Programmatic Cooperation Framework for
Armenia, Azerbaijan, Georgia, Republic of Moldova, Ukraine and Belarus

Funded by the European Union and the Council of Europe

EUROPEAN UNION

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Implemented by the Council of Europe

Theme II "Ensuring Justice" – Action 5: Regional dimension for 6 EaP
Project for Regional Dialogue on Judicial Reform in the EaP Countries

Working Group on Regional Dialogue on Judicial Reforms
in the Eastern Partnership Countries

Expert Report on the outcomes of the Working Group's meeting on:

E-JUSTICE

with focus on:
- How to ensure the respect of fair trial principles in electronic court case management
- How to adapt electronic court case management to different type of cases and of different level of seriousness

7-11 December 2015, Supreme Court of Georgia, Tbilisi
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Summary

BACKGROUND

The meeting of the Working Group (WG), on which this report is based, has been organized in implementation of the project for regional dialogue on judicial reforms, within the framework of the joint Council of Europe and European Union Eastern Partnership (EaP) Programmatic Co-operation Framework (PCF). The project aims at fostering dialogue, professional networking and exchanges of experiences among legal professionals in view of addressing outstanding common challenges and consolidating national processes of judicial reform. In this framework, representatives from judiciaries, ministries of justice and bar associations of the EaP countries selected a number of areas of shared interest perceived as most challenging for the respective national reform processes and established three Working Groups that were tasked to examine, with the support of international experts, one of the selected issues in a dedicated meeting.

Topics selected by participants for further analysis included: judicial ethics and disciplinary liability of judges, with a focus on their distinctions and interrelations; e-justice, in particular aspects of electronic case management; legal aid schemes, with special attention to ways to ensure independence of legal aid financed lawyers; independence of judges; selection, evaluation and promotion of judges; the role of Courts of Cassation/Supreme Courts; ways to ensure inclusive and transparent judicial reforms; alternative dispute resolution mechanisms, with a focus on criminal restorative justice and mediation in civil cases; equality of arms between lawyers and prosecutors.

The first meetings of the three WGs were hosted in Tbilisi, Georgia, between 7 and 11 December 2015 and focused on the following topics: judicial ethics (WG A), e-justice (WG B) and legal aid (WG C). Discussions were facilitated by international experts, also tasked to produce a report on the outcomes of each meeting.

This paper provides an overview of the discussions held during the meeting of the WG B, focusing on e-justice issues. It is based exclusively on the information provided by the participants by filling in a questionnaire prepared by the expert and the discussions held during the meeting, supplemented with the comments and inputs by the independent expert. It does not in any way aim at providing an exhaustive presentation or a thorough assessment of the situation in the countries considered, but rather at reporting about the issues presented and discussed by the participants with the purpose of exchanging experiences and possibly identifying areas of common interest for further examination or co-operation.

Executive summary

This report summarises the discussion and the results of the Working Group (WG) for regional dialogue on judicial reform on the topic e-Justice held at Supreme Court of Tbilisi, Georgia the 9 and 10 of December 2015.

The meeting is an activity undertaken within the project for regional dialogue on judicial reforms in the Eastern Partnership (EaP) countries, under the joint EU-Council of Europe (CoE) 'Programmatic Cooperation Framework' (PCF). The PCF is providing expertise on strengthening the capacity of Eastern Partnership countries (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine) to implement reforms consistent with the CoE and EU standards in the fields of human rights, democracy and the rule of law.

The WG treated e-justice considering its impacts on efficiency and effectiveness, as well as on fair trial, respect for human rights, independence and impartiality. More generally, e-justice has been considered as a vehicle for institutional transformation and judicial reform.

The discussion dealt with the few international standards on the topic and focused on the current situation and the plans of the five countries that attended the workshop. European experiences in the field, presented by two international experts and by the facilitator, eased the assessment of the state of the play in EaP countries and the identification of the main challenges and the role of a regional approach.

Section 2 of the report, after having introduced the main technological systems used in justice systems, presents selected best practices, lessons learned and the most challenging issues.

Section 3 provides an overview of the situation in participating countries.

Section 4 discusses the commonalities between the e-justice development paths, identifies common challenges and makes proposals for a regional approach. Hence, it is the most important part of the report.

Even if there are some differences in the current achievement of the countries engaged in the working group, the similarities are more important. First, the countries have developed a technological infrastructure that is the fundamental asset for any further ICT development. The capacity to keep well running and updated such infrastructure is the first challenge for all the countries of the region. Second, the countries have developed and deployed case management systems. However, they are still working with a double registration system: the traditional paper-based dockets and the new automated CSM with a duplication of activities and inefficiency.

Therefore, the second priority for the judiciaries is the swift moves towards the removal of paper registries in all judicial offices and the sole use case management systems.

The judiciaries are already publishing on line legislation, decisions of judicial governance bodies and the jurisprudence of high and low courts. The third challenge clearly envisaged in some countries deals with the balancing between the right to privacy and access to (judicial) information. The balancing has to be pursued considering the minimal standards that impose the protection of the privacy for the persons involved in family, juvenile and guardianship cases, as well as for the victims of the crimes.

Moving from the results reached so far, the participating countries are in the condition to take advantages of a more systematic deployment of e-justice, and particularly of e-filing. Due to the significant complexity associated with e-filing development, this new step requires the right alignment of goals and strategies with ICT governance. This is the fourth common challenge. In most cases, the right move will be the empowerment of the current capacity of the bodies in charge of ICT governance.

The Report identifies measures to be taken at the regional level for each of the four challenges. Furthermore, broader initiatives to better involve the judiciaries of the Region in the current EU debates and the informal forums that contributing to building the new EU e-justice standards are explored. Last but not least, the topics identified during the working group activity as relevant and suitable for actions at the regional level are discussed. In this way, the Report provides a menu of initiatives that may be considered when planning new activities within the Programmatic Cooperation Framework.

I. Introduction

On 9-10 December 2016, the WG for regional dialogue on judicial reform in EaP Countries, established under the project for regional dialogue on judicial reforms, funded by the EU and implemented by the Council of Europe within the Programmatic Co-operation framework (PCF) 2015-2017, met at the premises of the Court of Georgia, in Tbilisi, tasked to discuss the current and planned uses of ICT in justice systems in participating countries, namely Armenia, Azerbaijan, Georgia, Moldova and Ukraine. Belarus did not attend the meeting, but it replied to the questionnaire in a further stage of the project. Hence, the Report presents data about the 6 EaP countries.

To prepare the meeting the international expert identified by the CoE drafted a questionnaire that has been submitted to participants the 26th of November. All participants answered to the questions before the meeting, providing useful information for the discussion. The involvement of three additional experts from Bosnia Herzegovina, Romania and the Netherlands further powered the discussion. The meeting offered opportunities to share experiences, track common or divergent development paths, and identify common challenges. Also, it offered inputs to reflect about how a regional approach can contribute to boost the use of ICT in the judicial systems of the region. This report, prepared by the international expert, presents the following issues:

- Section 2, after having introduced the main technological systems used in justice systems presents selected best practices, lessons learned and most challenging issues; it includes also the introduction of international standards.
- Section 3 provides an overview of the situation in participating countries.
- Section 4 discusses the commonalities between the e-justice development paths, identifies common challenges and makes proposals for a regional approach.
- Section 5 collects the annexes.

Technologies for justice systems: best practices, lessons learned and challenging issues

Since the nineties, the development of Information and Communication Technologies (ICT) has been one of the main and most complex challenges faced by justice systems. Policy makers have been using ICT-based innovations to improve coordination within and between judicial agencies as well as to pursue many different goals: efficiency and cost reduction, transparency and accountability, inclusiveness and access to justice. Not less important, such efforts should lead to an increased reputation and legitimacy of the justice systems.

1.1. Technologies for justice systems: an overview

Applications developed by European judiciaries cover a large number of tasks and functions performed within justice systems. On the one hand, they have been used for the automation of administrative tasks, such as **case tracking** or **case management systems** (CMS), and office automation applications. On the other hand, ICT has been designed to support the judges' and legal professional work, offering an easier access to legal information, supporting the decision making process, and the drafting of procedural documents (**legal work-desk**). More recently, many justice systems have taken seriously the challenges of **e-filing** and document interchange between the various agencies operating within the system to improve efficiency and effectiveness and to increase access to justice. **Courtroom technologies are another relevant area.** It encompasses all technological means used to support hearings, such as audio and video recording, videoconference, computers in hearing rooms offering to the judge and the parties offering access to CMS etc.

Despite the potentials of ICTs and the economic efforts, empirical research findings show that the road has been very problematic for various interconnected reasons. **Failures are quite frequent.** In a nutshell, such innovation requires one the one hand focused development of technological components to be adopted by a large number of interconnected agencies, and on the other several changes in the governance, normative and organizational frameworks at the bases of the functioning of judicial agencies. For this reason the introduction of ICT in judicial operation, and particularly the development of e-filing and integrated justice chain could be better understood as a process of **institutional reconfiguration** and not just as a technological issue (Lanzara 2009).
Moving from this understanding, the report first outlines the basic features of the different types of technological applications. Then briefly discuss technical, organisational and legal challenges affecting the development and deployment of the different types of technologies in justice systems. In passing, such understandings were at the bases of the questionnaire distributed to participants to collect data and inputs about the current and planned use of ICT in their respective countries (Annex 1).

Table 1. Court technology map

Technological areas	Functions	Key challenges
Case management Systems	Automate the tracking of court cases and exploit the data collected	Increase the level of standardisation of data and procedures.
Electronic legal work-desk (judicial writings and legal info systems)	Provide up-to-dated case law and legal information legal professionals	Create organisational conditions easing the regular update of legal information
Court-room technology Video-audio conferencing	Facilitate, reduce the costs and increase the security of court hearing	Institutional collaboration between different judicial agencies and legal changes
e-filing and Integrated justice chain	Allow the filing of cases on line, and the electronic exchange of case documentation Establish interoperability between ICT systems of law enforcement and judicial agencies	Information infrastructure development; Legal and procedural changes associated with technological development. Institutional cooperation between independent agencies; Legacy systems; Legal and procedural changes.

The discussion offers the opportunity to illustrate good practices, lessons learned and challenging issues for CoE member states and for participating countries.

As said, ICT has been exploited to support, automate, or facilitate many if not any area of justice systems operations. Despite the paradigm shift predicting the end of the "domination of print and paper" in the administration of justice (Susskind 1998), the ambitious development plans of Ministries and Judiciaries, and the huge amount of money invested, results emerging form empirical works are, at least in Europe, below the expectations (Contini 2001; Fabri 2001; Fabri and Contini 2003; Reiling 2009; Velicogna 2008). Even if ICT changed in multiple ways the judicial business, printers and paper documents are still ubiquitous. Even in Italy, where the exchanges of procedural documents in civil proceedings can be accomplished just in digital format (i.e. paperless), courts still needs to print such documents to properly handle procedures.

Based on the findings of previous researches, we have classified the various projects generally labelled as "e-justice" in the following five technological areas: case management systems, e-filing and integrated justice chain, legal work-desk, and courtroom technologies. The classification is useful because design, development, and deployment process in each technological area must face different issues at technological, organisational and governance levels. Governance and strategies for e-justice development is indeed another area dealt with by the WG.

1.1.1. Case management systems

In every court, administrative personnel keeps track of the different stages of the proceedings, of their status, of the requests of the parties, of hearing dates and manage personal data of the people involved in each case. These tasks have been performed thanks to paper registries (called also court books or dockets) that, from a legal perspective, certify that every single case has followed the right procedure (Vismann 2008). In the last 30 years, ICT based case tracking and case management systems have replaced paper registries and automated various routines associated with their use (Table 3). They are now the basic technological systems of courts and prosecutors' offices (Fabri 2001) and represent the installed base to be integrated or developed to provide public access, systems interoperability or e-filing.

Table 2. The development of automated case management systems

Main functions	Functional advantages*	Key problems
Case tracking	Enter and read the data from various working-stations; time saved in searching the data	Data and procedural standardisation
Case management	Improved statistical reporting; automatic monitoring of procedural deadlines	Data and procedural standardisation, poor data set collected in the CMS, legacy systems trap, integration of multiple systems into a new one
Full business management	Electronic folders; integration with case law database and other external databases; printout of decisions and standard documents (office automation)	Change in workflow management and day by day operation; court forms standardisation; system development complexity and adoption by judges (or prosecutors)

* In comparison to the use of traditional paper dockets

The automation of paper registries represents, in many jurisdictions including those of the EaP region, one of the first steps in the deployment of ICT within courts. Automation and functions provided are limited in case of *tracking systems* that replicates the functions of the pre-existing paper registries, and more complete with *case management systems,* automating a wider area of tasks. The first advantage of this technological innovation is the time saved in entering and searching the data. Not less important is the possibility to reuse the data entered into the system for many different purposes: printout of standard documents, statistical reporting, automatic monitoring of procedural deadlines etc. In addition, since networks connect working stations and servers, it is possible to enter or to access the **data** from multiple points. Building on this availability of updated information, courts rearranged the internal organisation adopting the **front-office, back-office model**[1]. The front office unit, accessing the data collected in the computerised system, provides

[1] Before the introduction of case tracking and case management system data and information were dispersed in a number of paper registries managed by different organisational units, making impossible the establishment of a single front office.

information to users while the back office is free to manage the procedures and enter the data into the case management system without interferences from the public. This makes the handling of procedures more efficient and users' oriented since it reduces the need to go to different offices to access data entered into different registries (Contini 2000).
As already mentioned, case management systems provide the installed base upon which e-filing and integrated justice chain can be developed. Therefore their effective development is a prerequisite for more ambitious projects. In the region considered by the study, the use of case tracking or case management systems in judicial operation is well established. However, their development and deployment is associated with a set of common problems such as:

- Poor quality of the data collected (out-dated, incomplete, wrong, unreliable);
- Limited data base structure, corresponding just to internal out-dated requirements and not to court users' needs or to the new managerial uses;
- Legacy systems: in several cases old systems are still used by judiciary, and their integration with other systems may be technically difficult or expensive;
- Multiple systems in use: when courts of the same type use different case management systems within a country, such as in Spain or in France (Trassard 2007) there are higher development and coordination cost for e-filing and judicial systems integration and/or the need to select just one system for deployment at national level. This can be problematic especially when the judicial system is federal or regional (as in Australia, Germany, or Spain).

Judges and prosecutors have also to deal with a large amount of documents produced within each single case: legal briefs, investigative or prosecutorial reports, witnesses' verbatim, hearing records, and finally judge's decisions. All these documents are archived in case folders that, together with the court registries, are key artefacts supporting and certifying judicial proceedings. Also this area has been affected by information and communication technologies, and the use of standard word processors is well established among judicial professionals to save time and personnel (typists) in the writing of legal documents.

However, the use of word processor is just the first step. Several European countries attempted to develop *full business case management systems* integrating case and document management to support the operations of both staff and judges. Through these systems, the data collected by case management systems, such as names and personal data of the parties, or electronic versions of procedural documents, are made available to the judge or to the staff and used to draft new procedural documents. Sentences and other case related document can be saved in electronic folders. In addition, these tools offer to judges and law clerks the possibility to browse the case law of the court, to draft thematic glossaries to speed up the writing and also to publish the court decisions on the court's web site. The stronger organisational and technological integration resulting from the adoption of this kind of technology can greatly increase the effectiveness and the efficiency of the justice system. However, the use of full business case management systems is often difficult for judges and prosecutors, and the development and effective use of such systems are often problematic.

CMS best practices: Sakari (Finland)

Sakari, developed by the Finnish Ministry of justice in the nineties, is a good example of a case management system providing a full list of functionalities as well as a an electronic data and document interchange between courts and prosecutors' offices with a link with the police. The Sakari design philosophy was built around the concept of workflow among different organisations. It manages all case information and the related documents electronically, as well as the editing of the documents needed for the trial. It provides also robust statistical facilities, and alert mechanisms associated with procedural deadlines.
Sakari allows the transfer of cases electronically from the police to the prosecutor's office and then

to the courts, which return the information to the prosecutor's offices after their decisions, allowing electronic data interchange between these three organisations. Therefore, it required a significant effort to change working practices, which was conducted in conjunction with the introduction of a new criminal procedure and a new case management system (Kujanen and Sarvilinna 2001). When the police have completed the pre-trial investigation, the basic information on the case is sent electronically from the police investigative system (*Patja*) to *Sakari.* The information on the case, the suspects, the victim, and a description of the crime, which has been received from the police, is combined in a standard structured document, which the prosecutor can edit or use as it is. A text-bank is also available so that the most frequently used texts and phrases do not have to be rewritten. The prosecutor and the police also use secure e-mail to send documents and information, such as witness statements. It is worth mentioning that not all the investigation folder is electronic, since some of the investigation material may be available in paper form only (e.g. medical reports), and this will not be scanned (Kujanen 2008).
Sakari is considered a success in Finland. It is recognized that the application has helped to make criminal proceedings quicker and more accurate. Thanks to electronic interchange, case registration, after initial filing by the police, is automatic and the same information is used in all the stages of the procedure. The system has also helped to create a useful exchange of information and practices among the different organisations and actors involved and, in particular, it is a powerful tool for rendering the different practices that sometimes take place in the various offices more uniform. The main limits of Sakari are that it does not entail a connection of the department of prison and it is not used for investigating purposes. The Finnish case also is successful because of the availability of a robust and constantly updated *basic registers* (population, land, motor vehicle, tax etc.) and because of the fact that every citizen is given an identity number at birth, and this individual identifier is used as a key to facilitate the exchange of information among different information systems. These two factors have been fundamental for the development of integrated and co-operative applications in the justice system (Kujanen and Sarvilinna 2001). Therefore, effective judicial interoperability and the resulting integration of the criminal justice chain have been enabled also by a broader effective interoperability between basic national databases.

1.1.2. Electronic legal work-desk

Electronic legal work-desk encompasses a mix of technological applications addressed to provide the relevant information to legal professionals (legal information systems) and the technologies used to draft judicial documents. Since the latter has been already discussed dealing with full business case management system, the focus here is on legal information systems. Legal information has been since many years a well-established business field. In both civil and common law countries, specialised companies developed over time impressive collections of legal sources and make their business by selling their collections of documentation provided by States institutions. With the growth of the Internet, the role of these information intermediaries has been challenged. Since the nineties, the idea that Free Access to Law should be granted to the citizens of democratic regimes grew in popularity and, in 2002, the legal information institutes mentioned above signed the "Declaration on Free Access to Law"[2] stating that maximising access to legal information including jurisprudence promotes justice and the rule of law. The use of electronic and free of charge services is therefore instrumental to such mission.

More generally and in addition to the principles established by the Declaration, it can be noticed that legal informatics speed up the access to relevant information, reducing also the search costs,

[2] See: www.worldlii.org/worldlii/declaration

and offer an easier access to statutory and case law, improving in this way the transparency of justice operation. This greater transparency, associated with clear and consistent case law, potentially reduces the number of ill-founded cases. In addition, the greater transparency may help to increase the confidence in and the legitimacy of the justice system. The development of these systems does not present many technological or organisational challenges. Here the problems can be associated with the regular update of the system, the definition and respect of guidelines to balance the right to privacy and the transparency of judicial operations. Some of the countries of the region experienced this kind of problems.

Legal work desk: the WorldLII

In Europe, all the countries have web sites in which to search legal information, even though they do not always provide information for all the tiers of jurisdiction. Since July 2010 the long-waited "European **e-justice** Portal" is online (e-justice.europa.eu). It provides legal and judicial information in different areas, including access to European and national legislation and case law. The European Commission runs the website that provides access to EU as well as to EU member states laws and regulation. It is also providing guidance, forms and tools for cross-bored cases.

A growing number of countries offer free of charge and free access to both legislation and case law (e.g. Australia, AustLII; England and Ireland, BAILII; Norway, Lawdata). The access to case law without any restriction, in particular with regard to the anonymity of the parties, is not allowed in several countries in Europe such as Belgium, Finland, France, Germany, Greece, Italy, and Spain.

For obvious reasons, however, legal information systems are much more developed in common law countries. AustLII, the Australasian Legal Information Institute, is one of the providers of free online legislation and case law (Wallace 2003; Wallace 2008). The establishment and running of AustLII is the result of a joint effort of two Australian universities and of contribution of a number of donors. In 2009, a foundation (not-for-profit) has been established to run Australian services. Similar web sites exist in many common law areas: British and Irish Legal Information Institute (BAILII), Canadian Legal Information Institute (CanLII), Hong Kong Legal Information Institute (HKLII), India (LII of India) South Africa Legal Information Institute, Pacific Islands Legal Information Institute (PacLII), just to mention a few. These institutions have also established the WorldLII, which goal is to provide consistent and innovative forms of access to all of the high quality legal databases found on WorldLII's participating Legal information institutes, and on WorldLII itself. In passing, the development of legal information systems did not posed particular problems of adoption or organisational adaptations as many other technological systems discussed in this paper. Systems have been developed by specialised agencies or units within the justice systems, and made available with different channels to those interested in.

1.1.3. Courtroom technologies

Since the nineties, information and communication technologies appeared also in hearing rooms. On the one hand, it is quite common to have working stations connected to CMSs into hearing rooms. This eases the access to relevant case related information, the entry of new case related data and events, the hearing scheduling etc. Once a CMS is deployed, its usage in the hearing room become ubiquitous.

Technologies entered into the courtroom also to record taking. Audio and video technologies represent accurate and relative inexpensive tools to record court hearings. The reliability and growing simplicity of such instrument made their usage possible also to clerks and judges without the support of external experts. Furthermore, the digital audio or video recording could be easily linked to CMS, providing an easy way to access court records. Unabridged records increase the

transparency of court operations, and may improve the legitimacy and the authority of courts and justice systems.
The countries of the region variously experienced the use of such tools. Problems seem to be mainly associated with the capacity of the courts to give the digital recording to case parties. It goes without saying that if such a digital record exists, each case parties should be entitled to have a copy for free.
Last but not least, videoconferencing systems are increasingly used for distance hearings. Indeed, videoconference offer to the judges and to the parties an efficient way to hear witnesses or attend at the hearing. This would reduce transaction and coordination costs for all those involved in court proceedings, but must not compromise the legal rights of the parties.

Courtroom technologies: Videoconference for organised crimes MVC
In Italy, the videoconference system has been used for mafia cases since 1992. It was a rather exceptional and expensive tool (conferences were held hiring a TV broadcasting services) that gave good results in the fight against mafia. Indeed the system made it possible to hear in trials suspected mafia bosses kept under custody in maximum-security jails or witnesses under protection programs. The main goal pushing toward the successful use of the system was keeping good security conditions during long and complex organised crime trials. Since 1996 the system, called Multi-Video-Conference system (MVC or VDC) moved from ad hoc technological solution to standard ISDN technology (Integrated Services Digital Network). In 2011 the system migrated to the IP protocol, and is now available in 197 courtrooms and 145 remote stations placed into 18 prisons (Carnevali 2011). Used mainly in complex criminal cases (mafia or terrorism) the system can handle up to 200 connections for 60 hearing per day at the same time[3]. In 2009 the system handled almost 20,000 connections for 6,000 hearings including more than 100 hearings for trans-boarder criminal cases (ibidem).
The MVC is a sort of "high security system" controlled and operated by the Ministry of Justice, Department of Prison, and protected by the State Police. Courts can request the service based on the trials and hearings scheduled in their own calendar. Although very expensive, MVC provides evermore-additional security and reduce transportation costs for a large number of high security inmates or witnesses under protection programs in mafia or terrorism trials. At the same time, it is so rigid and peculiar in enabling the procedure that it is difficult to be used on regular basis in ordinary cases.

1.1.4. e-Filing and integrated justice chain

The electronic exchange of data and documents between courts and users (lawyers, expert witnesses, and citizens) is commonly defined as e-filing. Even if it is not properly developed in the region, various countries are approaching it. Therefore some general consideration based on European experiences can provide a useful guidance.

While e-filing is mainly developed in civil procedures, in criminal cases the exchange of procedural documents and data is dealt with the **integration of justice chain**. Indeed in criminal cases the Police files the case to the Prosecutor's Office and on its turn, Prosecutors file cases to courts. Therefore, in criminal proceeding the electronic exchange of procedural data and document is commonly faced as a question of interoperability between courts and law enforcement agencies.

[3] In the same hearing there can be multiple connections since multiple defendants or witnesses can be in different remote stations.

In judicial jargon the term e-filing has a broad connotation. It entails systems with many different features and functionalities not exclusively related with the action of presenting a petition online. Therefore, the first step is to clarify the different uses of the concept. For this purpose three variables can be considered: if the e-filing is binding or unbinding, the functionalities offered by the system and, the kind of proceedings empowered by it.

Binding or unbinding e-filing. In some cases, especially in pilot projects, courts may accept "unofficial" e-filing (i.e. document sent by electronic means). In such cases, the e-filing must be completed by traditional paper filing to become a real case filed at the court. This approach can be used to test the reliability of the system, and check the integration between the court CMS and the e-fling application. It reduces the regulative complexity, since it can be done without particular legal changes, but it poses an additional task to court users (double filing) and to courts (managing and keep aligned the paper and the electronic systems). Therefore it is an option that does not affect positively the effectiveness of justice, but it can be considered as an investigation of the potentialities (and risks) of the system. Some judiciaries of the region are in this exploratory stage.

eFiling best practices … and major failures

In Europe, the nearest equivalent to full e-filing is probably the Electronic Legal Communication system ERV (and WebERV) developed by the Austrian Ministry of Justice in the nineties (Bauer 2001; Koch and Bernoider 2009). While in the first stages the system was supporting just summary proceedings, during the years the Ministry of Justice has been able to develop it so to include more complex types of cases.

As noticed, in Austria the first e-filing applications for summary cases were available since the first half of the nineties. Since then, the application has been extended to more complex procedures with a slow but successful process (Koch and Bernoider 2009). Therefore, starting with limited but clear goals in developing e-filing can yield positive results and become a valuable bases for further developments in the field. This is consistent with the idea that e-filing entails the development and growth of a reliable and shared information infrastructure (Hanseth and Aanestad 2003) composed of technological, but also legal and organisational components (Lanzara 2014).

As noticed, there are many failures in ICT development in courts, and particularly in e-filing. One of these failures is the attempt of the Ministry of Justice of England and Wales to develop a full e-filing system called **Electronic Filing and Document Management (EFDM)**. The project was first envisaged in 2003 to provide e-filing, e-payment, and electronic document facilities to civil and family courts. The starting point was that common problems such as lost files, onerous manual processes, poor customer service, poor use of resources were consequence of the reliance on paper files (Justice Ryder 2007). After a feasibility study, study tour, the identification of business and technical requirements, the program started in 2009. The first roll out was expected in 2009/2010. EFDM was designed to allow case documents to be sent, received, tracked and managed electronically by the courts, judiciary and parties. The system was designed to be integrated with the case management system of the court, and the embedded court fee payment engine was integrated with the accounting system of the Court Service. After a couple of years of development, in 2008 the project was wound as part of the department's cost-cutting drive. As noticed by the project leader it was "too big and expensive" (quoted by Hall 2011b). The costs for development and deployment were estimated in 100M$ (60-65M£) On the ashes of EFDM, the Ministry of Justice developed e-Working. This system, with similar by simplified functionalities and a cost of 16M$ (10M£), was rolled out at the Royal Court of justice in 2010. However, the Ministry axed also this project due to the negligible adoption rate by court users. After several month since the roll out, just the 0.4% of documents managed by the court were filed electronically through the application (Hall 2011a). The reasons of such failures, and poor users buy in should be further investigated, but point to a mix of factors such as lack of users' friendliness, poor technological development and unclear contractual agreements between the Ministry and software providers. In addition, critical commentators noticed that with

EFDM and e-Working, the Ministry of Justice “reinvented the wheel” developing - one after the other - systems with the same functionalities for the same type of court, and not considering the experience, and the lessons learned from other jurisdictions (Collins-White 2011).

Functionalities. As noticed, e-filing system can offer different functions such as:

- To start a judicial proceeding;
- To ease the exchange of procedural documents (briefs, summons, expert reports, sentences etc.) between the court and the actors involved in judicial proceedings (parties, lawyers, expert witnesses, enforcement agencies);
- To send and to receive notifications and summons online;
- To provide the payment of court fees online (Contini and Fabri 2003).

Generally speaking, the higher the number of functionalities to be developed, the higher the complexity, the costs and the risks of failure. Experience, as well as theoretical frameworks (Fabri 2009; Hanseth and Lyytinen 2010), point towards incremental developments, starting from simple and high frequency procedures progressively evolving towards more complex ones.

1.2. Strategy and governance

Despite they often appear under the same label of "ICT for justice" or "e-justice", the implementation of a case tracking systems for summary proceedings has little to do with the development of an integrated justice chain, or with the deployment e-filing system.

Indeed, as emerged in the previous sections, the complexity to be faced to deploy innovation in the different technological areas is heterogeneous. Hence, the design of an effective strategy for e-justice development has to consider the growing complexity of the various applications and keep aligned the strategic objectives with the capacity of the governance structure that has to guide strategy implementation.

Complexity rises in three main areas:

1) Organisation: while case management needs the establishment of new routines for data entry, and a reorganization of the internal structure, e-filing requires the involvement of lawyers and bar associations,
2) Regulation: the code of procedure has to be amended to accommodate and "made legal" the use of technological components. Such normative changes are simpler with case management, or legal information systems that with e-filing.
3) Technology: the selection of the best technological solution, the assurance of its regular functioning, maintenance, etc.

Furthermore, it has to be considered the time effect. Indeed, there is just one certainty in e-justice: that all the relevant components at the technological, regulative, and organisational level will change over time. Hence, a solution that is working at present is not a guarantee of proper functioning also in the future.

Each of these levels feeds complexity into e-justice and complexity works again the development and deployment of any ICT innovation. Users, as well as project managers, can quickly reach the threshold of "maximum manageable complexity", i.e. the level of complexity compatible with the limits of their capabilities (Lanzara 2014p. 26-31). Once reached this threshold, the project development slows down, costs rise fast and the project risks to become not sustainable. This complexity issue explains many failures in e-justice developments.

As a consequence, the governance structure in charge of e-justice development should constantly be empowered and aligned with the challenges and the complexity raised by the ICT strategy implementation. The dynamics sketched also made clear that ICT development in justice systems is

not just a digitalization of tools and services. Rather, it is an institutional reconfiguration at different levels: the governance of justice systems, the adaptation procedural rules, the establishment of new rules regulating features and use of the technological components, the organisation of courts and prosecutors' offices, and the reconfiguration of working practices. Furthermore, e-justice requires the involvement of "third parties" such as technology providers in the core business of the administration of justice.

Any reasonable attempt to introduce e-justice will face such dynamic and the challenges identified in the previous section. Therefore, innovators must not underestimate the deepness of the change and the level of the challenges. The experiences already done in other countries can provide guidance and suggest a fruitful approach to governing innovation dynamics.

Technology for courts and prosecutors' offices in Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine

1.3. Armenia

This section is based on the report prepared by the Armenian members of the working group, presented and discussed by Mr Georgi Khachatryan (Ministry of Justice - MoJ) and Ms Anna Vardapetyan (Judicial Department), Ms Hasmik Harutyunyan (NGO «Protection Of Rights Without Borders») and Mr Aram Orbelyan. The data provided by the two sources have been crosschecked and in many areas are consistent. When divergences exist, they have been acknowledged in the text.

1.3.1. Technologies in the Judicial System

At present local area networks connect all judicial offices in Armenia. Such networks enables the functioning of the Court Automation and Skills Transfer (CAST) application which automates, controls and simplifies court processes and clerks' duties. CAST is successfully used in the courts of the Republic.

CAST automates the following functions: case management of the entire judicial procedure (activities undertaken from filing to disposition), office automation, human resources and financial management as well as other duties. It is composed of 6 main modules:

1. User Module (Main Page)
2. Case Management
3. Human Resources Management
4. Financial Management
5. Administrative Module
6. Monitoring and Reporting

CAST is based on thin-client architecture: users do not need to install any client application, and work with their Internet Browser. Once logged in via the local network of via the Internet, each user has his/her privileges and access rights defined for each working session by the system administrator. All the data entered are achieved in the server (one for each court) so to guarantee efficiency and security. Such data are automatically sent to a centralized data center. This enables court administration bodies to control and to get reports from each court. SSL encryption protects data security for any type of information (documents, court recordings, picture- and voice-based evidences, document flow between the courts and the administration body) circulating outside the

justice domain. The system provides general principles and standards, whereas the specific formulae, coefficients and other peculiarities can be added or edited by the Administrator. Also, the Administrator defines the sequences of actions to be recorded into the system. Such sequences, and the types of data collected can be adapted to fulfill new or specific needs.

Furthermore, the electronic case assignment system operates in all the courts of first instance, appeal and at the Court of Cassation.

The courts and their staff are equipped with computers and network connections, and the lack of infrastructural components is not crucial. It is not clear, however, the quality of the connections of regional courts. Official e-mail is not provided to all judicial officers and clerks. More often judges and judicial clerks are creating their personal e-mails for communication. Official e-mail addresses are used for official communications, but it has been mentioned that judges and clerks mainly use their personal e-mails. There is also the possibility to upload procedural documents, but this electronic communication is not the official one. The documents uploaded have just an informative nature.

DataLex is the component of CAST accessible from the public. It provides legal, judicial and case related information. The access to the decisions and judgments of all courts of Armenia (since 2008) the jurisprudence of the Court of Cassation and of the ECtHR is made available by various search tools. In addition, Datalex provides functions for case search and to check the hearing schedules[4]. DataLex gives the opportunity to search for case law of the Court of Cassation based on following criteria: case type (criminal, civil, administrative), court and judge, person involved in the process, date of hearing (judgment), judgment content, legislation, including the provisions of the Constitution, the International documents and national codes (criminal code, civil code, criminal procedure code, civil procedure code, etc.). The search results display detailed information about the case law of the Court of Cassation.

The electronic system mostly used by Prosecutor is the Criminal Records Management System. Based on the information available, there is not interoperability between courts and other judicial actors. Courts and prosecution offices, however, still use paper registries as the official registration system.

The website arlis.am provides the legislation, the jurisprudence of the Court of Cassation and Constitutional Court. The website of the Constitutional Court publishes cases listed in chronological order.

The websites are accessible to both judicial officers and the general public. The azdarar.am platform provides a relevant set of information ranging from criminal history reporting systems, sentences by higher courts, law, department of prisons and finance records, traffic and commercial. Here, the main problem is the completeness of the information and their update. As noticed above, the CMS does not provide functions supporting the drafting of judicial documents. Sentences and decisions are then written using commercial word processors.

[4] DataLex was improved and developed within the scopes of EU and CoE joint project "Strengthening the application of the European Convention on Human Rights and the case law of the European Court of Human Rights in Armenia" implemented in cooperation with the Judicial Department.

Court staff use the FEMIDA computer controlled digital audio recording system to take court records. The court record can be made available to the parties (upon request) and the judge at the end of the hearing. In civil and administrative cases, parties have to pay for a fee. CDs with audio recording are kept with the hard copy of the case.

Even if in some administrative proceedings parties may file motions through email, for example, to ask for a hearing postponement, there is not a system of e-filing in place yet, since, as noticed, the electronic communication between the party and the court is not acknowledged as official. Currently, there are just the legislative basis and plans to introduce the new application.

1.3.2. Strategy and governance

The Judicial Department provides the web-page of the court system (www.court.am). The Council of the Courts' Judges decides about its structure, functioning and the information provided. The Judicial Department manages the official website of the judiciary according to the provision of Article 67 of the Judicial Code. The structure, the design and the content of the information are defined and approved by the Council of Courts' Chairman. The Mass media communication Unit of the Judicial Department is responsible for the accessibility of judicial and court related information for media and society.

The NGO "Protection of Rights without Borders," noticed that the lack of clarity about access to judicial information (see more info below) results in problems for judicial independence. The representatives of the MoJ and Judicial Department argue that ICT is not affecting judicial independence and mostly is not affecting fairness.

The NGO has signalled some problems about the question of governance and legislation and access to judicial related information. However, as noticed by the Judicial Department the recent developments in DataLex minimise the difficulties one could face seeking for judicial related information.

Governance and legislation - Neither the Ministry of Justice nor the Judicial Department play a direct role in the area of design, development and evaluation of e-justice. Also, there are no special units inside or outside government departments in charge of the 'strategic planning' of information systems relating to the administration justice. The case management systems requirements are established by the Judiciary, while software development is outsourced to companies. The requirements, the design and the implementation of case management systems are decided by the Judiciary. Software development is outsourced to private companies. The long-term strategic reform programs of the judiciary are developed and implemented by the Ministry of Justice.

The current legislation does not provide sound bases for e-filing. There are no provisions in Criminal, Civil and Administrative codes of procedures as well establishing how to lodge procedural documents with electronic means.

The courts may upload the information about the judicial proceeding, such as the date of the next hearing. Last but not less relevant, it has been mentioned the lack of the legislative basis to take electronic records of witnesses' interviews and deposition via video-technologies.

Access and information - According to the latest changes of Datalex, the information about the parties is accessible just within the section accessible by the same parties. The NGO mentioned the need to log in to get full access to the system and the violation of privacy since the website publishes

decisions taken within closed-door proceedings. In this respect, the Judicial Department has assured that this kind of information is not available to the public.

Furthermore the NGO states the lack of relevant information that should be made public, such as the activity and the reports of official investigative bodies or of administrative proceedings, or the possibility to find all the cases examined by the same judge. The Judicial Department has clarified that Datalex offers the possibility to search for all the cases decided by each single judge.

1.4. Azerbaijan

This section is based on the report prepared by the Azerbaijani member of the working group. It has been presented and discussed by Mr Farid Madatli (Supreme Court).

1.4.1. Technologies in the Judicial System

In Azerbaijan, the Information technologies are widely implemented as a part of the ongoing reforms in the judicial system. After 15 years of work, all courts benefit from Internet connections and local network. The official email address is used for official correspondence and communication with citizens. While judges have free access to the Internet, the Court President establishes the criteria to use email and the Internet for the clerks. By the end of 2016, all justice bodies will be connected by a single network so to complete the «electronic court» system.

IT skills are one of the key requirements for public sector jobs. All employees have to follow special training when new technologies are deployed, and hence new skills needed. Also, the persons involved in the introduction of ICT innovations are periodically sent to courts where they can exchange experience in obtaining new skills of using these systems.

The MoJ is deploying the Electronic management system of cases and proceedings (CMS) in 14 pilot courts. It will enable the handling of procedural documents and court files in digital format from e-filing to disposition (e-judgment). In such offices, paper registries are not kept anymore, and judges are using the system to write procedural documents. In the other courts, paper registries are still kept, but will be dropped once introduced the new CMS at the national level (end of 2016). The State Office of General Prosecutor of the Republic of Azerbaijan has its application for the electronic management of cases.

The CMS covers all the procedural stages from registration to case assignment (automatic and manual), from calendaring to the summons (also via SMS and email), from to templates easing the drafting of judicial documents to their digital signature.

It provides also functions to manage documents in electronic form, audio-video recording of the hearings and a reporting system.

The Court CMS is already interoperable with the State Registry Center of Citizens, the database of the Ministry of Taxes, mobile operators, the system of digital signature of ASAN (State Agency for Public Service and Social Innovations under the President of the Republic of Azerbaijan) and with the information systems of the Ministry of Communications and High Technologies.
The integration of Court CMS with the CMS of the General Prosecutor's Office, is on the last stage. More generally, there are plans to develop interoperability between all State-owned information systems.

According to the Law on Courts and Judges, all the Courts should publish judicial resolutions and decisions on the justice system portal. There is a project on renovating the portal which would be integrated with the CMS described above. The project will help to get quicker information about cases and to receive electronic copies of judicial documents.

All the courtrooms are equipped with computers, which could be accessed by judges and Court's employees.

Furthermore, pilot courts of Azerbaijan are applying the system of electronic recording of judicial hearings (audio and video), controlled by court secretaries without external support. The system allows judges and secretaries to tag the recording to identify the various hearings stage and the appearance of parties. Such system is integrated with both the CMS and the system of electronic recording of judicial hearings. This special equipment allows conducting electronic recording, organizing private communication between defendant and the defender, and also to study case materials in digital form. The hearing records are stored in digital format and made available to the judge and the secretary at the end of the hearing. The general access to records for the case parties could be received only by electronic office system, which is working in the test mode at the moment. According to the plan, all courts should be transferred to the electronic recording system until the end of 2016.

Pilot courts are also testing a video conference system (PolyComis) to carrying out video conferences between Courts, and training for judges and Court's staff. It can be used for remote hearings.

The use of e-filing is still at its inception. Currently, there is a digital signature provision (law on digital signature) and technology providers. This represents a prerequisite since documents exchanged electronically have to be digitally signed. Currently, only the judgment and the notices of appointment are exchanged electronically from the court's side. The "Electronic office", which is available in the test mode, offers the same possibility to citizens.

1.4.2. Strategy and governance

Functions - According to the legislation, the Ministry of Justice has the powers of ensuring logistical support to first and second instance courts. More than that, based on international agreements, the MoJ is responsible for project implementation in the judicial system. The Judicial Council has not a competence in such policy area.

Within the ministry, the ICT responsibilities are assigned to the "Department of organizational control", and to the "Division on the implementation of projects, development of judicial services and smart infrastructures".

The two branches of the Ministry are in charge of design, development, and deployment; monitoring and assessment of projects; resources allocation; training dissemination of the information, standards definition.

The Ministry plans to create the Strategic Planning and Information Services Department in February of 2016 that will absorb all the ICT related functions. Software development is carried out by private companies under the project management of the "Division on Implementation of Projects." Their work is based on requirements identified by the Ministry and by working groups.

The development of ICT in courts has not hampered judicial independence and fairness. The project on improvement of judicial system carried out by the Ministry of Justice of the Republic of Azerbaijan in coordination with the World Bank can be marked as a successful project in the sphere of justice. This project was proclaimed as the best by the World Bank among its' other projects.

The basic reason of success of this project consists in a principled position of the Ministry of Justice to carry out essential transformations in judicial system of Azerbaijan, and also use of a wide experience of the World Bank on implementing such projects[5].

1.5. Belarus

This section is based on the answers to the questionnaire given by the Belarus members of the WG e-Justice.

1.5.1. Technologies in the Judicial System

A single corporate network (or intranet) connects all the general jurisdiction courts. It provides Internet access and email, which is also used for official correspondence. Judges prosecutors and clerks are accustomed to the use of such infrastructure. At present, the lack of technological components is not perceived as an issue.

The Automated electronic court information system is deployed in all general jurisdiction courts. The systems are currently being upgraded to create a unified automated information system for all general jurisdiction courts. The goal is to automate the activity of the courts at all levels. Also, courts use paper-based registers for record keeping. Judicial statistics and management reports are the primary functions provided by the automated electronic registration system; that is not used to produce procedural documents, such as summons, lists of witnesses, etc.. Judges and prosecutors regularly use word processing for writing procedural documents.

The systems of courts and prosecutors are not integrated.

The "Judicial Practice" database located within the "Etalon" information search and retrieval system is the most relevant legal information system of Belarus. At present, general jurisdiction courts can access to various databases of other public authorities, particularly the State road transport and traffic police, the Ministry of Internal Affairs, the Ministry of Justice, the Social Security Fund, the Belarus State Border Control Committee and other public authorities.

The Belarus courts use different technological means to keep trial records. The courtrooms are equipped with computers used to take trial records and for the evidence examination (listening to audio files and watching video materials). The court staff is in charge to keep the records and manage such hearing rooms technologies. Currently, there are activities underway to upgrade existing systems of audio and video recording, as well as for the development of an automated information system for general jurisdiction courts, involving the deployment of such systems in all the courts of the country.

[5] See http://documents.worldbank.org/curated/en/2013/09/18600406/azerbaijan-judicial-services-smart-infrastructure-project-environmental-management-plan

Belarus courts are connected to a system of interdepartmental electronic document processing for public authorities, and to the Mailgov email system of the public sector that provides document electronic management functions. The Regional commercial court of Minsk also uses an automated information system which fully automates the activities.

Video conferencing systems operate in the Supreme Court, Regional and commercial courts in Minsk. Video conferencing technology is widely used during remote court sessions, meetings of the Plenum and Presidium of the Supreme Court of Belarus, meetings, seminars, distance learning and training of the staff of judicial authorities.

1.5.2. Strategy and governance

The Supreme Court of Belarus acts as a coordinator in the development of the Single Information Space for the system of general jurisdiction courts, its integration into the information and communications system of Belarus, and the creation and implementation of electronic justice for the activities of the judicial authorities. The Department for Automated Information Systems, operating within the Supreme Court is responsible for the technical development and implementation of automation projects, new technology, ICT strategy for the courts of general jurisdiction.

The department takes care of organisation, development and implementation of the software designed for judicial proceedings, case record keeping, statistical reporting, human resources management, and information and reference services for the system of general jurisdiction courts. The Supreme Court establishes the requirements and decides on the design and the implementation aspects. Software development involves both public and private companies. The Supreme Court coordinates such activities. During the software implementation, training seminars addressed to general jurisdiction courts' staff are regularly held in the form of video- conferences. Court technologies have not created problems to judicial independence.

A reform of the judicial system took place in 2014. During this period, the first stage of modernization of the automated information system of general jurisdiction courts has been implemented. For the first time, the Judicial system set up a data processing centre for the ICT systems of general jurisdiction courts. Courts were provided with the remote access to the databases of public authorities and organisations. A unified portal for electronic services provides access to two new services: the "Information on cases of commercial insolvency (bankruptcy)" and the "Information on hearings of applications on the proceedings of writs".

1.6. Georgia

This section is based on the report prepared by the Georgian members of the working group. It has been presented and discussed by Mr Ushangi Bakhtadze (High Council of Justice), Ms Lia Melashvili (Supreme court), and Mr Saba Buadze (NGO "Institute for the Development of Freedom of Information).

1.6.1. Technologies in the Judicial System

The technology infrastructure of Georgian justice system is well developed. A wide area networks connects common courts of Georgia, providing also access to the Internet. Official e-mail is available to all judicial officers and staff.

Mainly official e-mail is used for communications but there are occasions when private emails are used for official communication. The totality of court staff, as well as judges have and use computers, they are now accustomed to work with such technological tool.

Since 2012 electronic case management system was introduced in the Georgian Judiciary, with several following ambitious goals:

- Support reforms of Judiciary;
- Complete automation of court case management and related operations;
- Workflow optimization and acceleration for court employees;
- Complete reduction of repetitive operations;
- Reduction of errors caused by human factor;
- Increase of court operation transparency and accessibility to the public.

The development process of the electronic case management system is now finished. The project has been implemented in every Court of first instance, in the Courts of second and third instances. Since 2012, first instance courts have been using this system, since 2014 – Courts of Appeal, since 2015- the Supreme Court of Georgia.

Case management system has several important functions including: management of documents in electronic formats; planning and scheduling of court sessions; making comprehensive reports. Furthermore, the program gives the parties, the complainant and his or her attorney the opportunity to sue claim and submit documents electronically, as well as electronically receive the case number. In addition, the parties will be able to electronically check and verify the progress of the case, as well as to access the defendant's evidences, and objections. The new program also offers an opportunity to the parties to send legal documents by email. This means that the plaintiff, the defendant and their attorneys will be able to send documents electronically, instead of delivering documents to the post office. The date of sending documents to the program will be considered as the delivery of documents to the post office. On top of that, CMS has the function of audio recording of proceeding and, as for security matters, it has a very robust security and access control.

With the help of this program, registration procedures and the process of court registry were simplified considerably. Namely, primary registration takes only 1-3 minutes, which means that the process is accelerated.

As for case registration, after the case is registered, paper based documents are conversed into digital format and only after that it is automatically allocated according to predefined orders and policies. Parties are notified via communication systems (email, sms).

This system is very useful for judges and judges' assistants because they can control case progression at all stages electronically. Moreover, judges can create any necessary documentation through a comprehensive template system. Judges can also plan sessions, schedule proceedings, control their calendar and deadlines and can create as well as allocate cases. Finally, with the help of this program it is possible to mask the data of the final decisions.
The program provides web access to all the parties involved at any stage of the case progression. It automatically publishes final decisions on the web after 24 hours. The cases that are de-identified (masked) are available to the society via web interface. The authenticity of every document is checked via barcode that is available to any interested party.

Courts use case management system. Though case management is available to all courts, mainly it is used in Tbilisi City Court. Furthermore, CMS is used together with traditional paper registries. CMS was integrated with the prosecutor's office, but nowadays this process is temporarily stopped.

The case law of the Supreme Court of Georgia is available for every judge. Apart from it, a Human Rights Center, as a subdivision of the Analytical Department, is functioning at the Supreme Court of Georgia. The main duty of the Human Right Center is carrying out researches concerning human rights issues, which might arise in complicated cases. When a judge expresses his/her will to use the case-law established by the European Court of Human Rights for the purposes of better substantiation of the judgment, the Human Rights Center will prepare and provide the judge with the research. Within the activities of the Center, approximately 800 cases of the European Court of Human Rights were translated into Georgian. Judges are using Microsoft word as normal tool to write procedural documents.

In the courtrooms every proceeding is recorded via video and audio recording. Audio court record is provided to the party upon request no later than 3 days. As for video recording, it is not permitted to distribute it. Court staff takes court records. For video recordings there is at least one CCTV camera located in every courtroom. As for audio recording, it is done by the court clerk. Court recordings are kept in electronic format. At the same time recordings can be linked with the CMS. There always is a computer in Courtroom and court clerks have the access to it.

E-filing is used for exchanging procedural documents. If a court is using CMS, then every document needs to be e- filed. In civil and administrative cases, if a person indicates in a claim or counterclaim that s/he wants to receive files electronically, then any kind of judgment is exchanged electronically. According the Law of Georgia on Electronic Signature and Electronic Document, the persons who have recently introduced electronic ID card can have digital signature. There is no general agreement or commitment to use specific communication standards. Video conferencing is used in courts. For instance, witness can participate in proceeding via Skype or other electronic device.

1.6.2. Strategy and governance

The High Council of Justice (HCOJ) takes key decisions about the court administration, the design and the implementation of case management systems. The private companies that successfully participated and won the tender published by the HCOJ develop the software. Training courses are provided, but not on regular basis.

Independence and fairness - So far, ICT is not considered to affect judicial independence and procedural fairness. One reason for this is that the amount of people who know about court technology and CMS is limited. Therefore there are no debates whether it can pose threat to the judicial independence. Another reason is that the use of different technologies is a novelty in Georgian Judiciary and so far no threats to independence were identified.

1.7. Moldova

This section is based on the report prepared by the Moldovan members of the working group. It has been presented and discussed by Ms Tatiana Iurco (MoJ) and Ms Tatiana Moraru (MoJ).

1.7.1. Technologies in the Judicial System

The automation of the Judicial system is a priority for the Republic of Moldova. It aims to aid judges and citizens, to strengthen judicial independence, transparency and to improve the quality of justice. In Moldova, local and wide area networks also providing Internet access connect all judicial offices. Official e-mail addresses have been created in justice.md domain for judges, administrative staff and on procuratura.md for prosecutors' offices. Such e-mails are used for official communications. Judges, prosecutors, and clerks have at their disposal all the necessary functional equipment commonly used.

The automation of the courts activities through the Integrated Case Management System (ICMS) and digital audio recording of the hearings ("SRS Femida") has increased the efficiency and effectiveness of the process of justice significantly. The Integrated Case Management System was elaborated within the US "Millennium Challenges Program" (MGTCP) based both on the Action Plan approved by Government (2007), and on the Judicial Information System Concept for years 2007-2008 (both abrogated by GD nr. 796 of 25 October 2012).

The first release was implemented in 2009, with the following basic functionalities: case management and record-keeping, random assignment of cases, publication of decisions on the websites of courts. All courts have been provided with required number of computers, printers, scanners, as well as with the equipment needed for the digital audio recording of the hearings.

The State Enterprise "Centre for Specific Telecommunication" CST manages the system (see governance). Since 2009, the Judicial Administration Department of the MoJ and the CST sign a contract for services acquisition. The contract includes the functionality, maintenance, full implementation, as well as the security of all information systems, equipment and infrastructures within the courts.

Since 2011, the USAID Quick Assistance for Good Governance continued the actions of the MGTCP in e-justice, helping in monitoring the execution of the contract with CST, and developing ICMS releases 2 and 3. The release 4, implemented in 2013, provides the function of automatic assignment and random of cases to judges. Since 15 September 2015, Version 4.1 has been successfully deployed in all courts. It provides routines for the preparation of documents, office automation functions, calendar management, case allocation, procedural alerts and deadlines, caseload statistics, management reports. There are models of summons, witness lists, indictments, and judgments that can be used by judges and clerks. However, traditional paper registries are still used.

In respect of the prosecutors' offices, there is a system called e-case (e-detention, e-arrest), but at this stage is not implemented yet.

Within the ICMS, each court employee has a well-defined user's profile.

All the decisions of the Superior Court of Justice are indexed and published on its website. A specific engine supports the search of the decision.

The Courts' web portal makes available the database of decisions/indictments:

- http://instante.justice.md/cms/
- http://instante.justice.md/apps/hotariri_judecata/inst/jb/jb.php

The web page of the Supreme Court of Justice publishes a Database of the actions of the Criminal Board Plenum of the Supreme Court of Justice.

- http://jurisprudenta.csj.md/db_plen_penal.php

In addition to the functions provided by the CMS, judges and prosecutors are accustomed to using a commercial word processor to write their procedural documents.

The court record is taken by digital-audio recording (SRS Femida or a Dictaphone) while at the Superior Court of Justice shorthand reports complement the digital recording. Court clerks run the digital recording system. Court records are made available to the parties and the judge at the end of the hearing. The court records are kept on CD. In respect of the Superior Court of Justice, the minutes are kept on paper and saved on the servers of the CST.

The procedure remains paper-based, and there is just a limited possibility of exchanging data, through ICMS allows the transfer of general data (participants, documents) about the case from one court to another. However, there are plans to develop e-filing, and a software module enabling lawyers to file cases online has already been created.

The Ministry of Justice is currently involved in a new process of developing the second version of the Integrated Case Management System. This version will allow introducing the complete electronic procedure beginning with electronic case filing and closing the procedure with the electronic decision. Users will access all the procedural documents through their personal accounts. As the new procedure will be entirely electronic, it will be connected to the state registers and the other informational systems needed to the electronic handling of the case.

The use of video conferencing would represent a proper communication means among law enforcement bodies. This subject is discussed at present and may be implemented in the future.

1.7.2. Strategy and governance

The MoJ is the holder of the Integrated Case Management System. The Ministry of Justice takes the decisions about requirements, the design and the implementation. The functions performed by CST are described above. Within the Ministry, the Judicial Administration Department and e-transformation Service are in charge of the 'strategic planning' of information systems. The Judicial Administration Department performs functions as implementation, monitoring, training, clearinghouse and dissemination of information. The MoJ provides training on regular basis.

The e-Transformation service of the MoJ plays a crucial role in e-justice development. It monitors the data collection, assures data consistency and contributes to data analysis. It does the IT project management including resources planning, purchase, security, architecture and information infrastructure maintenance, evaluation, etc.

The role of the Judicial Council consists in the elaboration and adoption of Regulations concerning the organization and functioning of the judicial information system, with a particular focus on random assignment of cases. Private companies, as well as ICT department of the MoJ and Judicial Council, are in charge of software development.

One of the purposes of the ICMS is to guarantee the independence and impartiality of judges by a random distribution of the cases. For this reason, ICT development in courts does not influence, (or affect positively) independence and fairness.

The implementation of the ICMS has been the most successful project. Together with the court hearings Audio Recording System “SRS Femida", it has led to the full automation of crucial activities, and to an increased efficiency and efficacy. It also provides comparable statistics, increases transparency, standardizes the judicial practice (through the publication of the judgments), and monitors the judges’ activity. Random case assignment is a critical issue. Its proper functioning is strictly monitored by the MoJ, the Judicial Council, and by the National Anticorruption Center.

1.8. Ukraine

This section is based on the report prepared by the Ukrainian members of the working group. It has been presented and discussed by Mr Viacheslav Panasyuk (MoJ).

1.8.1. Technologies in the Judicial System

In recent years, the digitization of Ukrainian judicial system made significant steps: the provision of e-filing, and the related electronic exchange of procedural documents, the development of the official websites of the Judiciary, the establishment of the Unified State Register of judgments of Ukraine. The establishment of a professional social network "Femida" for communication of judges and court staff, the introduction of a unified database of email and fax addresses of public bodies, the possibility of conducting court sessions via videoconference have to be mentioned among the achievements. Also, the system of electronic justice (e-filing) is currently promoted.

It contributes to improving the working conditions of employees of courts, providing quick and easy access of citizens to information on active proceedings, case listing, and it allows the exchange of procedural documents between the court and the parties to the trial using electronic digital signature. The main objective of this e-filing system is the establishment of rapid exchange of information and procedural documents between judicial institutions, participants of the trial, as well as other government agencies to ensure fair and impartial justice in Ukraine.

The development and implementation of electronic document circulation systems are of primary interest for the Ukrainian justice system since they provide significant advantages over conventional, paper-based document circulation. Accordingly, the courts operate an automated workflow system which provides the following set of functions:

- Case tracking functions through the registration of the various data about any relevant procedural document;
- Registration of proceedings and procedural documents, including document and mail tracking,
- Balanced case assignment to judges, including back-up judge, investigating judge, jurors and assessors;
- Procedural deadlines monitoring;
- Issuance of judgment and executive orders; centralized storage of judgments and procedural documents; preparation of judgments and writs of execution taking advantage of the data collected in the system, electronic signature of the procedural documents issued by the Court;

- Electronic document delivery (including texts of judicial summons in the form of SMS-messages);
- Search facility for electronic documents;
- Interoperability with the Unified State Register of judgments and other public registries;
- Public access to case information;
- Automatic generation of statistical reporting, synthesis, analytical indicators derived based on the submitted to the automated system information;

The Board of Judges of Ukraine in coordination with the State Judicial Administration of Ukraine approves the regulations which specify the functioning of the CMS. Accordingly, the access to the system depends on the different functional duties of Judges and court staff. The information available does not clarify if the system is deployed in all the first instance and superior courts.

The Unified State Register of judgments ensures the free access the court decisions (court orders, resolutions, judgments, rulings) as established by the law "On access to court decisions." It includes judgments of the Supreme Court, the High specialized court, appeal and local courts. It also includes verdicts, decisions, resolutions, orders, rulings, resolutions in criminal, civil, commercial and administrative cases, with an exception for decisions, which contains information related to State secret. As established by the law, judgments, court hearings and information on cases before the court are open, except the cases, established by law.

A 2012 Law regulates the participation to the hearings via videoconference. On its own initiative, or at the request of a party, the Court can issue a decree establishing the participation in the court hearing through videoconference. The court is then responsible for its implementation. The hearing is video-recorded, and the recording is "attached" to the journal of the court session and also connected to the case file. Since 2013, the procedure for the exchange of electronic documents between the court and the parties has been introduced in all local and appellate courts of general jurisdiction. Such exchange does not replace the need for also exchanging the documents in paper form. Also, the persons involved in criminal proceedings at the local and appellate general courts can receive the summons via SMS-messages. Since 2015, the possibility to send procedural documents by e-mail has been extended to the Supreme Administrative Court of Ukraine. Parties to a trial can receive procedural documents in electronic form along with the paper ones. To take benefit of this service, users have to register on the official court website and apply for the service. Procedural documents will be delivered electronically to the email address recorded in the domain mail.gov.ua, specified in the Application. A similar system applies to the electronic summons via SMS.

A recent amendment to the Law of Ukraine "On the Judicial System and Status of Judges" provides that, with some exceptions, information about the court hearing, the parties to the dispute, the subject of the claim, etc. be open and subject to immediate publication on the official website of the judiciary. Accordingly, the official web portal of the Judiciary of Ukraine (http://court.gov.ua/) introduced the possibility of browsing, search, and print case related information.

1.8.2. Strategy and governance

In 2014, the Council of Judges of Ukraine approved the Development Strategy of the judicial system in Ukraine for 2015 - 2020. The Strategy states that ICTs are the main tool to improve access to justice, the efficiency of judges and management of courts cases. Accordingly, the strategic area of "Electronic Justice" has been identified. A more intensive use of e-Justice will give to users the ability to apply to court proceedings, pay services, participate in the procedures and receive all relevant

documentation electronically. Efforts will be addressed to improve internal (system of judicial affairs management) and external (sites) information systems (IS) of courts.

The strategic objectives of the Strategy are the development of regulatory framework for electronic justice and integrated information systems to achieve greater transparency, efficiency, access to justice and equity. Improving the communication channels and interaction of information systems, including interoperability between different State and non-state actors of justice sector as well as the Member States and institutions of EU and other international actors. The Decree of the President of Ukraine (n. 276/2015) that approved the 2015-20120 Strategy of reforming the judicial system, court proceedings, and related legal institutions push further ahead the e-justice strategy.

From commonalities to a regional approach

1.9. Common challenges

Infrastructures - Based on the information collected, the judiciaries have already in place the technological infrastructure needed for e-justice developments. The technological level of such national infrastructures cannot be evaluated based on the data collected. However, once such infrastructures are in place, they need regular maintenance and improvements to keep them updated to international standards in terms of security and effectiveness. **The capacity to keep well running and updated such infrastructure is the first challenge for all the countries of the region.** In passing, this is not just a problem for the country of the EaP. Also many new and old members of the EU are experiencing problems in updating such basic infrastructural components.

Case management - The countries have also made important steps towards the deployment of CMS either in pilot courts or at national level. The functionalities provided by such systems and the level of their use cannot be appreciated due to the limit of this work. However, it must be emphasised that all the countries are using both the new automated case management systems and old traditional paper registries. No doubts, the consequences of this duplication are negative in terms of efficiency of courts (and prosecutors') operation.

This choice of duplicating the registration system is logical and correct as a short-term solution, a means to ease the transition from paper to digital. However, the persistence of the double registration point to various possible problems. It could be a matter of poor reliability of the computerised system, poor use of the system (such as low quality in the data entry), a lack of strategy (and coherent decisions) by those with entrusted with judicial governance capacity (from the Parliament to the Ministry, from the Judicial Council to Court President).

Whatever is (are) the problem(s) affecting each specific judicial system, it should to be addressed as top priority. In the mid-long run, such duplication, with additional costs and reduced efficiency will be difficult to sustain. **Therefore, the swift moves towards the removal of paper registries in all judicial offices, and their replacement by case management systems is the second priority** for the judiciaries we are considering.

Privacy and public access - The judiciaries are already publishing on line legislation, decision of judicial governance bodies, jurisprudence of high and low courts. Here the problems envisaged in some countries deals with the balancing between the right to privacy and access to (judicial) information. On the one hand there are cases in which the protection of privacy certainly overtake the right to judicial information, as with family, juvenile and guardianship cases, or when it is important to protect the victims in criminal cases. Then there are many other cases in which a

proper balance has to be identified. The standards are quite different in Europe. While common law countries tend to make openly available case related information, civil law countries makes these information accessible only to those who have a role in judicial proceedings. **The third challenge is therefore the identification of the proper balancing between privacy and access to judicial information, and its consistent implementation.**

Strategy - The digital exchange of data and documents in judicial proceeding, and the so called "paperless office" seems to be a must have for many judiciaries around the world. However the technological, legal, and organisational complexity associated with such development should not be underestimated. The number of failures, and their costs for the State budget should suggest being careful in the deployment of e-filing. The lack of commitment towards e-filing should not be considered as a limit in the current strategy, but an acknowledgment that given the current conditions, it is appropriate to consider this development at a later stage. **The fourth challenge is then a proper phase in of the different technological applications, and the alignment between ICT strategy and ICT governance capacity, is another ongoing challenge for the judiciaries of the region.**

Governance - E-justice is not just a matter of deploying technological applications in the justice systems. The question about fairness, independence and e-justice made in the report structure (see Annex 3) was there to explore the cause-effects relations between e-justice and key judicial values. Just one report mentioned that the system was providing public access to personal information that should be kept private (breaching the fairness of the proceeding for the persons involved). In all the other cases, problems have not been reported. It must be mentioned, however, that in the countries considered in the study the implementation of the CMS has been associated with the development of a random and automatic case assignment system. Case assignment is usually considered as a critical procedural step.

In judiciaries suffering for lack of transparency and low trust, it is often associated to improper influences, uneven distribution of cases among colleagues, undue pressures on judges, and even corruption. In a nutshell, discretionary case assignment may endanger judicial independence and procedural fairness. Therefore, when e-Justice deployment is associated with the introduction of systems like automatic and random case assignment, it results in an increased independence and fairness.

This example points to the fact that e-justice is not just a technological endeavour. This assumption is now agreed by e-government and e-justice studies and by international standards such as the CCJE opinion on ICT in justice or the UNODC "Resource guide on strengthening judicial integrity and impartiality". E-Justice deployment contributes to the transformation of judicial systems, and should be properly considered and faced as institutional change rather than a "modernisation" based on the introduction of modern working tools in courts and prosecutors' offices. This understanding seems to be particularly relevant for the countries involved. The development of **proper e-justice governance structure that is not just "technological" but involving – at high level - all the components of the general governance structure of the judiciary** is the fifth challenge to be faced by the judiciaries represented in this study.

1.10. Steps toward a regional approach

The previous section identifies the five principal challenges to be faced by the judiciaries of the region to develop properly and sustain e-justice. This section will first suggest some steps that can be taken at regional and national level to face the challenges identified. Then, it will identify some actions that can be considered to fulfil the goals established by the programmatic cooperation framework in the field of e-justice: to ease and support the alignment of EaP countries with European standards in the area of e-justice, disseminate best practices, foster the regional dialogue, and lead towards evidence-informed policy making (CoE/EU PCF: Theme II Ensuring Justice).

Specific measures - Once a **technological infrastructure** is in place, it requires regular **maintenance and update**. Quite often, it is easier to find resources to develop new projects, that for maintenance and upgrades of the basic infrastructural component and the "installed base". This challenge has to be faced at the national level, but should also be considered at the regional one. Both levels should consider the long-term sustainability and implications of short term ICT investment. At the national level, the maintenance and upgrade costs should be estimated and included in the justice budget. On the regional scale, it should be considered the possibility to provide financial support also to infrastructure maintenance and updates, and not just to new projects.

Another leverage to push national policymakers to provide adequate means to such function is to transform current applications - particularly case management systems - in critical components of the administration of justice.

In the countries of the region, the best way to pursue this goal is to use the existing case management systems as the exclusive official registration system, and simultaneously get rid of paper registries. This switch would make the infrastructure critical to justice operation and hence sustain the request of adequate maintenance. However, this is just a side effect of a step – the complete digitisation of the registration of procedural data and the removal of paper registries – that has to be taken as soon as possible for various reasons.

As noticed during meeting, one of the current difficulties of the judicial systems of the region is to cope with mixed procedure (paper and electronic). This "double" procedure is hard to avoid with case files (i.e. procedural documents), since it would require the complete digitization of their exchange, and the capacity of clerks, judges and prosecutors to work exclusively in digital. Also the e-justice front-runners have not reached this objective yet. On the contrary, the **registration of case data should be done just with digital means (Case Management Systems) and not with paper registries.**

Here, a regional approach could consider various initiatives.

First, it has to contribute to making clear that the double registration (on paper and CMS) is neither aligned with European standards nor sustainable in the mid-long run. Based on the data collected, it is not clear why all the countries still use this double registration. Experiences and studies made in other countries point out that obstacles rise at technological, organisational and political levels. Hence, targeted initiatives should be taken at each level.

At the **technical** level, experts should check if the systems in place are robust enough to be used as single registration systems. If not, the experts should identify the measures needed. This first step would address the concerns about the reliability of the application and of the data collected that can affect various professional groups.
At the **organisational** level, experts can work to identify the organisational obstacles that make difficult the switch to digital registration, and provide suggestions addressed overcome difficulties. Problems identified in other countries often deal with the poor quality of the data entered, or with

various resistances spread out in the office. Also, experts should contribute to identifying the advantages coming from the full digitisation of this routine, starting with savings of costs and time, and the possibility to reorganise the judicial office based on current standards such as front office and back office.

Focused interventions should also be designed for **policy makers** and the apexes of courts and prosecutors' offices. As stated, e-Justice development is a process of institutional reconfiguration to be addressed within the framework of a comprehensive judicial reform strategy, and not a matter of hardware and software procurement. The involvement of the leaders of the systems is therefore needed to move from double registration to the digital one. The before-mentioned involvement is also necessary to develop appropriate policies in two areas strictly connected with CMS: the criteria to assign randomly and automatically the cases to judges, the proper application of the legal (or natural) judge standard. Both topics emerged as relevant in the region. As in other situations, EU member states offer a menu of applicable solutions rather than just one best way. There are countries in which case assignment is automatic and based on random and pre-established model, and other in which the Court President assigns the case to the judge who has the best skills to deal with it (Langbroek and Fabri 2004; Langbroek and Fabri 2007).

The assignment systems adopted by EU countries support relevant values but with different balancing. Some case assignment mechanisms are designed to improve efficiency and professional qualifications, others integrity and impartiality. This variety is not a limit; rather it provides a primary source of information and alternative options that should inspire evidence-based judicial reform in the region.

A similar approach should also be taken to face another challenge that is common in the region: to find the proper balancing **between privacy and public access to judicial information**. Also in this case, the experiences and the solutions implemented by the EU Member States are quite different (see section 4.1). Inspired by such variety a regional approach can work to implement public access mechanisms that are at least respectful of minimal standard of protecting the privacy in family law cases and in cases involving minors.

The other two regional challenges, the need of a proper e-justice strategy and of its alignment with the governance structure can directly benefit of the EU member states experience. First, it should be clear that e-justice deployment not just "technological", but a process of institutional reconfiguration and judicial reform.

This has been understood in the region, but it has also to be systematically implemented. The understanding of the complexity to be faced when designing, developing and deploying the various technological components is essential. Few examples can clarify the point.

It is useless to develop e-filing if clerks still record the cases on paper registries. In this case, e-filing would result in a duplication of activities, such as the need to print out the document, create the paper case file and record case data into the paper registry.

The development of e-filing requires legal changes at various levels (from the code of procedure to technical regulations). Therefore, the involvement and the active participation of the apexes of the governance bodies, and their willingness to implement the legal changes that are needed is a condition sine qua non. Also, it requires the involvement of lawyers and bar associations, since the e-filing platform is useless if lawyers still prefer to file procedural documents at the court counter. The governance system has to be capable of dealing with all this components, or the e-filing platform will result in a failure (see the Box in Section 2.1).

As in the previous case, experts can help policy maker to tune up strategy and governance, and avoid the risk, quite common, to approve e-justice strategies that are too complex for the governance capacity and prevent the risk of major failures as those mentioned above. Also, study tours and meetings with e-justice leaders in selected EU Member States can be helpful for this purpose.

General measures - While the measures discussed above are targeted to address the specific challenges identified in the meeting, also multipurpose initiatives can be considered. The EU supports judicial reforms through various programmes, such as EaP Programmatic Cooperation, twinning programmes addressed to third countries. Besides, the Regulation (EU) No 1382/2013 establishes the EU Justice Programme (2014 to 2020) to promoting judicial cooperation among member states in various areas. The programs are accessible at http://ec.europa.eu/justice/grants1/programmes-2014-2020/justice/index_en.htm.

The Justice programme provides various calls for proposals for grants that are mostly addressed to know, and implement EU law, but that are open also to other topics, such as e-Justice. The Programme has represented an instrument used by EU Ministries, Judicial Councils, Bar associations and research institutions (just to mention a few), to study and discuss e-Justice development at national and European level. Based on the experience of the author of this report, this programme has contributed to the elaboration of a common understanding of e-justice dynamics, to the sharing of experience, and to the development of a network of technicians, policymakers, researchers judge and prosecutor with specific experiences in the field. This working environment has also contributed to establishing and promoting techno-legal standards, particularly eCodex (www.e-codex.eu). The opening of the Justice programme - and particularly the e-Justice calls - to third countries has many advantages and no disadvantages. It would facilitate the sharing of best practices, the building of shared understanding, the alignment to European standards and it will offer the possibility to get involved in European networks to EaP institutions.

Along the same line, it can be mentioned the possibility involve EaP countries in the e-Justice events regularly organised by the EU or by EU member states. Just to make some examples, the Member State that hold the Presidency of the Union, often organise a European e-Justice conference to present the achievements in this sector. The Dutch Presidency will organise the next one in May. Such meetings are usually addressed to EU participants, but there are no reasons not to involve policy makers and key ICT people from the EaP countries. In a nutshell, the inclusion of EaP countries in the growing community of practices involved in e-justice development is something that can be pursued not just though technology and knowledge transfer or to the promotion of regional initiatives, but also through a better opening of European events to third countries.

1.11. The priorities of working group

The discussion has also identified themes, needs and approaches to regional cooperation that can be the target of specific regional events. All the points are briefly explored to discuss how they can be faced, and how collaboration and information exchange should be organised.

- At the technical level, it is relevant to understand how to manage (or develop) the digitization of judicial activities, and the associated switch from paper-based (conventional) procedures, to electronic ones. In this transformation, emerged as crucial the question of security in data processing and data storage. The topic can be approached with meetings at

the technical level within the region and with dedicated seminars and workshop. The support of experts from other European countries could also be beneficial.

- At the techno-legal level, the issues of digital identity and the access to personal data and information stored in electronic databases appeared as relevant. The question of digital identity is both legal (which regulative frameworks should be adopted) and technical (which architecture and technological solutions are available, such as e-identity portal, or smart cards with PKI certificates). Techno-legal entanglements also emerge in access to personal data. As noticed above, basic citizens' rights as privacy have to be balanced with the need for an efficient and expedite judicial proceeding. Also in this case, various techno-legal options are available, and European expertise can be beneficial.
- Case assignment and legal (natural) judge principle. This crucial topic can be faced with a regional conference open to EU experts, including judges, scholars and ICT specialists, illustrating the varied European experiences. In this case, the point is not to build a technical solution, but agree on the approach to this critical step in judicial proceedings. Therefore the format of a conference seems to be appropriate.
- Case management systems and the use of statistical data for judicial performance evaluation. The CEPEJ experts have the best know-how in the field. They should be involved to assure that the data collected by the CMS are compliant with the current CEPEJ data structure and to develop the culture of statistical analysis.
- Change management is crucial to coping with the transformative dynamics enacted by e-justice development. The general question of change management can be faced with specific training courses.
- The monitoring and evaluation of e-justice projects and the identification of the types of cases that are more suitable for digitisation are the two priorities emerged in this area. In this case, inputs from European and regional experts can be beneficial.
- Developing practical tools for successful reform. It is not easy to satisfy this need since it is hard to grasp what makes a reform successful. What can be done, however, is to promote the development of a network of practitioners and researchers interested in the understanding and evaluation of the dynamic and the consequences of judicial reforms, being ICT driven or not. Indeed, the current complexity of judicial administration, the entanglements of law, technology and economics affecting reforms and day-by-day operations, requires a growing body of knowledge and experiences.

More generally, discussion of the working group identified the need for knowledge sharing and mutual support as primary needs. Conferences, workshops, technical meetings, working groups, visits of experts and training constitute the basic toolkit needed to deal with this kind of problems. During the discussion, it has been noticed that it is advisable to have events on specific topics (rather than on general ones), bringing in all the relevant stakeholders (users, system developers, policy makers depending on the issues). This approach could lead to the establishment of regional working groups on the various topics. It goes without saying that all the suggested measures also go in the direction of mutual support.

The documentation of a shared knowledge base is another need emerged in the discussion. All the materials (reports, slides, etc.) presented during each event can be easily made available via e-mail or document repositories to all those interested. However, it would be important to have at least one institution in the region committed to facilitating the collection of data and circulation of information on the topic. This institution should be preferentially an NGO or a University since Ministries or Judicial councils are usually not equipped to do this task. In addition, it should be relevant to disseminate information and best practices from other European and non-European countries to take advantage of other good experiences in the field. In this case, it is relatively straightforward to identify selected publications for translation.

Annexes

1.12. International standards

WG "B" – E-Justice

International Standards in the field of e-justice and case management

Differently from other areas of judicial reform, the use of technological means in justice systems and the development of case management systems do not benefit from many international and European standards. However, two international standards are relevant for the work of the WG"B".

- The **Consultative Council of European Judges Opinion No.(2011)14 of the CCJE "Justice and information technologies (IT)**". The English version can be downloaded at https://wcd.coe.int/ViewDoc.jsp?Ref=CCJE(2011)2&Language=lanEnglish&Ver=original&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864
  The opinion is available in other languages but not in Russian at http://www.coe.int/t/dghl/cooperation/ccje/textes/Avis_en.asp

- The Chapter III of the **UNODC Resource Guide on Strengthening Judicial Integrity and Capacity** deals with Case and Court management with a focus on technology and information systems. The Guide can be downloaded at http://www.unodc.org/documents/treaties/UNCAC/Publications/ResourceGuideonStrengtheningJudicialIntegrityandCapacity/11-85709_ebook.pdf

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1.14. Questionnaire

WORKING GROUP – E-JUSTICE
QUESTIONNARE FOR THE NATIONAL REPORTS

Background
The questionnaire aims to:

a) Describe the current and planned use of court technology in the participating countries,
b) Identify and discuss the most effective and successful applications,
c) Contribute to identify national and regional challenges.

Since case management systems can be properly understood and developed in the broader ecology of court technologies, the attached questionnaire is intended to stimulate some broad insights into the use of information and communication technologies (ICT) in justice systems.
It is meant to be neither an exhaustive list of issues to be covered, nor a mandatory and rigid guideline. For this reason, you should free to include any additional information describing experience in your country. Conversely, if you do not have information about a section or a topic, feel free to skip it.

The proposed structure divides the report into 4 sections. Each section addresses one or more topics which are briefly described in the following pages. Within each topic, in order to facilitate comparisons among the different countries, we suggest some questions that may help your work.

Please return the filled questionnaire to the international expert and the secretariat (francesco.contini@gmail.com; rita.marascalchi@coe.int) by no later than Monday the 4th of December. Your contribution should not exceed 10 pages. Further more comprehensive contributions can be shared after the meeting. For questions about the report please contact: francesco.contini@gmail.com

Section 1 Technology infrastructure
In this section of the report we ask for some high level information about the use of technology within your judicial system. We would like to have a broad picture, a sort of introduction, about the use of information technology in the courts and prosecutor's offices.
We suggest below some questions you might address in writing this section of the report. We stress that these are just examples of possible topics to deal with. Please feel free to deal with any other topic which is relevant in your country.

a) Do local and wide area networks connect all judicial offices?
b) Is Internet access provided by such networks?
c) Is official e-mail available to all judicial officers and clerks?
d) Is e-mail used for official communications?
e) Are clerks, judges, and prosecutors accustomed to use such basic technological infrastructures?
f) Is there a lack of infrastructural components such as lack computers for judges and staff or poor (slow) network connections?

Section 2 Technologies in the Judicial System
In this section we are looking specifically at the use of technology for management of judicial procedures. We have identified 5 possible application areas. Please describe what is currently in use

and what new systems are planned in your country. Distinguish civil, administrative and criminal systems and describe any problems that have arisen with the use of the systems. For each type of application below, please identify the kinds of court (first instance, appeal, bankruptcy, commercial etc.) in which the system is used.

2.1. Case Management Systems

Under this heading we are looking for information about the use of case management systems in: courts and prosecutors' offices. This is the most important part of the report and we ask you a particular care in drafting the section. We suggest below some questions you might address in writing this section of the report.

a) Are court and prosecutors' offices using case management systems?
b) How much are these systems spread out in the different courts and prosecutor's offices? (i.e. nation wide, or just some piloting courts or prosecutors' offices)
c) The courts and prosecutor's offices using case management systems are also using the traditional paper registries?
d) What kinds of functions are performed by the software (e.g., preparation of documents, office automation, calendar management, case allocation, procedural alerts and deadlines, caseload statistics, management reports etc.)?
e) Are judges and prosecutors using case management systems to write procedural documents such as summons, witness lists, indictments, judgments etc.?
f) Are the case management systems of courts integrated with those used by prosecutors and lawyers? What kind of information is exchanged electronically between these three professional groups?

2.2. The Electronic Legal Work-desk

Under this heading we would like to know what information judges, prosecutors, lawyers etc. can retrieve electronically and what kind of technology (word-processors, dictation, voice recognition etc.) they use to create documents.

We suggest below some questions you might address in writing this section of the report.

a) What kind of electronic databases are available to the judges, prosecutors and lawyers (case-law, sentences, court records, motions, calendar etc.)?
b) How is electronic access to other databases provided (e.g. criminal history reporting systems, sentences by other courts, sentences by higher courts, law, prison department, department of finance, traffic records, commercial records etc.)?
c) Are judges and prosecutors using word processors as normal tools to write procedural documents?

2.3. Courtroom Technologies

Under this heading we are looking for information about technology specifically used in the courtroom by judges, prosecutors and lawyers in your country. We would like to know what technologies (e.g. video recording, computer aided transcription, real-time transcription, audio-taping, digital audio-taping, voice recognition systems, steno-typing, etc.) are used for taking the court record.

a) How is court record taken: shorthand, audio recording, video recording, steno-typing?
b) Is the court record immediately available to the parties and the judge at the end of the hearing?
c) Is the court record taken by court staff or by a contracted firm?
d) How are courts records kept (i.e. in the case folder (paper), in electronic format, linked with the court case management system)?
e) Are there computers in the Courtrooms? If yes who has access to a computer in the courtroom and what do they use it for?

2.4. e-filing and electronic data interchange

Under this heading we are looking for information about the technology used to provide electronic links between courts, and to link courts with other participants in the justice system.

We would like to collect information concerning current and planned usage of electronic filing and data interchange among courts and between courts and other interested bodies.

f) Is e-filing used for exchanging procedural documents?
g) In which cases e-filing is used?
h) What kinds of documents are exchanged electronically (i.e. claim and counterclaims, summons, judgments etc.)?
i) How is the digital identity of the parties ascertained (i.e. electronic card, court registry, bar authorization et.)?
j) How is granted the authenticity and non-repudiation of the electronic documents (i.e. digital signature, Hash code, declaration of the user)?
k) Are there specific rules that govern the electronic exchange and the legal status of electronic documents?
l) Is there a general agreement or commitment to use specific communication standards?
m) Telephone and video conferencing can provide useful electronic connection between courts, prosecutors, lawyers and other judicial agencies. Are such technology used? In which cases?

Section 3. Technology in the Justice System: strategy and governance

We are interested in collecting information about the strategy, the organizational structures, the policies, and the processes that have been established to promote, to coordinate, and to manage the use of information technology in the justice system.

a) Which is the role played by the Ministry of justice in the area of information technology for courts and prosecutors' offices?
b) Which is the role played by the Judicial Council in the area of information technology for courts and prosecutors' offices?
c) Are there special units inside or outside government departments in charge of the 'strategic planning' of information systems relating to the administration justice?
d) What kinds of functions do they perform (e.g. design, development, implementation, monitoring, evaluation of projects; training, allocation of resources, clearinghouse, dissemination of information, definition of standards etc.)?
e) Who decides the requirements, the design and the implementation of case management systems?
f) Who is in charge of developing the software? (i.e. private companies, the ICT department of the Ministry or of the Judicial council? A mix of the two?)
g) Is training regularly provided to all those involved in the adoption of case management and court technologies?
h) Is the relationship between court technology and judicial independence considered an issue in your country?
i) Is the relationship between court technology and fairness considered an issue in your country?

Section 4. Successful Project and Emerging Problems

In this section we ask you to describe the most successful project in your country and to identify emerging problems relating to the implementation and the use of technology.

We suggest below some questions you might address in writing this section of the report.

a) Can you describe the most successful project in your country?
b) Why has it been successful?
c) Can you share some examples of the problems encountered in developing ICT in courts and prosecutors' offices?

d) How such problems have been dealt with?
e) Are they still affecting development and use of ICTs?

1.15. Agenda

First meetings of the three Working Groups for Regional Dialogue on Judicial Reform in EaP Countries
Supreme Court of Georgia, Tbilisi - 7-11 December 2015

WORKING GROUP B – E-JUSTICE
9-10 DECEMBER 2015
PROVISIONAL PROGRAMME

Strasbourg, 30 November 2015

Topic to be examined:
E-justice, with focus on:

- How to ensure the respect of fair trial principles in electronic court case management
- How to adapt electronic court case management to different type of cases and of different level of seriousness

Items for discussion:

- Overview of relevant European and other international standards
- Overview of the situation in participating countries
- Identification of key challenges, possible solutions and ways in which a regional approach could contribute to tackling them

Wednesday 9 December 2015

09.00 – 10.45	• Opening / welcome • Introduction: A common framework for discussing Case Management Systems and Information and Communication Technologies in courts: Francesco Contini • E-justice in Country 1: Current status and development strategies
10.45 – 11.00	*Coffee Break*
11.00 – 12.30	• E-justice in Country 2: Current status and development strategies • European good practices in e-Justice development: *Simone Ginzburg* • E-justice in Country 3: Current status and development strategies
12.30 – 14.00	*Lunch Break*
14.00 – 15.45	• E-justice in Country 4: Current status and development strategies • E-justice in Country 5: Current status and development strategies • The Rumanian approach to CMS. ECRIS: the installed base, the development strategy and the role of international cooperation - *Razvan Craciunescu*
15.45 – 16.00	*Coffee Break*
16.00 – 17.30	• Key challenges for ICT and CMS in courts: from a joint assessment to the co-design of the e-justice approach. • Focus group(s): (Part 1) CMS development and e-justice goals • Summing up and next steps

Thursday 10 December 2015

09.00 – 10.45	• Focus group (Part 2): The installed base: critical issues in CMS and e-justice • Focus group (Part 3): Complexity, risks and governance: towards a common strategy for developing CMS and e-justice in the region
10.45 – 11.00	*Coffee Break*
11.00 – 12.30	• Challenges, actions and regional approaches • Conclusions and way forward

1.16. List of participants

First meetings of the three Working Groups for Regional Dialogue on Judicial Reform in EaP Countries
Supreme Court of Georgia, Tbilisi
7-11 December 2015

WORKING GROUP B – E-JUSTICE
9-10 DECEMBER
List of Participants

Strasbourg, 4 December 2015

The meetings will be opened by :
- Ms Nino Gvenetadze, Chief Justice and Chairman of the High Council of Justice of Georgia
- CoE representative (tbc)
- Mr Stephen Stork, Deputy Head of Operations Section, EU delegation to Georgia

Chair
- Ms Sophio Gelashvili, Head of Unit, Legal Co-operation Division, Council of Europe

International expert/facilitator
- Mr Francesco Contini, First researcher at IRSIG (Research Institute on Judicial Systems, Italy)

Members of the Regional Steering Committee for regional dialogue on judicial reform

1	Mr Georgi Khachatryan	Director of the Judicial Projects Implementation Unit SA of the Ministry of Justice of Armenia (*also in WG A*)
2	Mr Farid Madatli	Head of Division of International Relations at Supreme Court of Azerbaijan
3	Mr Ushangi Bakhtadze	Head of International Relations Section of the High Council of Justice of Georgia
4	Ms Tatiana Moraru	Head of Department of Analysis, Monitoring and Evaluation of the Ministry of Justice of the Republic of Moldova
5	Ms Tatiana Iurco	Director of Cabinet of the Minister of Justice of the Republic of Moldova
6	Mr Viacheslav Panasyuk	Deputy Director, Directorate for Justice and Security of the Ministry of Justice of Ukraine

Additional participants
- Ms Dory Reiling, Senior judge, Amsterdam 1st instance court, Product owner, digital civil procedure in NL courts, Senior court reform expert
- Mr Razvan Craciunescu, IT Specialist - technical coordinator and project manager, Ministry of Justice, Bucharest, Romania
- Mr Simone Ginzburg, Project leader and consultant on E-Justice in BiH
- Ms Lia Melashvili, Deputy Head of the Analytical Department, Supreme Court of Georgia
- Mr Saba Buadze, Project Co-ordinator, Institute for the Development of Freedom of Information (IDFI) – Georgia

- Ms Hasmik Harutyunyan-Legal Expert, NGO "Protection of rights without borders – Armenia
- Mr Aram Orbelyan, Senior Partner, Attorney at Concern Dialog law firm and founding member of International and Comparative Law Center NGO - Armenia

Rapporteur

- Ms Rita Marascalchi, Project Co-ordinator, Legal Co-operation Division, Council of Europe