



Strasbourg, 27 January 2011

CCJE-GT(2011)1

**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

QUESTIONNAIRE

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?
Yes,
- b) Is there relevant legislation?
Yes,
- c) What are the main requirements for instigating legal proceedings by electronic means? (multiple choice possible)
- The parties must submit the claim with a qualified electronic signature
 - The parties must fill in a downloadable form to be submitted electronically
 - Other, please specify. : The parties can create a document and send it to the court electronically.
- d) To what extent are legal proceedings instigated by electronic means in practice?
Right now, all judicial units use UYAP which is a developed e-justice system.

2. Procedure within courts

- a) Once a claim has been issued electronically, does the procedure differ from a traditional procedure?
Mainly, all procedures are the same with traditional one.
- b) Does the electronic procedure differ according to the type of case (civil, criminal, administrative, etc.)?
No, every case type has the same procedure with its traditional procedure.
- c) How does the court communicate with the parties:
Parties can access and examine their cases electronically via UYAP Citizen Portal.
The system also send SMSs to the parties automatically.

<i>With parties who use electronic means themselves:</i>	<i>With other parties:</i>
<input type="checkbox"/> by traditional means?	<input type="checkbox"/> by traditional means?
<input type="checkbox"/> by using electronic communication?	<input type="checkbox"/> by using electronic communication?
<input checked="" type="checkbox"/> both?	<input checked="" type="checkbox"/> both?

- d) Do specific electronic means exist for the communication between lawyers and courts? Please specify.
Lawyer can examine their cases and send any kind of new document or demand via UYAP Lawyer Portal
- e) Do electronic files exist?
Yes.
- If an electronic file exist, is there a paper file as well?
Yes
- If both exist, which is the "authentic" file?
If there is a discrepancy between electronic file and paper file the electronic one is accepted by the authorities.

- f) If yes, is there relevant legislation?
There are some circulars based on relevant legislations about electronic means.
- g) What are the main requirements with respect to electronic files?
The files should be prepared on the UYAP system and have e-signature.
- h) Are there special regulations and safeguards with respect to electronic files containing particularly sensitive information (e.g. health information, information concerning secret services)?
The UYAP system run based on role and authentication, so a user can access only the files which his responsibility,
- i) What happens when the authenticity of an electronic document is doubtful/controversial among the parties?
Until now we have not encountered any kind of problem like this. However, according to law, If something happens like this the judge should request an expert report about it.
- 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 are scanned and added to the system and paper copies are also put to the physical file.
- k) Must paper documents be kept? If yes, how long?
Yes, it depends on the legislation.
- l) What is the procedure when a judge's or court clerk's hand signature is prescribed? Does digital signature exist?
Yes, every document should be signed using an electronic signature in the system.
- 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, the parties and lawyers can examine and follow their cases using Citizen or Lawyer Portal.
- o) Is the access to electronic files within the court regulated? Please specify.
Yes. For now, the parties and lawyer access to the electronic files according to general law rules, but there are some drafts of law on the parliament agenda.
- p) Have judges/court staff access:

<i>Judges</i>		<i>Court staff</i>	
<input type="checkbox"/>	to all court files?	<input type="checkbox"/>	to all court files?
<input checked="" type="checkbox"/>	only to files within their jurisdiction?	<input checked="" type="checkbox"/>	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)?

Yes, with video conference system judges record the oral hearing on their computers and access the files later again.

- b) Are the expertise, the draft decision written by the rapporteur and personal notes accessible for judges in computer?

Yes, in our electronic judicial system users (including judges, expertise and staff) can attach notes to the electronic files and these notes are accessible on the system.

- c) Is the complete file accessible for the parties or their lawyers during the hearing (also in computer)?

Yes, but protected documents or information about cases are not accessible for the parties or their lawyers. They see and access what are permitted to.

- d) Has technical equipment been installed in courts enabling to project documents on screens visible to judges, parties and audience?

Yes, there are LCD screens in order to monitor the hearing in hearing rooms.

- e) Are oral hearings audio or video recorded?

Oral hearings can be video recorded in courts where there is video conference system enabled.

- f) Is video conference in public hearing used:

for the hearing of witnesses?

for the hearing of experts?

for the hearing of parties?

other? Please specify.

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

Turkish Criminal Procedure Code, Article 52, 58, 81, 140, 180, 183, 196

Witness Protection Law, Article 5,9

- 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?

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Electronic files access	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Electronic data base of jurisprudence	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Screen projectors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Internet access	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Video conferencing	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Audio conferencing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Video recording	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Audio recording	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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4. Information services for judges

Are there central databases accessible for judges containing:

Database run by State	Database run by a private institution
<input checked="" type="checkbox"/> national legislation	<input checked="" type="checkbox"/> national legislation
<input checked="" type="checkbox"/> European legislation	<input checked="" type="checkbox"/> European legislation
<input checked="" type="checkbox"/> national case-law	<input checked="" type="checkbox"/> national case-law
<input checked="" type="checkbox"/> international case-law	<input type="checkbox"/> international case-law
<input checked="" type="checkbox"/> law review articles	<input checked="" type="checkbox"/> law review articles

Please specify the private institution.

Corpus, Meşe, Kazancı, Akip are the private databases for judges. They allow judges to the use of electronic media to access the database containing legislation and case-law.

5. Practical court work

- a) What is the work of the judge:
- in writing the documents? *No, they make court staff write documents.*
 - in delivering the documents? *No, they make court staff deliver documents.*
 - in registering the documents? *No, they make court staff register the documents.*
- b) What is the work of the court staff:
- in writing the documents? *Yes*
 - in delivering the documents? *Yes*
 - in registering the documents? *Yes*
- c) Is there enough staff to do this work? Please specify.
No, there isn't. Because of state policy on the number of official that employed per year is limited. But judges and court staff do all the work with extraordinary effort.
- d) Do judges write their decisions themselves on their computer?
They can write their decisions themselves but they usually make their staff write them.
- e) Do judges use specific techniques (e.g. voice recognition, structure or model of decision available in a database)? Please specify.
*There are lots of model decisions and users also can create their own models and save them for later usage.
Judges can use video conference system to appeal to remote somebody for his/her testimony,*
- f) Is modern technology used to monitor the length of proceedings and for case flow management within the court (eg. alert system)?
No.
- g) Are data concerning the work of each judge contained in a database which can be used for statistics, evaluations, etc. ? Please specify

Yes, we have statistical data warehouse.

6. Internet

- a) Is internet accessible for each judge in his/her office? Is this access limited ? Please specify.
Yes, they access internet in their offices. The internet access is limited to all the domain users with specific security rules. This is for only security.
- b) Do all courts have their own website? Please specify which court and the content of the website.
All 134 High Criminal Court Centres have their own websites as "www.highcriminalcourtcentrename.adalet.gov.tr"

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?)
As Ministry of Justice we have given laptops to all judges and prosecutors with some security policies. They can use these laptops not only in their offices but also their home or any other place and for any kind of purposes.
- b) May e-mails be send from the court to a judge's private e-mail address and vice versa containing professional information?
As Ministry of Justice we have given personal e-mail accounts to all judges and other court stuff. They can use their e-mail accounts for every purpose.
- c) Does this require special technical safeguards (e.g. excluding access by third persons, family members, etc.)? Please specify.
Every user has an has to use his own username and passwords and also e-signatures for accessing to the computers and also to the UYAP System.
- d) Is the situation the same for all court staff?
No. Except Judges and Prosecutors nobody can access the system unless they are in courts. However, Judges and Prosecutors can access to the system wherever they want using their e-signatures.

8. Use of data

- e) Is the data contained in the procedure used for another aim than the procedure itself?
Yes.
- f) Is this data used for statistics?
Yes.
- g) If yes:
- who produces these statistics?
IT Department of Ministry of Justice, which has duties and responsibilities to establish, operate and maintain the UYAP System, produce these statistics
- how and by whom are these statistics used?
All departments of Ministry of Justice, High Judges and Prosecutors Board and Parliament use these statistics for the development of Turkish Judiciary.

9. Data security

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

- Yes
 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
 correction and deletion requirements
 other. Please specify.

c) If there is a general Data Protection Commissioner, has he or she already dealt with IT at the judiciary?

Yes, there is a general Data Protection Commissioner, and he is already dealt with IT.

d) Is there a special Data Protection Commissioner in each court (e.g. a judge with this additional task)?

No,

10. Participation of judges

Who decides about the electronic infrastructure of a court? Are judges implicated in the relevant decisions concerning the implementation of IT in courts?

The Ministry of Justice has established UYAP "National Judiciary Informatics System", which is to implement a very ambitious information system between the Courts and all other institutions of the Ministry, including prisons.

11. Conclusion

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

The benefits of IT in courts are:

Speed and efficiency of operations,

Standardisation of all documents, processes and files,

Transparency in terms of accountability and data accuracy,

Economical judicial services,

Obtaining central financial control,

Prevention of corruption,

Performance management through integrated management information

Fulfill inspections in to electronic means,

Data mining in judicial field,

Simplifying processes.