big data phenomenon is far from a reality in most European judicial environments, we are moving in that direction and therefore it is worth being prepared. The Ministry of Justice needs to develop strategic planning within a short-term, medium-term and long-term frameworks.

Moreover the new CMS should be designed taking into account three main objectives:

- Ensuring access to justice and communication with court users;
- Serving the interests of court management;
- Facilitating the work of judges, registrars, and other court staff.

The new CMS should be totally integrated with other systems in place, so that the final users have the impression of working with one single application that does all the job, while in the background it communicates with database/resources of different nature (Ministry of Finance, e-portal, different registers, E-KOLOK etc.). In addition to that, the experts agree that the new CMS should allow maximum flexibility to accommodate legislative changes or court management policies that might occur in the future.

Another important requirement to take into consideration when developing the new CMS is the fact that it shall be user friendly and supportive to its main users (court staff and judges). Compared to the current system, the new CMS should completely overcome the problem of duplication of tasks; plus harmonisation of software and hardware to shorten technical operations. The new CMS should also overcome the issue of manual statistical reporting, which should be replaced by automated procedures. Finally it is expected that the new CMS will be adopted by the Supreme Court. Apart from contributing to a sense of unity of the court system, this may bring about certain practical advantages such as the focused investment in the design and development of a single, common system, streamlining of the proceedings, the methodology of statistical data gathering and reporting, facilitation of the communication of documents from the appeal courts to the Supreme Court, etc.

Other than the new CMS, the **Department of Informatics and Project Administration** within the Ministry of Justice is responsible for providing new tools, assistance to users and a general security framework. It regularly provides an analysis of the needs, demands and requirements to advise the Ministry of Justice in future IT developments. The department does not provide the developments by itself and requests services from external providers.

It is a strong principle of the *Guidelines on how to drive change towards Cyberjustice* that all relevant actors, whether supporting the modernisation objectives or reviewing their implementation, should share a vision on the changes in the field of IT tools for justice. Therefore, it is recommended to institutionalise a strong dialogue and collaboration between the Department of Informatics and Project Administration and the Analytical Center in order to speed up, improve quality, and better enforce

decision-making in the field of data collection and court management. In other words, there should be one single and shared vision at the top of the Department of Informatics and the Analytical Center, with a single roadmap to build a unique and comprehensive solution that serves all purposes.

Apart from strictly technological aspect, the experts agree that the new CMS must be released with the most appropriate **communication** to its final users. In other words the management should convey the message on the benefits of the new system rather than solely on aspects related to the transition and responsibilities of different categories of users. A helpdesk for users' support would be highly beneficial. There is also an opportunity to implement some sort of training among the courts, based on a network of "super users", who have advanced knowledge of the system and can eventually coach ordinary users, similarly to the Slovenian experience.

The implementation of a new IT system has proved being problematic in most countries, and there are several aspects to be taken into consideration in order to provide the smoother transition possible. The experts agree that a series of aspects should be discussed and clarified before the actual implementation of the project: objectives, responsibilities, legal framework and detailed regulation, procedural aspects, training, user support, costs, suppliers, monitoring of the activities, etc. It will be important to monitor and evaluate the results and communicate on them, especially when positive developments occur.

In particular, it looks important that **one person** is appointed in a full-time position to oversee, give consistency and be responsible for the development of all tools in the framework of a strategy. This person's position, as well as the strategy should be secured over political changes over years. It is an important condition for building up an organisational culture in the justice sector as a whole, with stability to reward efforts made by the courts along the lines of a single and comprehensive plan of several years.

The statistics system and the role of the Analytical Centre

The current court statistics system doesn't take full advantage of the IT tools in place. As already pointed out, it seems that the CMS doesn't provide reliable statistical reports, reason being the fact that it is not fed properly by its users. For this reason, the courts' judicial data is collected through a basic system (based on either paper reports or a MS Access database) on a periodic basis (monthly, quarterly, semi-annually or annually). Once the data is collected, it is aggregated at the central level by the Analytical Centre within the Ministry of Justice. It should be mentioned that, having in mind the amount of time and resources (human, first and foremost) which are certainly invested every year in this "alternative" and, to be frank, obsolete way of collecting statistical data from the courts, having in mind all related risks (of delays in processing and inconsistency of data, of focus on collecting data and verifying its quality, instead of focusing on analysis for decision-making purposes and improving the performance of courts etc.), it would be a much wiser decision to improve the statistical module of the CMS and enforce its streamlined application by the main users (court staff, judges, and court managers). At present time, though, the best choice would be to invest all the efforts in developing and putting in place the new CMS, which shall solve the above inconsistencies in a strategic and forward-looking manner.

One of the main challenges faced by the Analytical Center today is the reliability of data (quality and integrity). Duplication of tasks and paper reporting at court level has a negative impact on the statistical system. The current method of data collection is not harmonised and consumes a lot of resources, as it relies too much on the human factor. Moreover the high turn-over of court staff impairs the whole system.

In order to overcome the limits of the current way the statistics system is organised and because the deployment of the new CMS will take time (according to the estimates of the Ministry of Justice at least

3 years), the Analytical Centre has developed a new application called “AZU”, which allows the electronic collection of statistical data from all district, regional courts, the Supreme Court and the Specialized Criminal Court. It must be underlined that AZU is an application not concurrent to CMS, but a stand-alone tool, developed at low cost, with the objective to replace paper-based reporting of statistical data. In the future it should be fully integrated to the CSM. It represents an intermediate objective, while waiting for the new CMS to be in place and incorporate an automated statistical reporting module.

Another, not less important challenge, is the need to update the concept of national judicial statistics, including a system of evaluation of courts on the basis of clearly defined performance indicators. The system of statistical reporting should be focused on providing data for strategic management, meeting different needs and expectations of the Ministry of Justice and its Analytical Center, of the Judicial Council, of courts, of the public. Therefore, the right information should be available at the right time, while the accompanying processes and tools shall be able to turn data into information, information into knowledge, and knowledge into plans that drive appropriate actions.

In the CEPEJ Report *“Efficiency and quality of the Slovak judicial system. Assessment and recommendations on the basis of CEPEJ tools”* are explained the main elements of the methodology of the evaluation of courts’ performance and are exposed examples of such an evaluation. To manage well individual courts or the entire court system and to ensure a constant improvement of the efficiency of courts and of the quality of their services is impossible without a strong system of statistical reporting and evaluation.

Therefore, the Analytical Centre shall achieve within the shortest delay the following objectives:

1. Develop and put forward proposals for the aggregation of the currently very fragmented agendas of all courts into a reasonable number of main categories of case (from 5 to 7, maximum 10), which can be analysed as per the entire court system and per individual courts. Having more case categories, at least at the begging of this exercise, will render the analysis very cumbersome and hardly intelligible to most potential users or target groups;
2. Formulate proposals for rendering the courts (at least the vast majority of them) comparable in terms of organisation, structure of the caseload, allocation and management of resources etc. (the above objective will facilitate and contribute to achieving this one). Having in mind that many Slovak courts are attributed diverse causal specialisation, it could be envisaged to differentiate the resources attributed and involved in dealing with the respective categories of cases, so as to preserve the possibility and to enhance the relevance of a comparative analysis of courts’ performance per the main categories of cases. This comparative analysis is crucial because it allows to identify the leaders of court efficiency and quality with their good practices, which can be disseminated and generalised, as well as the “outsiders” or the courts facing serious disbalance between workload and resources etc.;
3. Propose the main efficiency and quality indicators to be adopted for the purpose of evaluating the courts’ performance, such as Clearance Rate (CR), (Forecasted) Disposition Time (DT), Age of Pending Cases (APC), Solved Case Per Judge (CPJ), Solved Case Per Staff (CPS), Staff Per Judge (SPJ), Cost Per Case (CPC), Appeal Rate (AR), Rate of Quashed and Modified Decisions (QMD).

Having in mind the advantages and capabilities of the CMS, it must be considered to introduce indicators which are based on so-called “single observations”. For example, having a complete registration of all cases and of procedural phases they undergo, will allow to calculate effortless (impossible in the absence of IT) such indicators as the (Average) Actual Length of Case Processing (which is a more precise indicator than the DT above because it is based on data on

the actual elapsed time it takes to process a case), the (Average) Length of Specific Procedural Steps (as the need may be for shortening different procedural actions/steps), the Rate of Resolved Cases within the Established Timeframes (if the timeframes are provided for), and the Age of Resolved Cases (having a similar function, but a different perspective than the APC above), etc.¹⁴

All these indicators will have to be put into a chronological perspective. For example, comparing the CR, DT, APC over a period of time of 3-5 years allows important conclusions on the evolution of the caseload and of the productivity of courts. It may allow even a glimpse into the future possible developments and preparing the court system for those developments;

4. Produce the indicators above for all courts grouped per level of jurisdiction, and per individual courts. For this purpose it will be necessary to solve several methodological problems, such as fine-tuning the reporting of human and financial resources, possibly by agenda they are engaged in solving;
5. Produce and give maximum publicity to a comprehensive annual report on courts' performance, including the main efficiency and quality indicators per the main categories of cases (including averages, best achievements and worst results). In the report, statistical data should be accompanied by methodological explanations and an analysis of the results, underlying the causes for unusual results or trends, and relevant conclusions. The reports should preferably contain references to measures proposed as a result of the analysis and reasonable targets for the next reporting period.

The above objectives may and shall be well integrated with the new CMS, but they may be also fulfilled, especially in the initial phase, without a high degree of automatisation. The expert team would like to emphasise that this is not about suggesting another "*alternative*" to the CMS, a solution clearly not recommendable. This is about the process of developing and testing all the parameters of the system of statistical data gathering and reporting, which will be integrated into the CMS. Producing the first yearly courts' performance report (for example on the result of the year 2017) will probably not be able to rely much on the current or the new CMS and will certainly require more work, but will also offer the chance to adjust and better prepare the design and certain technical requirements for the new CMS. It may be decided to test the updated system of statistical data reporting and analysis in a reduced number of pilot courts. The processes related to the new CMS and the updated system of court statistics may be organised in parallel, but it is certain that they need a high degree of coordination and harmonisation, because in the future the production of statistical data and reporting shall be largely automated through the CMS, taking advantage of business intelligence tools, and spare the input of important human resources (except for the analysis sensitive to specific circumstances).

Data warehouse

The Analytical Centre is convinced that the AZU will facilitate the collection of statistical data, but it is far from being the panacea of the statistical system. For this reason it investigated other long-term solutions and is now engaged in the creation of the Analytical Centre's data store/warehouse (**AC DWH**).

The intention to create a data warehouse, which would be integrated with the CMS, is certainly good, as the experience of other countries shows. For example, the court system in Slovenia is collecting and capturing courts' performance information in its data warehouse, to improve planning, decision-making at all levels (including potential interventions by the Supreme Court), and human resources

¹⁴ For further details and examples, see the CEPEJ's Report "*Measuring the quality of justice*" (CEPEJ(2016)12)

management. Apart from the instantaneous access to the latest data, the Judicial Data Warehouse and Performance Dashboard increased transparency and allow the visualisation of the key performance indicators for all courts.¹⁵ This project was a finalist in the CEPEJ “*Crystal Scales of Justice*” competition in 2012¹⁶.

The idea of the Analytical Centre is to develop a single data warehouse fed by different data sources. In the initial phase the AC DWH will integrate:

- data currently provided by papers (via AZU)
- data on Decisions of Enforcement Proceedings (executions) - from the Case Management System
- data on Payment Order Proceedings - from the Case Management System
- data from the Insolvency Register
- data from the Register of Companies doing Business with the State (RPVS)

The structure of the AC DWH is/will be open for future connections to any further registry which are considered reliable. Not being sure yet when the new CMS will come, in the meantime the culture of statistical data collection and analysis must progress. However, a question remains regarding the reliability of the data provided by the courts due to human or systemic errors when entering the data into the CMS. The AC DWH is intended to serve primarily the Ministry of Justice (full scope) and secondarily the courts’ management (limited scope).

This is a quite ambitious, still feasible, project and the CEPEJ experts believe that it represents the right choice taken by the Ministry of Justice. The most important aspect of this project is that it is open to further developments. In other words, once the new CMS is implemented, it will be possible to connect the data warehouse to the court management system and collect reliable statistics in an automatic way without any burden for the court staff. Therefore, the CEPEJ expert team recommends to the Ministry of Justice to join/take the lead for both initiatives and design a coherent Court Information System, in which the data warehouse and the new CMS (whichever is ready first) are interoperable and part of the same plan.

Even though the data warehouse is definitely the best solution in the long-term period, it is far from being a reality now, and there are a few issues that must be taken into consideration in the short-term. These issues are related to the duplication of tasks at court level and consequently the quality of the data provided. It seems clear that in the short term the AZU will perpetrate duplication of work for court staff, until the new CMS is operational. This situation has negative effects on both the efficiency of courts and the quality of the data. Therefore it is highly recommended to address this issue and push court managers to promote court quality as a condition to allocate means, and put in place a control and redress mechanism. It is also experts understanding and conviction that, once the new CMS is fully operational, the AZU will be discontinued.

The experts noticed that the current debate is primarily about the removal of paper work. However the Analytical Centre takes care to discuss ways of improving the quality of data and developing the methodology, including the targeted indicators, in parallel to the removal of paperwork.

¹⁵ For more details see “*Quality of Public Administration. A Toolbox for Practitioners. Theme 7: Quality justice systems*” Luxembourg: Publications Office of the European Union, 2017, from p. 8

¹⁶ See the presentation “*Judicial Data Warehouse and Performance Dashboards. Supreme Court of Slovenia*”, https://www.coe.int/t/dghl/cooperation/cepej/events/EDCJ/Cristal/2012/CSJ_presentation_GST_2210.pdf

In the long-term period, once the data warehouse is fully operational, the courts' data will be extracted automatically by the system without any manual operation. This passage will also mark another tremendous advantage of the new IT structure: the fundamental move from aggregate data (i.e. summary statistics) to the collection of single observations. One example is given by the calculation of the length of proceedings. Traditionally, the monitoring of judicial timeframes is based on aggregated data: number of resolved cases, number of pending cases, number of pending cases for more than XX months, etc.). Then, the disposition time is considered a good proxy for the length of proceedings. On the other hand, when single observations are available, the calculation of average actual length of proceedings is more straightforward. More importantly, through single observations, it is possible to investigate the length of the single intermediate stages of judicial proceedings and the waiting time between these stages.

The strategic role of the Analytical Centre

The Analytical Centre is a quite new body in the Slovak judicial framework. However it plays an important role when it comes to the strategic vision of the Ministry of Justice. There are four different pillars that support this vision: *"Evaluation and Analysis"*, *"Modelling and Forecasting"*, *"Statistics and Reporting"* and finally *"Cooperation"*. The Analytical Centre was set forward quite challenging goals: supporting the Ministry of Justice when drafting reforms, monitoring current trends for the policy makers, legislation assessment, evaluation of the court' performance on a regular basis, etc. The team is currently composed of a good mixture of different professionals such as lawyers, economists, statisticians, data analysts and mathematicians. Such a professional amalgam is expected to be highly beneficial to the achievement of the set goals.

In regard to management of courts, the team of the Analytical Centre is called to a double task: interpreting past data on the performance of courts and extrapolating on past data to make predictions for the future. In an initial phase the Centre was mainly engaged in assessing all the data and information at its disposal. Now, since the team is enhanced in number and quality, it is focused on the development of a sound and robust methodology for data collection and information exchange.

As the Analytical Center is a new and quite original institution in the judicial community, a lot of efforts are necessary to make sure that its mandate and goals are understood and contribution seen as a key factor to the improvement of efficiency and quality of courts in Slovakia. It is thus recommended to invest in communication efforts and liaise with champions in the judicial community who will advocate for the changes the Analytical Center is working on. In any case, the Analytical Centre will need a big institutional and personal credit of confidence and support from the Ministry of Justice.

The judiciary may want to pretend leading itself the advancement of IT solutions for the court system (through the Supreme Court, as is the case in Slovenia, or the Judicial Council, for example), but it should also accept the leading role of the Ministry of Justice and its Analytical Centre, if the latter pay due attention to the needs and opinions of the courts and judicial self-governing. Certainly, the development of IT tools for the Slovak judiciary should go hand in hand with strengthening the judicial independence and self-governing, in particular the role of the Judicial Council. In line with the CCJE Opinion No. 14 (2011), p. 32: *"IT should be used to enhance the independence of judges in every stage of the procedure and not to jeopardize it. Since judges play an important role in safeguarding both their individual and institutional independence and their impartiality, they need to be involved in decisions that have consequences in those areas."* In the same context, p. 40 of the Opinion states that: *"Managing and developing IT presents a challenge for any organisation. For judiciaries, it presents a new and demanding challenge for their governance structures. Information-based management is an opportunity for developing institutional independence."*

The ultimate goal of the Analytical Centre is the transformation of data into actionable intelligence to guide the Ministry of Justice tactical and strategic decisions. In order to succeed, the Analytical Centre

has to advance in three different fields: one is the collection of the data (data warehouse) the second is the analysis of the data (data mining) and the third one is the creation of useful and comprehensive dashboards (to convey the message).

The nearest challenge of the Analytical Center is developing the Extract, Transform and Load (ETL) process which leads to an efficient data warehouse. This will be the first step towards an even more ambitious goal which is the accomplishment of a **Business Intelligence (BI)** solution for the Slovak Judiciary. Once completely developed, the business intelligence in place will play a substantial role when turning data into information, information into knowledge, and knowledge into actions intended to improve the quality and the efficiency of justice. It must be said that the business intelligence is not just a bunch of pieces of software and technology. Apart from technical considerations, such innovative solutions require a paradigm shift in court management, or, in other words, a change of view at the top management: from the traditional statistical reporting to a new strategic management. This change of view might take a while before being fully accepted and adopted, especially in a conservative environment such as the judicial domain.

The core of the BI solution is clearly represented by the data warehouse which will serve as a common platform for different sources of information: strictly judicial data, budgetary and economic data, personnel-related data etc. In other words it can serve **different purposes**, for example it can be used for the revision of expenditures. Generally speaking, the data warehouse is designed for serving a broader audience and a variety of activities. For this reason, different **dashboards** should be considered for different users. There are at least two different levels which can be addressed: top management at national level and court management. However, specific dashboards can be prepared for other specific users/needs. For example, judges who want to monitor their activity in a more proficient way. In addition to that, reporting services for the general public should also be considered.

It is understandable that the Ministry of Justice is going to play a major role amongst the stakeholders in terms of the future of the BI solution. However, it is highly recommended to consider all the stakeholders in order to meet different needs and expectations (Ministry of Justice, Judicial Council, Supreme Court and all other courts, judges, court staff, public). The success of this initiative depends on the fruitful **collaboration** of different entities and professionals: IT specialists, top management, court representatives and judges. Beyond each other's area of expertise, it is important to understand the technology involved in developing the BI environment and agree on a common technical terminology, in order to avoid any misunderstanding between different experts. The broad dialogue will support the objective of meeting end-users needs on different levels of use: data access (easy, daily); reporting, including generation of scheduled reports; research and analysis (*ad hoc* queries); prediction (next step). All this is also critical to understanding what is possible within the project's scope of time and budget.

In the positive experience of Slovenia, mentioned above, it is an acknowledged fact that the data warehouse and president's dashboards have relieved judges and managers from complex administrative tasks and enabled them to focus on decision-making.

Reform of the court map and other priorities

The Ministry of Justice is demanding the Analytical Centre to investigate a few themes of the current debate around the judicial system, such as: the reform of the court map, the composition of judge's team and the court assessment.

The reform of the court map and of the judge's team are extremely complicated issues because of the profound implications for the judicial system. All such reforms touching upon the judiciary have to be discussed with representatives of the judiciary and proper communication campaigns should be implemented. Even so, the resistance will be high and therefore political support needs to be ensured in advance to any serious investment, especially before the implementation phase.

After two visits of CEPEJ experts to the Slovak Republic in June and October 2017, it is still difficult to provide a more detailed advice than the methodological suggestions contained in the Report *“Efficiency and quality of the Slovak judicial system. Assessment and recommendations on the basis of CEPEJ tools”*. And it is so because preparing the above mentioned reforms require a good analysis of the current performance of all national courts, including clear statistical indicators. In this respect, the use of CEPEJ methodology is highly advisable, as detailed above. The court assessment should consider a comparison between courts of the same level and the analysis should also monitor the time factor, applying the chronological perspective.

Arguments that the Slovak courts are all special (because of multiple causal jurisdictions or other structural peculiarities) and cannot be compared are not acceptable, if one intends to improve court efficiency or, at least, intends to apply the CEPEJ-recommended methodology for this purpose. The only alternative which comes to mind is applying the heuristic technique, but this is not a matter on which the authors of this report may elaborate. It is understandable that there is resistance to comparing the courts and judges in terms of efficiency and quality, but there is no other way to a good assessment and driving the progress in an informed way. A good strategy to mitigate the risks for judicial independence and impartiality will be based on a number of legal and institutional safeguards, such as an inclusive process of development and implementation of any assessment/evaluation system in regard to judges and courts, the right of the evaluated subjects to be actively involved in the evaluation process, to provide opinions on their results and to comment on the finding of others, as well as appropriate quality checks for used data and interpretation of statistics based on a good knowledge and understanding of the relevant circumstances and of the realities of judicial work.

For the reform of the court map, and based on the experience of several CoE members States (such as Croatia, Estonia or Latvia), it is recommendable to start with administrative merging of several small courts into one or the administrative absorption of small courts by the bigger one, preserving initially the operations at all the offices of the reorganised courts. This may attenuate judges’ opposition and the concerns of the population and local politicians that the access to court is being diminished. To attain a better effect of the merging/absorption than the simple saving on several administrative posts, it may be decided to specialise the judges from each of the former courts in a particular category of cases. In the next phase and based on a clear statistical analysis, the small and inefficient branches or offices (but not courts anymore) will be dissolved and the *“central”* presence consolidated in terms of access, efficiency, and quality.

In the same way as assessing the courts, the workload and productivity of individual judges should be evaluated, compared and put in a particular context of efficiency and quality. To give an example related to deciding on the optimal composition of the judge’s team. In a country where CEPEJ was supporting the reforms to improve judicial efficiency it was concluded, on the basis of statistical data analysis over a period of several years, that supplementing the number of judicial assistants in higher level courts (in the particular case the situation was revealed in the Supreme Court, where the number of judges was progressively reduced, but each remaining judge started to be assisted by a second judicial officer), contributed better to improving the efficiency and productivity than supplementing the number of judges. This conclusion, being based on incontestable statistical data, had to be accepted also by the judges. Of course, the right balance shall be reached between managing the change and judicial independence.

e-Government plans

The e-Government Act was introduced in 2013 and it represents the general legislation for the entire public administration, judiciary included. The e-Government Act brings new ways of exercising public authority electronically and introduces electronic delivery, guaranteed conversion of documents, and electronic payment of all administrative and court fees. Ministry of Justice was a really quick adopter of

the e-government vision compared to other administrations. However, no proper testing was done before the implementation of the Act. After an implementation of three years, the regulations seems to be in force since November 2016. In late 2016 the Civil Law Department within the Ministry of Justice found out that most of the rules were not adapted to the specificities of the court business and operations. Through an act from 2017, the Ministry of Justice adopted a list of exceptions to the general rules. Since June 2017, as prescribed in the law, administrative bodies, advocates, bailiffs, notaries, insolvency practitioners are requested to communicate with courts primarily in electronic forms.

The main e-Government infrastructure is composed of different portals which provide many different services to the citizens. The Central Public Administration Portal (slovensko.sk), under the administration of the Slovak Government Office and operated by the National Agency for Networking and Electronic Services (NASES), provides a central and unified access to information resources and services of the public administration. Among the most important tasks of the portal are directing the interested party to use a particular e-Government service and providing a navigation through a life event as well as useful tips and tricks. The portal currently offers more than 800 e-Government services including justice-related services.

The **Ministry of Justice's legislation portal** offers search capabilities for documents at various stages of the legislative process based on user-selected criteria. It monitors, archives and retrieves material of a legislative nature during the legislative process. By virtue of the portal, public institutions, citizens and organisations are able to transparently monitor the legislative process. The registered users are also given the opportunity to actively participate in the legislative process (through individual or collective comments). The portal also provides effective tools for searching information inside the legislative framework as well as for finding concrete full-text laws and legislative materials.

Within this general e-Government plan, the **Data Boxes** (i.e., the official email-style system for the delivery of documents) were established and activated. The creation of such data boxes occurred gradually: first for the public administrations, then for the private sector and all legal entities. At the moment all persons over 18 years and individual entrepreneurs may ask to be provided by the government with their own Data Box.

Currently there is some criticism around the way these data boxes have been managed. Such boxes are created automatically for all citizens, but in many cases they remain not activated for delivery of correspondence/documents because only the legal entities have an obligation to activate them. The access to the data box demands an eID which can be requested by the physical person, as there is no obligation to have the eID. There are related problems for enabling foreigners to use electronic means for communication with courts and other authorities, although this issue is being addressed by the so-called "*alternative authenticator*"¹⁷.

The Civil Law Department within the Ministry of Justice has identified a few technical, legal and managerial problems associated with the data boxes. In particular, the fact that a person has a data box assigned (every citizen has it *ab initio*) and even the fact that it has been activated by the concerned person, does not guarantee that it is regularly used and verified. Natural persons shall be entitled to forget they have a virtual data box, to forget checking it regularly, or to discontinue using it at all. Even though it is possible to set-up notifications on incoming communication through e-mail or SMS. There is also a technical problem with serving documents and decisions through data boxes. The problem cannot be solved at the Ministry of Justice level but only at governmental level. Another technical aspect is that the maximum size of a file receivable in the box is of 50 MB. The e-delivery through data boxes is

¹⁷ See further details on <https://www.slovensko.sk/en/life-situation/life-situation/how-to-apply-for-alternative-a/>

sometime blocked because courts' files are larger than this maximum limit. The legal problem concerns the conversion of documents from paper to digital and their legal validity. Finally, there is a mix of technical and managerial problems with maintaining sources and providing interconnection of registers. Other delivery problems may occur when a legal entity has multiple data boxes. All these problems of delivery of documents are well known (length, delays and stamping issues) and the Ministry of Justice is looking for solutions to solve them.

Another important innovation in Slovakia is represented by the **electronic signature**. Similarly to the data boxes, also the electronic signature framework has been criticised from different parts. The main concern of judges is that the electronic signature certificate provider is a Czech company and it is argued that the certificate issuing is a responsibility which cannot be outsourced to a foreigner company. The electronic signature raises a problem of authorisation of personal data, as judges are asked to provide their data to a foreign company, governed by the legislation of another state. This is not acceptable to many judges, who request the Ministry of Justice to work on a national solution instead.

General remarks on e-Justice

Moving towards a totally paperless e-Justice is a long-term plan. It is often regarded as unrealistic given a series of absolutely valid objections. The electronic documents have numerous advantages as they can be easily edited, signed, sent, shared, browsed, etc. Still, in many settings, paper still remains the most practical choice. Some judges feel more comfortable handling papers than working on electronic files and that's absolutely legitimate. In short, there are pro and cons for both views and the idea of "*paper vs. paperless*" is a false dichotomy.

Having said that, systems that are meant for everyone (citizens) must be designed for everyone, not just for IT literate. A judicial system which is based solely on e-documentation cannot be regarded as sufficient, because it has to take into consideration specific needs of those who are not acquainted with the modern technologies. A smart and farsighted system incorporates both paper and digital workflows, which ultimately increase both organizational efficiency and user satisfaction.

Applying a general framework for the e-government and e-administration of state public bodies is seen as essential by CEPEJ in its *Guidelines on how to drive change towards Cyberjustice*, in order to allow maximum of interoperability. However, specificities of court business and operations have to be taken into consideration. It is thus recommended for future developments in the field that a full evaluation of the legal framework (general and justified exceptions) must be conducted, far in advance to any technical developments, so that the entry into force of new tools is absolutely secure. CEPEJ experts recommend to establish a committee in which representatives from the Ministry of Justice (sectorial approach) and those responsible for the E-Government (general framework) meet and discuss the correspondence of rules, definition of terms, and to coordinate the evolution of frameworks on both sides.

Having all professionals communicating through an electronic format when this service does exist is a key factor for the development of future services in the field of Cyberjustice. The CEPEJ *Guidelines on how to drive change towards Cyberjustice* encourage to monitor and report about the level and quality of electronic communication (in this case e-filing) and be in the position to report about advantages (economic gains or in time to proceed the case) to all professionals involved. It is thus recommended that a monitoring plan should be established, that will also be a basis for court administration to identify and redress possible dysfunctional elements (both technical, legal, or human) in the way to full electronic management of cases and e-filing by default policy.

In the discussions with the CEPEJ team, the Ministry of Justice referred to the possibility of a "*booming*" caseflow in particular areas of law. To prevent this kind of situations and be prepared to deal with them

efficiently, with limited and controlled consequences on the overall system and consumption of resources, it is recommended to:

- Set up analytical tools that would monitor the litigation risk and rate in a variety of areas;
- Study possible legal remedies to prevent the “*booming*” to occur or make its treatment less resource consuming for the justice system;
- Have a flexible **Online Dispute Resolution (ODR)** platform, available and ready to be used in case the judiciary has to deal with this kind of “*booming*” within the court system.

CONCLUSIONS

Information systems do exist in the justice sector of the Slovak Republic, but they are not used efficiently, nor fully connected to each other. The IT tools provided for court management have not yet convinced the professionals and have not offered the level of services they could expect. As a consequence, the necessary continuous evolution and implementation of the current CMS or other affiliated IT tools is seriously delayed. A parallel system of data collection and reporting, done manually, is consuming a tremendous amount of staff work that could be better invested in other tasks, and creates delays and a possible discrepancy in management through data.

An **overall strategy** should be designed and planned at the Ministry of Justice level to support the future development of IT tools for courts. Assessment of IT developments should be systematic and done on a monthly basis, subject to staff and public communication. Innovation must be carried with a long-term and **comprehensive plan** that seems not to exist yet at the national level. A special assessment of the history and current situation is needed and help could be provided by the CEPEJ in the future, both through the discussion and implementation of the ***Guidelines on how to drive change towards Cyberjustice*** recently developed.

It is recommended that the Ministry of Justice refers more closely to the provisions of the *Guidelines* and use its dedicated check in its current or further efforts to improve policy and develop IT tools so that its plan complies with European best practices in the field. As **more cooperation** is needed between all stakeholders in the design, development and implementation of the IT solutions for the justice sector, the Ministry of Justice should be using the CEPEJ *Guidelines on how to drive change towards Cyberjustice* as a reference to build and explain its current and future policies.

The necessity to have an access to **accurate court information**, in real time, must be considered as a priority objective for the Slovak Justice system, to the benefits of the public (for transparency purposes), but also of the professionals themselves (for quality and efficiency purposes). Court managers, judges and clerks, lawyers, should have at their disposal the information systems and tools that would allow a precise management of their activity and a simultaneous reporting of courts' functioning as well as resources consumed.

Given the above, the Ministry of Justice is recommended to adopt two main priorities: developing a new and versatile CMS and, at the same time, developing an efficient way of collecting data and information from the court system for the purpose of assessing the court performance. Final goal being the development a **business intelligence** solution that will serve the strategic management of the Slovak Judiciary. The Analytical Centre can play a crucial role in this regard, but needs to be supported and vested with sufficient attributions and resources.

As far as the new case management system is concerned, it is important to guarantee a smooth passage from the existing system to the new one. The change may not be easy to sell to people positively enough, as they are reluctant to see new organisations and tools to be imposed on them. This is apparently due to the fact that, in the past, the Ministry of Justice has introduced new systems without a good **promotion** of the procedures, the intentions were not explained as they should have been. For this reason, the Ministry of Justice needs to be more convincing about the advantages of the new product. Involving all the stakeholders during the different phases of the project shall be beneficial to the success of the initiative. The IT department is also encouraged to launch a **help-desk** intended for the final users of the IT systems.

As far as the collection of data and information from the court system is concerned, it is clear that the data warehouse will only partially solve the problems. At present the priority is to improve the quality of the data. Multiplication of double tasking at almost every level of court administration is negatively

affecting the performance of the courts and the quality of the data provided. Efforts to redress the situation and provide tools and solutions that streamline the work of the staff and produce accurate and reliable statistics for court management will need a sustained investment that have to do with creating a **new culture** and demonstrating its benefits.

Having a single and automated system for data collection is marked as being of primary importance in order to eliminate manual data collection and align court management and statistical reporting. It must be considered that this process is not only about statistical data procedures and methodologies. It has to do with a radical change of habits, work methods, and mentality of both judges and employees at the court. Quality controls followed by rewards could be used – to an extent – as a leverage for promoting that change. It is also recommended to reconsider the order of priorities and start by setting up and agree on court performance indicators first, agree on a statistical data collection methodology, remove paper collection in an incremental way, as the new CMS is deployed.

The possibility to create IT tools that support the decision to deal with disputes out of the courts (such as ODR) should be envisioned in the context of a broader strategy of the Ministry of Justice.

Instead of being a simple mere tool for the courts, the integration of IT in an organisational process of performance, coupled with a policy of change management involving all stakeholders could be a success factor. At the same time it should be acknowledged that the IT is essential but is not the only key to improved court performance.