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**CONSULTATIVE COUNCIL OF EUROPEAN JUDGES
(CCJE)**

Questionnaire with a view of the preparation of Opinion No. 14 on the non-materialisation of the judicial process and the use of IT by judges and court staff

BULGARIE

R E P L Y

of

B U L G A R I A

**Questionnaire with a view of the preparation of Opinion No. 14 on
the non-materialisation of the judicial process and the use of IT by
judges/court staff**

1. Access to courts

- a) May legal proceedings be instigated by electronic means? – **no**
- b) Is there relevant legislation? - **no**
- c) What are the main requirements for instigating legal proceedings by electronic means? (multiple choice possible) - **see answer 1.a**

- ☐ The parties must submit the claim with a qualified electronic signature
- ☐ The parties must fill in a downloadable form to be submitted electronically
- ☐ Other, please specify.

- d) To what extent are legal proceedings instigated by electronic means in practice? - **see answer 1.a**

2. Procedure within courts

- a) Once a claim has been issued electronically, does the procedure differ from a traditional procedure? - **see answer 1.a.**
- b) Does the electronic procedure differ according to the type of case (civil, criminal, administrative, etc.)? - **see answer 1.a.**
- c) How does the court communicate with the parties:

<i>With parties who use electronic means themselves:</i>	<i>With other parties:</i>
☐ by traditional means?	☐ by traditional means? –
☐ by using electronic communication?	☐ by using electronic communication?
☐ both?	☐ both? - <u>yes</u> Court communicates with parties by traditional means (ex. summons served by a court official, by post or through a courier service, etc.; by means of telephone, telex, telefax, telegram; publications in State Gazette, etc.) and by using electronic communications (an electronic address named by a party)

- d) Do specific electronic means exist for the communication between lawyers and courts? Please specify. – **no**
- e) Do electronic files exist? – **no** (but some documents - orders, judgements, minutes, and information about the hearings fixed and the judgements delivered are accessible via internet)
- If an electronic file exist, is there a paper file as well? (yes)

- If both exist, which is the "authentic" file? (the paper one)

f) If yes, is there relevant legislation? - **no**, there is relevant legislation only in respect of paper files.

g) What are the main requirements with respect to electronic files? - **see answer 2.f**

h) Are there special regulations and safeguards with respect to electronic files containing particularly sensitive information (e.g. health information, information concerning secret services)? - **see answer 2.f**

i) What happens when the authenticity of an electronic document is doubtful/controversial among the parties? - **see answer 2.e & 2.f**

j) If parties wish to submit documents which are **not** in an electronic form (e.g. documents on paper), what procedure will the parties and the courts follow? - the documents shall be lodged with the registry or at a court hearing; in both cases a possibility for the other party to impugn the evidence (after its communication in the first case) is provided.

k) Must paper documents be kept? If yes, how long? - **yes**, for a different period of time depending on the type of the file (or the register) and the court in which the latter is kept - **5, 10, 25, 75, 100 years**

l) What is the procedure when a judge's or court clerk's hand signature is prescribed? Does digital signature exist? - **hand signature is the only possible signature**

m) Do parties have access to the complete court file:

☐
☐
☐

Yes, always

Yes, but only with specific conditions

No

Please indicate, if appropriate, the relevant legislation.

n) Do the parties or their lawyers have the possibility to follow the state of the proceedings via internet (secured)? - **yes, in 25% of the courts** (the system is in process of introduction at the rest of the courts); information about the dates of the hearings and the judgements delivered is accessible on the courts' web sites

o) Is the access to electronic files within the court regulated? Please specify - **see answer 2.f.**

p) Have judges/court staff access:

<i>Judges</i>		<i>Court staff</i>	
☐	to all court files? <u>Yes</u> – except to secret files - to which only judges in charge have access	☐	to all court files? <u>Yes</u> – except to secret files, to which only certain clerks (who are granted access to secret information) have access
☐	only to files within their jurisdiction?	☐	only to files within their jurisdiction?

3. Oral hearing

a) Are there oral hearings based on electronic means (e.g. judges act based on electronic files accessible in computer)? - **no**

- b) Are the expertise, the draft decision written by the rapporteur and personal notes accessible for judges in computer? - no
- c) Is the complete file accessible for the parties or their lawyers during the hearing (also in computer)? - no
- d) Has technical equipment been installed in courts enabling to project documents on screens visible to judges, parties and audience? - no
- e) Are oral hearings audio or video recorded? - no
- f) Is video conference in public hearing used:
- ☐ for the hearing of witnesses? - yes
 - ☐ for the hearing of experts? - yes
 - ☐ for the hearing of parties? - yes
 - ☐ other? Please specify.

Please indicate the relevant legislation as well as the restrictions, if appropriate

Code of Penal Procedure

Interrogation of the accused party - Art. 138

(7) The accused party shall not be interrogated by letter rogatory or through a video conference, except where he or she is outside the territory of the country and the interrogation will not obstruct discovery of the objective truth.

Interrogation of witnesses - Art. 139

(7) (Amended, SG No. 32/2010, effective 28.05.2010) Any witness outside the territory of Bulgaria may also be interrogated through a video or phone conference in compliance with the provisions of this Code.

(8) (New, SG No. 32/2010, effective 28.05.2010) Interrogating a witness within the territory of Bulgaria through a video or phone conference may be conducted in trial proceedings, as well as in pre-trial proceedings subject to the conditions and procedures laid down in Article 223.

(9) (New, SG No. 32/2010, effective 28.05.2010) In cases within the scope of paragraph 8, the interrogation shall be conducted in compliance with the provisions of this Code, and the identity of the witness shall be verified by a judge from the court of first instance in the area where the witness is located.

Interrogation of children and young persons as witnesses - Art. 140

(5) (New, SG No. 109/2008) Children or minors may also be interrogated as witnesses, where necessary, via a video conference.

Interrogation of a witness with a secret identity - Article 141

(1) (Amended, SG No. 32/2010, effective 28.05.2010) Pre-trial authorities and the court shall interrogate the witness with a secret identity and undertake all possible measures to keep his or her identity secret, also in cases where witnesses are interrogated, through a video or phone conference.

(2) Transcripts of the records for interrogation of the witness that do not bear his/her signature should be submitted forthwith to the accused party and to the defence counsel thereof, and in court proceedings - to the parties who may put questions to the witness in writing.

(3) (Amended, SG No. 32/2010, effective 28.05.2010) Any interrogations as per the procedure of Article 139(8) of a secret identity witness shall be conducted by applying the method of voice alternation, and any interrogation through a video conference shall be conducted with the witness's image having been altered. Prior to commencing the interrogation, a judge from the court of first instance in the area where the witness is located shall verify that the person to be interrogated is the same person who has been given the identification number under Article 123(4)(6).

(4) (New, SG No. 32/2010, effective 28.05.2010) Paragraphs 1-3 shall apply accordingly to interrogations of persons in respect of whom a measure for protection has been effected under Article 6, Paragraph 1, items 3, 4 and 5 of the Protection of Individuals under Threat in Relation to Criminal Proceedings Act.

Interrogating undercover officers as witnesses - Article 141a

(New, SG No. 32/2010, effective 28.05.2010) (1) Undercover officers shall be interrogated as witnesses in compliance with the procedure of Article 139(8), with the interrogated officer's voice having been altered. In the case of video conference interrogation, both the interrogated undercover officer's voice and image shall be altered.

Obligations of the expert witness - Art. 149

(6) An expert who is outside the territory of the country may be interrogated through a video or phone conference, where so required in view of the circumstances of the case.

Interrogation of individuals through a video or phone conference - Article 474

(1) (Amended, SG No. 32/2010, effective 28.05.2010) The judicial body of another state may conduct an interrogation, through a video or phone conference, of an individual who appears as a witness or expert in the criminal proceedings and is located in the Republic of Bulgaria, as well as an interrogation with the participation of an accused party only if such interrogating does not run counter to the fundamental principles of Bulgarian law. An interrogation through a video conference involving the accused party or a suspect may only be conducted upon their consent and once the participating Bulgarian judicial authorities and the judicial authorities of the other state agree on the manner in which the video conference will be conducted.

(2) The request for interrogation filed by a judicial body of the other state should indicate:

1. The reason why the appearance in person of the individual is undesirable or impossible;
2. The name of the judicial body of the other state;
3. The data of individuals who shall conduct the interrogation;
4. The consent of the individual who shall be interrogated as a witness or expert through a phone conference;
5. Consent of the accused party who will take part in an interrogation hearing through a video conference.

(3) Bulgarian competent authorities in the field of criminal proceedings shall implement requests for interrogation through a video or phone conferences. A request for interrogation through a video or phone conference shall be implemented for the needs of pre-trial proceedings by the National Investigation Service. For the need of judicial proceedings, a request for interrogation through a phone conference shall be implemented by a court of equal standing at the place of residence of the individual, and for interrogation through a video conference - by the Appellate Court at the place of residence of the individual. The competent Bulgarian authority may require the requesting party to ensure technical facilities for interrogation.

(4) The interrogation shall be directly conducted by the judicial authority of the requesting state or under its direction, in compliance with the legislation thereof.

(5) Prior to the interrogation the competent Bulgarian authority shall ascertain the identity of the person who needs to be interrogated. Following the interrogation a record shall be drafted, which shall indicate:

1. The date and location thereof;
2. The data of the interrogated individual and his or her consent, if it is required;
3. The data of individuals who took part therein on the Bulgarian side;
4. The implementation of other conditions accepted by the Bulgarian party.

(6) An individual who is abroad may be interrogated by a competent Bulgarian authority or under its direction through a video or phone conference where the legislation of said other state so admits. The interrogation shall be conducted in compliance with Bulgarian legislation and the provisions of international agreements to which the Republic of Bulgaria is a party, wherein the above means of interrogation have been regulated.

(7) The interrogation through a video or phone conference under Paragraph 6 shall be carried out in respect of pre-trial proceedings by the National Investigation Service, whereas in respect of trial proceedings - by the court.

(8) The provisions of Paragraphs 1 - 5 shall apply mutatis mutandis to the interrogation of individuals under Paragraph 6.

g) If possible, please detail how many courts have been equipped with an adequate and sufficient electronic equipment to assist judges, court clerks and parties during oral hearings? (see answer 3.a –3.f; no information about number/%)

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Electronic files access	☐	☐	☐	☐
Electronic data base of jurisprudence	☐	☐	☐	☐
Screen projectors	☐	☐	☐	☐
Internet access	☐	☐	☐	☐
Video conferencing	☐	☐	☐	☐
Audio conferencing	☐	☐	☐	☐
Video recording	☐	☐	☐	☐

Audio recording	☐	☐	☐	☐
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4. Information services for judges

Are there central databases accessible for judges containing:

<i>Database run by State – no</i>	<i>Database run by a private institution - yes</i>
☐ national legislation	☐ national legislation - yes
☐ European legislation	☐ European legislation - yes
☐ national case-law	☐ national case-law - yes
☐ international case-law	☐ international case-law - yes
☐ law review articles	☐ law review articles - yes

Please specify the private institution - private commercial companies

5. Practical court work

- a) What is the work of the judge:
 - in writing the documents? - **yes**
 - in delivering the documents? - **no**
 - in registering the documents? - **no**
- b) What is the work of the court staff:
 - in writing the documents? - **no**
 - in delivering the documents? - **yes**
 - in registering the documents? - **yes**
- c) Is there enough staff to do this work? Please specify – **yes**, approximately
- d) Do judges write their decisions themselves on their computer? - **yes**
- e) Do judges use specific technics (e.g. voice recognition, structure or model of decision available in a database)? Please specify - **no**
- f) Is modern technology used to monitor the length of proceedings and for case flow management within the court (e.g. alert system)? – **yes**
- g) Are data concerning the work of each judge contained in a database which can be used for statistics, evaluations, etc.? Please specify – **yes**: at the Supreme Judicial Council – about years of service, rank; at the relevant courts – about: the number of judgements and orders delivered within certain periods, the number of judgements delivered within/out of the time-limits set/the delay; the number of judgements and orders confirmed/quashed upon appeal; the periods within which cases are completed.

6. Internet

- a) Is internet accessible for each judge in his/her office? Is this access limited? Please specify – **yes**, each judge has unlimited access to internet in the office
- b) Do all courts have their own website? Please specify which court and the content of the website – **yes**: the content usually includes map of the site, press centre, news, court administration, list of the judges/the experts, searching machine about cases/hearings fixed, judgements delivered, information about cases of media

interest, enforcement proceedings, forms, courts' bank accounts for taxes, laws, internal rules of the court, reports, useful links, questions.

7. Use of private personal computers/laptops by judges and court staff

- a) May a judge use his private PC/laptop for professional purposes (e.g. at home or on the way home and back?) - yes
- b) May e-mails be send from the court to a judge's private e-mail address and vice versa containing professional information ? – no
- c) Does this require special technical safeguards (e.g. excluding access by third persons, family members, etc.)? Please specify. – see answer 7.b
- d) Is the situation the same for all court staff? - yes

8. Use of data

- e) Is the data contained in the procedure used for another aim than the procedure itself?
- no
- f) Is this data used for statistics? - yes
- g) If yes:
 - who produces these statistics? - court clerks
 - how and by whom are these statistics used? – the statistic data is used by the courts' presidents, the Ministry of Justice, the Supreme Judicial Council with respect to reports, analysis, evaluations, case management policy

9. Data security

- a) Does legislation exist to protect personal data processed through the electronic infrastructure of a court?
 - ☐ Yes (Personal Data Protection Act – contains general rules on personal data protection + internal rules of each court)
 - ☐ No
- b) If yes, are there requirements applicable to processing data in courts?
 - ☐ rules on access to data by the person concerned or other persons/institutions - yes
 - ☐ correction and deletion requirements - yes
 - ☐ other. Please specify.
- c) If there is a general Data Protection Commissioner, has he or she already dealt with IT at the judiciary? - no
- d) Is there a special Data Protection Commissioner in each court (e.g. a judge with this additional task)? - no (there are IT specialists at each court)

10. Participation of judges

Who decides about the electronic infrastructure of a court? – **The Supreme Judicial Council upon courts' presidents' proposals**. Are judges implicated in the relevant decisions concerning the implementation of IT in courts?–**ne**

11. Conclusion

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

- easier and more effective case management /prevents omissions and excessive delays/faster processing of a case
- easier and less time consuming access to information about the state of a case/documents/forms to be filled in
- cheaper proceedings (electronic communications)
- facilitates collection of evidence (video/audio conference)
- easier and less time consuming access to law/jurisprudence/research work
- enables judges to deliver well motivated decisions and judgements, taking into account all possible information
- brings courts closer to people (courts web sites, possibilities to get information via internet).