

Information system

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Introduction

In the present session on the Justice Administration as a service to citizens, we cannot ignore the relevance of a good information system for the empowerment of citizens before the Justice Administration.

A democratic society cannot leave its citizens unaware of and alienated from the activity of the Justice Administration. The users, as recipients of the action of the Justice Administration, and the citizens -both as holders of popular sovereignty and as taxpayers, therefore, sustaining the system- are entitled to know and monitor its operations. They also need to be aware of what they can expect when they interact with the system.

In this document we shall review how this problem has been approached in Spain over the last few years, with the introduction of this concept: information as a citizens' right and, consequently, as a duty of the Justice Administration. We also intend to analyse what type of information is demanded by citizens and how this issue is settled in the Charter of Citizen's Rights Before the Administration of Justice, recently approved by Spain's Parliament. We shall, then, focus on the systems that have been set up to satisfy the citizens' right to information and shall conclude by dealing with the problems and challenges we are currently facing.

Citizens Information in the Administration of Justice.

The relationship between citizens and the Administration of Justice in Spain has traditionally been in the hands of, we might even say monopolized by, legal representatives. The Justice Administration, seen as a State Power, was conceived as a highly specialized unit charged with elucidating conflicts in a scenario where different experts operated (judges, magistrates, prosecutors, legal representatives and appraisers, etc.), and their action was subject to complex rules and procedures, neither intelligible nor accessible to the ordinary citizen.

After Spain's Constitution was endorsed in 1978 a modernization process of the Justice Administration begun, primarily with the reform of the main legislation. The idea that the Justice Administration should be seen as a public service, then, spread out: undoubtedly, an essential public service, but after all a service. And, as such, citizens should take a central role in the system, they should understand it and, to a certain extent, monitor its operations.

Several events mark the involvement of citizens as direct stakeholders in the Administration of Justice:

The White Book on the Justice Administration (1997).

The General Council of the Judiciary (CGPJ), that is, the Governing Body of Spain's Tribunals and Courts, learned in 1996 that despite all the reforms since the new Constitution had been introduced in 1978, there was a generalized feeling of dissatisfaction in Spain's civil society with the working of the Justice Administration, and that such feeling might have a very negative impact on citizen's confidence towards the system. The CGPJ, then, set out to drafting a White Book on those aspects of the system that required further reforms and improvement.

This White Book pointed to the need of finding new ways for dealing with citizen's complaints, thus far merely focussed on disciplinary issues, as well as to the recognition that citizens should be entitled to request information from the different legal offices and governing bodies or whenever a demand or complaint was to be laid.

Regulation 1/98 and Instruction 1/99 of the CGPJ

Regulation 1/98 of the CGPJ on the procedure for submitting complaints against Court activities introduces citizens support procedures and opens up a two-way communication channel: citizens information and admission of their complaints and suggestions. Citizen Support Offices -situated in legal facilities- were devised as well as a Citizen Support Unit within the CGPJ in charge, among other tasks, of coordinating efforts.

Instruction 1/99 included a protocol on the activities of Citizen Support Offices and the provision of forms for complaints and demands after information had been offered. This Instruction determined in a clear manner the contents and limitations of information provided to citizens as well as requirements and conditions to be met by citizens. A distinction is made between general information, for which no special accreditation is needed, and concrete information, requiring direct involvement in the legal procedure.

2003- The Charter of Citizen's Rights before the Administration of Justice

As a result of the political consensus that lead the main political parties in Spain's Parliament to sign a compromise for the modernization of the Justice Administration in 2001, the Lower Chamber of Spain's Parliament unanimously approved this text on citizen's rights in a plenary session held in April of 2002. This declaration establishes new framework conditions for the relationship between citizens and the Administration of Justice.

The Charter is a major shift as it puts citizens in a central place, urging the legal bodies to pay most attention to citizen's requirements, and to suit their activities to their needs. It recognizes the right of citizens to learn and know more, to greater accessibility, to a respectful and gentle treatment and to greater consideration for their time and specific circumstances.

The Charter embodies the principles of transparency, information and appropriate support for citizens with the aim of creating a system based on ownership. Also, it sets out to provide greater protection for the most disadvantaged groups: victims of crime -especially cases of domestic violence and gender violence-, minors, the elderly, the disabled –either physically or psychologically-, and immigrants. The Charter also enshrines specific rights in the relationship between citizens and their legal representatives.

The Charter is a declaration of principles relevant for all actions aimed at improving the Administration of Justice, including those of a legal and organizational nature.

Type of information demanded by citizens.

The initiatives of the political parties, as well as the opinions and suggestions of institutions and organizations related with the Administration of Justice, were taken into account in the drafting process of the Charter.

Part of the contribution of the CGPJ to the drafting of this document is statistical information on the complaints and suggestions of Court activities across the country.

During 2001, 11% of all claims brought before the different legal bodies referred to information deficiencies. More specifically, data can be broken down into the following categories:

	SUBJECT	
1	Denial of information on procedures	53%
2	Communication acts	17%
3	Denial of copies and testimonies	14%
4	Trial summonses and adjournments	11%
5	Difficulties in understanding the procedures	5%

Once this information is carefully analysed, we can conclude than deficiencies in information received by citizens may be summarized as follows:

- Denial of information on procedures and denial of copies and testimonies (lines 1 and 3):

Both concepts are encompassed in the area of specific information on a legal procedure, and deal with the situation and stage in which that procedure stands, or in the claim for seeing the procedure. They also involve the request of copies and testimonies of relevant documents.

According to the relevant legislation (Law of the Judiciary) and procedural laws, the Court clerks are charged with facilitating this information to the stakeholders. Since each clerk applies his/her own criteria when solving such

request, in many cases in a restrictive fashion, this might result in citizens' dissatisfaction.

- Communication acts (line 2):

Especially those summonses and subpoena where no specific mention is made of the reasons for notification and the obligations of the recipient, and where no contact person that may clarify or explain concurrent circumstances is appointed.

- Trial summonses and adjournments (line 4):.

The system used for the setting of dates for hearings and summonses is annoying and time-consuming for users.

- Difficulties in understanding the procedures (line 5):.

The users of the Justice Administration see the actions of Courts as incomprehensible and meaningless activities.

The Charter of Citizen's Rights Before the Administration of Justice

On the basis of data on citizens claims before the governing bodies of the justice system and the ombudsman, including those emanating from users surveys and the viewpoints of individuals and institutions, the Charter of Citizen's Rights Before the Administration of Justice has identified citizens' information needs and established a number of rights that might be grouped as follows:

General information

- General and updated information on the operation of Courts and on the characteristics and general requirements of the different judicial procedures. In this regard, the Charter provides for the setting up and funding of nationwide Citizen Support Offices.
- Transparent information on the situation of all procedures -both handled and pending- of all the judicial bodies throughout the country. The Ministry of Justice and the Autonomous Communities with authority in legal issues, as well as the CGPJ, will channel this information to facilitate consultations in the framework of this plan.
- Up-to-date information of Spanish and European Union laws through an easy-access electronic data system should be made available.

Concrete information

- Concrete information on the contents and situation of those procedures where the petitioner has a legitimate interest on the basis of procedural laws.
- Free access to non-classified documents, books, files and records for the stakeholders. The authorities and officials should provide explanations -in writing- for refusal, should that be the case.

- Citizens are entitled to know the reasons for delays if they occur. The Ministry of Justice and the CGJP will draft a plan with the timing estimated for all the procedures in the different judicial bodies.

Information for crime victims

The Charter, too, states that citizens victim of crime are entitled to unambiguous information on their participation in the proceeding; they should also be informed on compensations for the damage inflicted, as well as on the status of the proceeding.

Right to information from legal representatives

Interestingly, the Charter also intends to reinforce the position of citizens in their relationship with attorneys, etc. one of the fundamental channel of information between themselves and the Administration of Justice. According to a 2003 survey among users of the Justice Administration, 50% of those interviewed would go to see a lawyer if they could not understand the contents of a Court notification.

- Citizens are entitled to know in advance the rough cost of hiring a specific legal professional and the system of payment required.
 - Legal representatives are required to supply clients with detailed information on costs to be met.
- Citizens are entitled to obtain precise and detailed information from legal representatives on the status of the proceeding and resolutions issued.
 - The legal professionals will hand over to their clients copy of all writings submitted by themselves and of all relevant resolutions of which they are notified. Citizens will be allowed to discuss with their lawyers the consequences of all actions undertaken before a judicial body. Legal Guidance Services dependant of Bar Associations will be encouraged. Their activities will be expanded to the provision of information services on citizens' rights in the relation of confidentiality with their lawyers.
- Citizens are entitled to be informed by legal representatives, and prior to laying any claim before a tribunal, on the consequences of being found guilty, the payment of the costs of the proceeding and an estimate of such costs.
 - The specific Bar Association will produce information on the estimated average cost for each type of proceeding on the basis of its complexity. This information will be periodically updated.

Other information-related rights

Other elements of the Charter of Citizen's Rights Before the Administration of Justice should also be highlighted. Although they don't deal with information directly they are closely related to it and have a direct impact on citizens' rights.

First, the intelligibility of legal jargon: the language used in documents addressed to citizens, in public hearings, and in sentences and resolutions should be made intelligible by using a simple structure and syntax.

Likewise, the Charter points that citizens are entitled to a respectful treatment, adapted to their own personal, social and psychological characteristics. They are also entitled to be informed of the identity and category of the official with whom they interact.

Information procedures and systems in connection with the justice administration

In order to fulfil these rights, the Administration of Justice is now developing three networks of offices that will deal with the different types of needs. Also, the role played by Court offices deserves special attention. In this document we will focus on the Citizen Support Offices situated in legal offices and on the CGPJ's Citizen Support Unit.

Legal Guidance Services

As pointed above, information on legal issues in Spain is to a large extent in the hands of legal representatives, who act as intermediaries in most proceedings. Since costs associated to these professional services become an obstacle for information provision, two mechanisms have been introduced to minimize their impact: Legal Guidance Services and Free Legal Aid for people with insufficient resources to litigate.

Legal Guidance Services -funded by the Ministry of Justice and the Autonomous Communities and provided by Bar Associations- offer basic and free counselling to all citizens as an initial approach to the specific legal problem. Also, they handle –when appropriate- applications for free legal aid.

Even though they are no innovation, as they began to be introduced as early as 1986, they have been welcomed by citizens and are now expanding all over the country. Currently, they are available in all cities and towns with a local Bar Association.

Victims Support Services

This services seek to provide specific support for crime victims, who often experience, as much as physical, financial and social damage, a severe

emotional impact that is aggravated by the contact with a legal structure largely unknown to them.

To alleviate this “second victimization process”, we are developing a network of services where victims will be offered information on the legal resources available and specific support against the problems created by the system.

Court Offices

Court Offices are today a key component of the information devices, as they hold most of the concrete information on the state of the legal procedure and on the future schedule.

Court Offices have traditionally worked in what might be put as a “smallholding” regime. Each office carried out most of the activities involved in each specific case allotted to that Court. The organizational reforms recently undertaken tend towards the introduction of common services with the aim of benefiting the Courts with economies of scale. The common duties, such as recording and distribution of cases, notifications, attachments, internal communication, translations and expert’s reports, are now concentrated in specialized units giving service to several Courts.

The reform of the Law of the Judiciary, currently in its final stage of Parliamentary procedure, favours a model based on growing common services.

Remote services

Today, information on the status of procedures, as well as access to certain books and records, can only be provided at the Court Office.

Nevertheless, the relevant bodies of The Justice Administration with authority on human and material resources are now working to introduce remote access to all those documents. These computer applications must be safe.

Several projects and some specific measures already exist. These allow legal representatives remote access via the Internet to the information on the proceedings by means of an electronic signature, their identification system. They can receive on the spot data about the tribunal that is seeing the case, the registration date, the current status of the procedure, participants in the case, dates of hearings and the future agenda.

The web page of the CGPJ has spared a section to harbour Courts web pages in the future. Through these pages Courts will be able to offer citizens information on their activities. Some initiatives in this direction are already in progress.

Citizen Support Offices

The project

Both the Regulation 1/98 and the Charter of Citizen's Rights Before the Administration of Justice propose the creation of Citizen Support Offices in Court facilities.

Their functions will be:

- Receive and guide citizens through the facilities so that they can sort out the problems for which they have gone to Court.
- Solve their doubts and questions, providing both general and concrete information -as far as the latter is accessible.
- Recording and handling of complaints and suggestions on the services provided by Courts.

The aim of these services is to act as a first filter. They are also an instrument that puts order in the flow of citizens through the facilities, guiding them to the different departments, solving their doubts on the general characteristics of the procedures, and informing about requirements and conditions of each specific legal issue and on the notifications sent by the Court.

Telephone information, as well as by post and e-mail, will also be introduced.

Current situation

These offices were initially encouraged by the CGPJ Regulation 1/98 of 2000. Ever since they have been introduced in several Autonomous Communities (Valencia, Basque Country, Catalonia and Andalusia). However, budgetary and organizational hurdles -discussed below- have slowed their development.

The following chart shows statistical data –organized by subjects- on demands received at Citizen Support Offices in Catalonia.

ISSUES	
Status of proceedings	2,7%
Distribution of cases	4,9%
Schedule, summonses and judges agenda	5,8%
Whereabouts of professionals	6,0%
Explanations on documents (resolutions and others)	7,2%
Address of legal bodies and other facilities	13,6%
Generic information on procedures	13,6%
Record of documents	15,5%
Reception and guidance through the facilities	30,8%
	100,0

The CGPJ Citizen Support Unit (UAC)

Founded in 1999, by Regulation 1/98 and within the CGPJ, it is a first attempt to establish and standardize a support model for citizens in Courts.

One of its main functions is to coordinate the services of the different Citizen Support Offices and to centralize data about complaints and suggestions on the quality of legal services provided across the country. Also, it has helped in the development of Citizen Support Offices.

Development of Citizen Support Offices

The UAC has encouraged the development of Citizen Support Offices. This has been done in conjunction with the relevant authorities of the Justice Administration (Ministry of Justice or Autonomous Communities), responsible for human and material resources and with the Governing Bodies of the CGPJ. The method used was the setting up of joint cooperation teams for planning, monitoring and assessment of the offices.

In order to pave the way the UAC drafted a document on future needs, highlighting priorities and criteria for the creation of these offices, as well as their basic requirements, including organizational and material needs. Meetings were held with the relevant regional authorities. As a result, Citizen Support Offices have been set up in the above-mentioned regions. Locally, others have been set up on the initiative of the governing bodies of Courts.

Equally the UAC drafted and distributed a handbook to the different offices indicating what type of activities should be undertaken. The UAC also provides basic training to staff members.

The UAC is aware that the Charter of Citizen's Rights Before the Administration of Justice requires a cultural change on the part of the Justice Administration in Spain. The UAC considers that training is a strategic resource to bring changes in the approach and attitudes of personnel within the system and has, therefore, devoted energy to this activity. It has designed and provided training in this area, especially suited to the particulars of this activity. Judges and Magistrates, as well as Court clerks and other officials, have been target groups of both basic and permanent training.

Citizen Support

The UAC is also a support service and an information provider for citizens. These activities allows the UAC to be aware, first-hand, of citizens needs and to be informed about the difficulties that people encounter in Citizen Support Offices. It also provides support and coordinates the activities of these offices.

The UAC helps those visiting its central offices and keeps e-mail and telephone services available for remote requests. During the year 2002 citizens have demanded the services of the UAC through:

COMMUNICATION CHANNELS	
On-site visit	9%
E-mail	25%
Telephone	66%

Coordination of Citizen Support Offices.

The UAC has set out to provide information resources which can be of help both for the public and office personnel.

With this purpose, it has drawn up and published brochures informing about the issues and situations in which citizens usually act, or can act, on their own, without the aid of a legal professional. For instance: laying information before a magistrate, custody, access to a duty solicitor, acting as witness in a criminal case, and modifications of certain procedures that will affect many people, as in fact and speedy trials and minor offences.

Remote Information.

With that same goal, the web page of the CGPJ harbours a citizen support section. Here people can find basic information on citizen's rights in relation with the Justice Administration as well as a directory of Citizen Support Offices, grouped in two wide categories.

- (1) Direct information resources: citizens' right to obtaining information from the Justice Administration and where to do it, information on procedures, frequently asked questions, links with other information sites, and on remote information requests by e-mailing the Citizen Support Offices.
- (2) Complaints and suggestions service: information, forms, procedures, addresses of the different bodies, and electronic forms for on-line suggestions or complaints.

Conclusions

The Justice Administration in Spain is now beginning to be aware that being perceived as a "high-quality system" by the citizens is essential for its own legitimacy. And the concept "high-quality" can be broken down into several categories: independence, capacity, ownership, impartiality, accessibility and efficiency.

A good information service will improve accessibility to the system, as people will learn more, will understand better, and will be able to act more efficiently and at a lower personal cost both in terms of finance and mental effort.

A number of resources and mechanisms have been mobilized, such as the Citizen Support Offices and remote information systems, but there are still some problems and obstacles that hinder their expansion.

Coordination problems

The authority on the Administration of Justice is now in the hands of the Central Government, the Autonomous Communities and the CGPJ. This distribution of responsibilities hinders the development of certain projects when either political will or priorities do not come together.

Financial problems

The Administration of Justice is in a large budgetary deficit. Restrictive expenditure policies prevent the modernization of its current operational resources. This becomes an important obstacle for the development of a network of information offices.

Cultural problems

People lack, generally speaking, knowledge on the Justice Administration. There is ample room for the modernization and simplification of the legal jargon. Nonetheless, the complexity of the legal phraseology sets minimum standards insurmountable without basic knowledge of the legal system and principles.

The prevailing culture within the system

There are certain cultural values –deeply rooted within the legal structure- that prevent the introduction of high-quality citizen support and information measures and services: records are more important than people, dealing with legal representatives is preferred to dealing with the stakeholders, citizens are of little regard or even “invisible”, the self-sufficiency of the system prevents the introduction of modernization techniques, etc.

We are, therefore, confronted with a new approach as for what the Justice Administration actually is. This new approach demands a change of mentality and attitude of all the legal actors. And, as other changes, raises a kind of resistance that must be overcome with the help of a cultural change.

Organizational and legal obstacles

The Law that regulates the status of officials within the system is excessively rigid and doesn't allow a procedure of staff selection suited to specific needs. This has become a serious problem in some areas and has slowed the introduction of Citizen Support Offices.

Computer systems

Computers have reached our Courts. However, there are still shortcomings that prevent a fluent exchange of information and remote access to data. The full use of information technologies within the Administration of Justice is, therefore, still limited.