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Breaking up judges' isolation

Guidelines to improve the judge's skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation

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Foreword

The CEPEJ Working Group on quality of justice (CEPEJ-GT-QUAL) of the European Commission for the Efficiency of Justice (CEPEJ) has studied the different means and tools used in Council of Europe (CoE) member states to improve the quality of judges' work. It has been observed that a tradition of isolation surrounds judicial functions. It is due, especially, to the independence of judges, which can be experienced sometimes as a barrier, and the solitary nature of decision-making. Many initiatives have been taken against this isolation at the European level.

This includes ensuring optimal knowledge sharing. Tools such as channels for discussion between judges or the dissemination of decision-making models make it possible to enrich the judge's know-how. Other equally ambitious tools seek to enrich the judge's professional practices and interpersonal skills. This is the case with the intervision or the development in courts of the guidelines of positive ethics.

Through collaborative work with the members of the CEPEJ Network of pilot courts, an overview of these practices was presented to the members of CEPEJ-GT-QUAL. At the end of this process, it seemed appropriate to develop guidelines and principles aimed at presenting tools and means that could improve the judge's work, especially by enriching his/her knowledge but also by contributing to his/her well-being at work. In addition, this document seeks to highlight good practices and elements which have a positive impact on the quality of the judicial system as a whole by allowing judges to provide better quality work. It is addressed especially to the judicial councils and training institutes, which undoubtedly have a key role to play in promoting a new, more collaborative culture.

1 CIRCULATION OF INFORMATION GUIDELINE:

Create tools for sharing knowledge among judges; ensure the intelligibility of shared information and control its content and access

2 MUTUALISATION GUIDELINE:

Develop and spread tools for creating and disseminating decisions models while respecting judges' independence and controlling the quality of the documents thus transmitted

3 OPENNESS GUIDELINE:

Ensure openness to judicial updates by disseminating them via an electronic channel and holding internal or partner-open meetings in order to encourage the emergence of new points of view

4 COOPERATION GUIDELINE:

Build a team around the judge in order to gain in quality and time by focusing his work on decision-making without questioning his independence

5 EXCHANGE GUIDELINE:

Develop intervision, in order to encourage positive peer exchanges on professional practices

6 PREVENTION OF PSYCHOSOCIAL RISKS GUIDELINE:

Provide support to judges through support groups, seminars or training to ensure their well-being at work

7 POSITIVE ETHICS GUIDELINE:

Develop positive ethics through the creation of ethical guides and encourage their practical implementation among judges.

1

CIRCULATION OF INFORMATION GUIDELINE:

Create tools for sharing knowledge between judges; ensure the intelligibility of shared information and control its content and access

Pilot courts have shown a real interest in the use of discussion lists, blogs, and discussion forums. Such a collaborative model of knowledge sharing among judges is undeniably a tool that can improve the quality of decisions by giving judges access to relevant theoretical and legislative sources. Most importantly it gives access to the practice of their peers in the implementation of these sources.

Courts are encouraged to create tools for sharing knowledge and expertise such as discussion forums or blogs to the judicial staff. This helps to prevent isolation by promoting a dynamic working environment and to contribute to the harmonization of practices and decisions, which provides legal certainty. These tools can also become a useful way for archiving the memory of the courts in order to ensure transmission.

However, the use of these tools may have shown some limitations, especially when the abundant and poorly sorted information has led to system saturation. This is why it seems important to ensure the intelligibility of information by organising its dissemination and storage in a structured and relevant way for example by using keywords.

Finally it seems essential to compare these tools and the use that can be made of them with the ethical requirements of the judge, especially with regard to professional secrecy and judicial independence by protecting the sensitive data collected, by restricting access to the database to judicial staff, and by using an independent hosting service (academic institutions seem to meet these requirements).

2

MUTUALISATION GUIDELINE:

Develop and spread tools for creating and disseminating decisions models while respecting the independence of the judge and controlling the quality of the documents thus transmitted

The responses received by the pilot courts indicate that databases collecting judicial decisions, legislation and also model decisions are widespread throughout Europe and constitute an essential tool for the daily work of the judge.

To facilitate the work of judges, it is advisable to provide access to user-friendly work applications on which in addition to laws, case law and legal literature, also model decisions can be proposed. These tools save judges time, particularly in the context of mass litigation and promote the harmonization of case law. They can also help to break the judge's isolation and foster a culture of exchange by giving him access to decisions made by his/her colleagues on similar cases. .

Nevertheless, the use of decision models is not without risk. While drafting tools are an undeniable factor in improving the performance and quality of the judge's work they cannot replace his discretionary power in decision-making which guarantees an independent and impartial justice. The judge must always be able to renounce the tools and to usefully enrich the documents produced.

Moreover, the quality of these new working methods presupposes the control of documents presented as models through frequent updates that can usefully take place under the supervision of a judge chosen by and within the working community or the responsible authority. Finally, the constant improvement of applications is essential to ensure that they fully meet the needs.

3

OPENNESS GUIDELINE:

Ensure openness to legal updates by disseminating them via an electronic channel and holding internal or partner-open meetings in order to encourage the emergence of new points of view

The replies received show that most countries have computer tools at their disposal especially databases designed to compile legislative and jurisprudential sources and to provide organised information on current events. The usefulness of these databases makes it necessary to update them regularly, to develop ever more efficient search engines and to develop intuitive and user-friendly tools.

In addition to these databases, judges may be appointed to be responsible within the jurisdiction of a Court, for disseminating legal and jurisprudential developments. This distribution can take the form of an electronic letter or meetings.

Electronic newsletters save time compared to physical meetings but the frequency of their distribution must be controlled in order to prevent the saturation of the information channels. Moreover the referencing of newsletters using keywords as well as their compilation ensure their durability over time and avoid the loss of information.

Many countries also hold meetings among court judges which are aimed to disseminate legal developments in case law and good professional practice. These meetings allow for a better harmonization of practices, which is a source of legal certainty, and also enable judges to break out of their isolation by offering them a space to share their difficulties.

In addition, some countries (Finland, Italy, Hungary) open such meetings to other partners in the jurisdiction and legal professionals. The development of these multidisciplinary meetings ensures that the court and its judges are open to the outside world and its main partners. It is an opportunity to develop common objectives and working methods but also to discuss the respective difficulties of the participants. As such, the opening of meetings relating to judicial activity seems to be a good practice to be encouraged.

4

COOPERATION GUIDELINE:

Build a team around the judge in order to gain in quality and time by focusing his/her work on decision-making without questioning his/her independence

Legal assistants as they already exist in several countries may be responsible for preparing hearings, performing simple tasks or assisting the judge in his/her research. This assistance, focused on specific tasks, aims to speed up and improve the judge's work by reserving his/her working time for decision-making.

By putting the judge at the heart of a team where everyone brings their own specificities decision-making can only be enriched. The judge is an integral part of a decision-making chain (civil or criminal) in which the parties, lawyers and other members of the judicial staff (prosecutors and registrars) are involved. The quality of the decision-making process implies taking into account the efficiency and quality of this chain (civil and criminal) in all its components.

However this does not mean delegating all the prerogatives of the judge. It does not seem acceptable for judges to delegate certain functions because of their status. The impartiality and independence of the judiciary imply that the heart of decision-making must be the result of the judge's personal reflection.

5

EXCHANGE GUIDELINE:

Consider developing intervision, in order to encourage positive peer exchanges on professional practices

Intervision is a two-phase mechanism for meeting and exchanging ideas among peers. First, an observer judge observes a colleague in his/her work and then returns his/her notes to the observed judge. This is followed by a discussion on the positive aspects and those that can be improved in the observed judge's work. Since isolation of judges can lead to a lack of perspective on their professional practice, this mechanism allows the judge to get feedback and to share his/her working methods

While this is a well-known practice in professional circles, it has only been developed to a limited extent in European courts, with the exception of the Netherlands, which has made it a tool for assessing the quality of its judicial system.

A judges' reticence is due to a rather individualistic professional culture and fear of affecting judicial independence. The lack of judges and their high workload, the lack of attractiveness of a time-consuming practice whose effects in terms of quality and performance are not immediately noticeable, feature amongst the reasons for which there is a limited recourse to intervision.

Nevertheless, intervision appears to be an interesting tool for improving the quality of justice.. It helps to develop a culture of exchange and sharing in peer relationships thus breaking down the barriers between the judge's works. It also leads to a harmonization and evolution of practices. It allow for a permanent questioning of judges, an essential guarantee of a justice of quality rooted in time. Finally, it makes it possible to reflect on essential aspects of the quality of judicial activity difficult to assess otherwise such as the quality of the working environment the relationship with users or the image of justice.

Following the different experiences conducted in Europe, it seems necessary to offer quality tools to make the practice more readable and to propose practical solutions to the various issues it raises. This includes highlighting that it is a practice of strictly confidential and benevolent nature, separate from any evaluation procedure, requiring a specific training for judges on this issue but also the development by judicial training institutions of tools dedicated to facilitate the practice, especially sheets listing the objectives planned or the elements to be observed.

6

PREVENTION OF PSYCHOSOCIAL RISKS GUIDELINE:

Provide support to judges through support groups, seminars or training to ensure their well-being at work

Traditionally being a judge is not considered as a risky profession requiring particular consideration of psychosocial risks. However during the course of a judge's professional career, he may be confronted with situations that can create a real psychosocial burden. In addition to possible attacks, he must face situations or images that can be very violent (child pornography, terrorism...) and on a daily basis the very precarious situation of some justice users

In such situations the judge may find himself powerless since the principle of impartiality requires that emotions are excluded from the decision-making process. Nevertheless the quality of the judgment is closely linked to the quality of the judge's working environment. Indeed, the quality of the judge's emotional work and his/her ability to manage induced stress (as well as organisational stress) will influence the image of how justice is dispensed. The condition of "good judgment" therefore also lies in the "well-being" of the judge. This is why it must be possible to address this issue in the context of public policies on the efficiency and quality of judicial systems.

Although there is no really developed global strategy on this issue today it tends to be increasingly taken into account. In Europe, tools involving judges and external professionals have been created to analyze, prevent and protect judges from psychosocial risks. Training or support groups have been set up for judges who wanted to better manage the relational problems they encounter; psychologists can be paid to assist judges in difficult cases.

In the interests of quality justice, the creation of support mechanisms for judges, as developed in Europe, whether through individual or collective support, makes it possible to improve the well-being of judges and to prevent the risk of excessive pressure.

7

POSITIVE ETHICS GUIDELINE:

Develop positive ethics through the creation of ethical guides and encourage their practical implementation among judges.

In 2002, the Consultative Council of European Judges issued an opinion (No. 3) on the ethics and responsibility of judges, recommending that "declarations of principles of professional conduct" should be drawn up to guide the judge's action, independently of any disciplinary procedure. It is the question of implementing a positive ethic in the judicial action.

This concept promotes the understanding of rules of conduct and professional behavior as self-regulatory and self-monitoring standards that a professional body gives to itself. The objective is not to punish but to guide and more broadly to answer the legitimate questions of judges confronted with certain delicate situations in a benevolent framework without value judgment and without impact on professional development.

It is in this context that many European judicial systems have adopted codes of ethics or professional conducts including the values and principles that should guide the professional practice of judges but also their private conduct. It was made in order to guarantee the independence and impartiality of judges and through it the public's trust in justice.

The creation of these ethical rules in order to make sense and have a real application in practice must be followed by an implementation of these new practices among judges, essentially through training institutes. This allows relaying to judges the expectations placed in their behaviors.

In addition, new measures are being introduced to make ethical standards even more operational in a context of personalized support for judges. The creation of systematic interviews when taking up office or ethics-hotline services open to all make it possible to lift judges out of their isolation by offering them a secure framework within which they can find answers to the moral questions that will inevitably arise.

Introduction

This paper aims to provide an overview of the practices and tools implemented in Council of Europe (CoE) member states that contribute to improve the quality of justice by combating a tradition of judicial isolation that is very often widely developed in Europe, through better knowledge sharing.

This overview is based on the examination of various information documents, as well as on the replies to a questionnaire¹ provided by the members of the CEPEJ network of pilot courts. It highlights the elements and conditions that enable judges to break out of their isolation and provide a better quality of service with a view to improving the quality of the justice system as a whole.

To give an example, a judge who has easy access to information and knowledge, who constantly exchanges about his/her professional practice and who has an organised and pleasant workspace, will make better decisions. Conversely, a litigant who has to deal with an experienced, diligent, competent, peaceful, available and respectful judge will have a greater acceptance of the decision rendered and therefore of the authority exercised.

It should be recalled that these issues have been partially addressed in several CEPEJ-GT-QUAL documents, especially the "*Checklist for the promotion of the quality of justice and courts*", the document "*Measuring the quality of justice*" and the "*Guide to conducting satisfaction surveys among users of courts in Council of Europe member states*". With regard to satisfaction surveys, they provide very useful information on the quality of the work of the courts and the services provided to litigants, with a view to improving them.

The elements for improving the quality of judicial work mentioned in the above-mentioned documents include:

- The promotion of a satisfactory conduct of hearings, time management and respect for procedural fairness, especially through the learning of the "hearing framework" by judges;
- The promotion of respectful and courteous treatment of litigants, especially by organising a sharing of experience between judges and raising judges' awareness of ethical issues;
- The promotion of legal certainty, especially through the dissemination and sharing of case law within the court or the organisation of discussions and consultations on relevant case law;
- Maintaining the competence of judges, especially through the development of a culture of cooperation and the sharing of knowledge and know-how within the court;
- The promotion of a culture of judges' personal and professional ethics through, among other things, policies within the court to promote the integrity and impartiality of judges and to prevent conflicts of interest.

The development of a work environment that allows judges to better manage emotions and stress while coping with the workload and complexity of judicial work is a key factor in the quality of judicial activity. In this respect, several concepts come from the business world and more generally from reflections on working communities. This includes, for example:

- feedback, monitoring or supervision;
- knowledge management and teamwork;
- positive ethics;
- prevention of psychosocial risks and emotionality in the workplace;

¹ 22 of the 66 pilot courts have answered to the questionnaire in annex I.

These concepts refer to practices already existing in the courts or judicial systems of some Member States. It is therefore necessary to present these practices in order to initiate and deepen a reflection on how to improve the quality of the judge's work. Especially, we find

- judges' discussion lists and blogs,
- tools to support legal drafting
- mechanisms for disseminating legal updates
- building teams around the judge
- the development of intervision mechanisms
- methods for assessing and managing emotions in the judiciary
- the rise of positive ethics

These tools highlight that new working methods are being used in different Member States. They are based on collaborative work among judges and between judges and partners within or outside the jurisdiction. These new methods reveal a break with a professional culture of judge isolation and move away from the idea that judicial decisions are the sole result of an individualistic process. Judicial councils and training institutes undoubtedly have a key role to play in promoting this culture². Breaking the isolation will have a positive influence on the judge's ability to

- Make legally sound and quality decisions within a reasonable time (expertise and know-how / savoir-faire) (I).....
- at the end of a fair procedure, in which the judge gives an image of justice that guarantees public confidence (know-how-to-be / savoir-être) (II).

² For example, the Italian Judicial Council launched in 2011 the "Best Practices" project. A first local "good practices" national database was created in 2011. The development of this initiative during these recent years has given birth to a new section on the Council website, at the following link: <https://www.csm.it/web/csm-internet/il-progetto-buone-prassi>. Within this framework, a complete handbook of "good practices and models" has been created and made available for all the stakeholders of the judicial system. Some "special domains" have been distinguished, such as the "relations with the territory", "the organisation of civil trials", or "the organisation of penal trials", or "the organisation of offices for the assistance of judges", etc.

I. Breaking the isolation to enrich the judge's know-how....

1. The judicial culture is traditionally marked by a certain isolation of the judge, who is responsible for the decision because of the independence and impartiality of the judiciary. This isolation now appears harmful in that, taken to extremes, it leads to a fixed or even outdated justice, distinct from the world around it. To combat this isolation and ensure the quality of justice dispensed, it seems essential to set up practical tools for sharing and disseminating knowledge in order to encourage and nourish judges in their reflection.

A. Circulation of information guideline: create tools for sharing knowledge between judges; ensure the intelligibility of shared information and control its content and access.

2. The important responsibilities assigned to the judge require competence and diligence on his/her part. While this competence depends in part on the way in which the judge is invested in his or her functions, it can be developed around tools that provide the judge with easier access to relevant knowledge and expertise.
3. While most European States, as revealed by the CEPEJ studies on developments in the field of cyberjustice³, have legislative and jurisprudential databases, there are few tools for sharing knowledge and know-how (in the sense of information from the practice and experience of each individual) between judges, along the lines of "knowledge management" or "knowledge and experience management".
4. Within the court, such a model of knowledge sharing among judges is undeniably a tool that can improve the quality of decisions by giving judges access not only to relevant theoretical and legislative sources but also to the practice of their peers in the implementation of these sources. It is also a useful medium for archiving the memory of the courts, in order to ensure that knowledge is transmitted to the new generations of judges.
5. Existing practices in the courts attest to a real demand from judges for this.

Example 1: Forums and blogs that store and centralise information

6. In the **Netherlands**, legal forums exist and the quality of the answers provided is recognised to such an extent that, although not binding on the judge, they have strong authority and are considered as guidelines.
7. In **Spain**, the "**Association of Judges for Democracy**" provides judges with access to two blogs, one on criminal matters and the other on social matters, offering a sharing of legal and judicial information, case law, various analyses and other useful documents (www.juecesdemocracia.es). The judges' associations of Austria and Poland provide the same type of support.
8. In the Novi Travnik District Court in **Bosnia and Herzegovina**, judges review blogs and fora, but do not participate in them.
9. In **Hungary**, the intranet of the Regional Court of Veszprém has a forum called "Agora". On the intranet site of the National Office of the Judiciary, there is a subpage for the Network of European Law Advisers, on which there are several blogs listing recent decisions of the ECHR and the European Court of Justice.

³ CEPEJ, "Guidelines on how to drive change towards cyberjustice", 2016: the use of information technology to facilitate the work of judges, prosecutors and court clerks in the courts.

10. In **Azerbaijan**, judges using the online library have the opportunity to exchange data, find solutions and share useful information. In addition, each judge has access to the "Database of Final Court Decisions" in order to find a solution to his or her questions and to exchange information and documents. It is possible to become familiar with judicial acts, write comments and read other comments. In addition, judges have access to the translation of ECHR decisions into Azerbaijani in the online library. According to the Narimanov District Court, with regard to the use of "discussion lists", "blogs" and "fora", the main problem is the discontinuous use of electronic applications, which leads experienced judges to interact on sometimes outdated platforms.

Example 2: Discussion lists sharing information:

11. In **France**, there are several "discussion lists" and "blogs" created and used by judges, either by legal field or by function. For example, "Civilnet" (judges performing civil functions), "Instru" (investigating judges), "Jafnet" (family judges), "Justepeine" (judges enforcing sentences), "Themis" (administrative judges) or "Jprox" (local judges - lay judges)... etc. Currently, these networks are hosted by law schools. These tools enable judges to exchange and find solutions to the problems they encounter in the daily performance of their duties, but also to share relevant information and documents (legislative and jurisprudential developments, articles of doctrine and decision-making models). "Mailing lists" and "blogs" are private sites regulated by a volunteer administrator-judge who is responsible for controlling community access and shared content. These exchanges, in which judges participate on a voluntary basis, are conducive to collective reflection and the comparison of each other's practices. The result is better harmonization and better practices.
12. In the Turin District Court in **Italy**, discussion lists are very widespread among judges, although their purpose is often to exchange information on the lives of the different components of the Italian Association of Judges. However, there are discussion lists on specific types of judicial activities where focus groups are used to seek support from more experienced colleagues.
13. The Court of First Instance of Antwerp, **Belgium**, notes that judges do not use "discussion lists", "blogs" or "forums" but email groups in which different issues are discussed.
14. In **Albania**, while the sharing of court decisions and doctrine via electronic networks is not widespread, judges use computer tools to share their experiences. These instruments are useful because they allow exchanges on cases that require specific knowledge.

Example 3: Maintaining judicial meetings as a preferred channel for information exchange

15. In the Dublin-east District Court (**Ireland**), as well as in **Poland**, meetings between judges are preferred to email correspondence. Judges meet to compare their practices and discuss certain cases. The Warsaw court points out that there is a lack of good knowledge sharing tools, but that it manages to organise meetings once a month between judges.
16. In the Rovaniemi Court of Appeal in **Finland**, the main forum is the "Quality Project", which, carried out within the court, allows regular meetings between judges, prosecutors, lawyers and legal aid lawyers.
17. In the Regional Court of Ústí nad Labem (**Czech Republic**), judges discuss matters orally or by e-mail. They sometimes also contact colleagues from other courts to share their work experiences. Blogs or judicial forums are not widely used and popular among judges, except for young judges.

Conclusion / questions

18. From these various examples, it appears that judges have developed tools for sharing information. The purpose of discussion lists is to exchange mainly on issues arising in the course of their duties and blogs and forums to collect and share information in a collaborative manner. These tools are particularly appreciated by judges⁴.
19. Nevertheless, judges' expectations may be disappointed, particularly because of the saturation of information systems. Indeed, the volume of messages exchanged daily can make the system unintelligible and inefficient. There is a lack of an effective tool to sort questions and answers by topic or relevance, and to archive the most commonly used documents (especially frames, templates and other technical documents) as well as answers to the most frequently asked questions⁵.
20. In addition, reflection on tools requires examining the ethical and deontological issues for judges, whose working methods are changing considerably. It is essential to compare these tools and the use that can be made of them with the ethical requirements of the judge, especially with regard to professional secrecy, independence, duties of diligence and competence. The judge must not abdicate his or her responsibilities or compromise his or her duties and obligations of an ethical and deontological nature.
21. Thus we can note for
 - Independence: the choice of Internet hosting provider and the financing of the system raises questions in order to ensure the absence of any interference from the legislative and executive powers, but also and more generally, any foreign infiltration into the judicial institution (companies, journalists, parties to the trial...). University institutions would offer guarantees as to the high level of independence of these lists, particularly with regard to the executive;
 - Professional secrecy, confidentiality of deliberations and protection of personal data: the content of the shared data and especially the possible anonymisation of the decisions exchanged can be a subject of concern;
 - The credit of the judicial institution and public trust: the modalities of access to the networks must be controlled taking into account what the exchanges between judges show. In some countries, such as the **United Kingdom**, England and Wales, care should be taken to ensure that the information collected in these fora is provided to the parties, and to consider whether it is taken into account in decision-making.
22. The stakes are therefore twofold and interrelated, we must:
 - support these information sharing systems: by developing effective and multifunctional IT tools to avoid the pitfall of information saturation;
 - secure these systems by ensuring that the Internet host and the method of financing guarantee the independence of judges and the credit of the judicial institution;
23. Finally, this is all the more so since the question relating to the use of social networks for professional purposes, which raise important ethical questions, particularly with regard to the computer security of often

⁴ Lisa VEYRE, « *Les listes de discussion entre magistrats : vers une nouvelle forme de création et d'unification de la jurisprudence ?* », La semaine juridique – édition général n°27, 2017.

⁵ Mehdi HARAQ, « Le partage des connaissances au sein de la magistrature », Annexes Rapport IHEJ « L'office du juge au XXI^{ème} siècle », 2013.

foreign applications, is only rarely addressed in work on judges' ethics and professional conduct, this question being most often dealt with from the perspective of the judge's private life.

B. Mutualisation guideline: develop and spread tools for creating and disseminating decisions models while respecting the independence of the judge and controlling the quality of the documents thus transmitted

24. Faced with heavy workloads, judges are forced to use decision-making models. The creation and dissemination of such models, if it is to be controlled, can contribute to the sharing of knowledge between judges, who are free to draw inspiration from the creations of their colleagues. This is also accompanied by tools for disseminating decisions taken in similar disputes, which are sources of information for the judge.

Examples

25. In **France**, several working applications have been developed by judges in office, for example:

- the ARPEGE application at the Paris Court of First Instance, which includes a space for sharing models and motivation blocks between judges and judges linked to the WINCITGI application, which is responsible for managing civil cases;

- the TRA-BI-DO application at the Court of First Instance in Béthune, on which there is a space for merging motivational paragraphs, factual elements and digital data from word processing software (mainly used in the field of personal over-indebtedness by the courts of first instance).

- at the Strasbourg Court of First Instance, publishing models are included in the court's IT chain and allow for a merger that reduces the editorial burden. The dematerialization tools put in place (particularly with lawyers and experts) allow the judge to find his/her decision, the parties he wishes to include in the lawyers' conclusions and the expert report.

- the PERSEE application at the Saverne Regional Court, which gives access to decision models, codes and case law;

These applications have been designed to support judges in their drafting tasks. At first sight, they seem limited and not very conducive to the circulation and confrontation of knowledge in the strict sense of "knowledge management". Nevertheless, it appears that the use of these tools by experienced judges has helped to challenge and develop their practices.

In addition, through the organised archiving of recorded decision models and paragraphs of judicial reasoning, these tools make it possible to preserve the "memory" of the court or chamber, despite the high mobility of judges, thus enhancing legal certainty. Finally, the possibilities of interconnection between these drafting tools and other sources of information, such as the doctrine or case law of the higher courts, make them particularly useful to speed up and facilitate the judge's research and drafting work.

26. In **Italy**, the electronic filing system (Processo civile telematico or PCT), currently in use, provides civil judges, among others, with a sample of models that can help in the drafting of various and varied judgments and decisions. In addition, under the PCT, Italian civil judges have a "console" provided by the Ministry of Justice, which interacts with the case management system. Judges see digital case files and

have templates for writing decisions. A similar "console" is planned for criminal judges but it still needs to be extended; in the meantime, judges are using "Atti e Documenti 2.0". which allows for the rapid drafting of acts and decisions by linking all the data in the judicial file to the act drawn up by the judge, who can then complete it with the relevant elements. Such an application also allows acts and procedures to be searched and consulted in a restricted virtual platform, acts to be drafted and shared with specific users.

However, there is little interest in the dissemination of models, due to the very wide variety of disputes brought before the courts, which limits the usefulness of standard decisions.

27. In **Poland**, there is a system called Praetor which can generate a draft court decision (without the reasoning part), which means that this basic data is automatically transferred from the system to the project. In addition, there is a website accessible to all www.ms.gov.pl. This is a portal where judgments are available free of charge and without the need for prior registration of the user.
28. In the Regional Court of Ústí nad Labem (**Czech Republic**), legal work assistance tools include an online interactive application developed by the Supreme Court for the (non-binding) calculation of damages in the health field; and an electronic application for the semi-automatic creation of documents and decisions in current and simple cases, which is available in some courts and is distributed by the Ministry of Justice (APSTR). The District Court of Prague uses common electronic applications supported by the Ministry of Justice that allow decisions to be drafted. An electronic legal information system also allows for the sharing of comments on laws and decisions.
29. In **Germany**, at the Berlin District Court, there are a number of models established in the local judicial system to facilitate the formal decision-making process of court judges. In addition, judges' scripts (e. g. decisions, points of general interest) are made available to other judges.
30. In the **Netherlands**, a national application, JustWord, provides access to decision-making models and a large number of motivation blocks, formulated by groups of judges and secretaries. Moreover, within the quality system set up by the Supreme Council of the Judiciary, one of the criteria is the review, i.e. the control of decisions by a colleague before the verdict is pronounced. In this way, the judge who wrote the decision shares his or her knowledge with his or her colleague who reads and controls the decision.
31. The Court of First Instance of Antwerp, **Belgium**, states that they work with models and use electronic (commercial) databases.

Conclusion / questions

32. The answer received by the pilot courts indicate that databases on court decisions and legislation are widely available throughout Europe and are an essential tool for the judge's daily work. They allow a very significant time saving, especially in mass litigation. Moreover, more horizontally, they can limit the judge's isolation by giving him access to decisions made by his/her colleagues on similar cases. Under these conditions, the development of easy-to-access and user-friendly tools should be encouraged. d.
33. Nevertheless, the use of decision models is not without risk. While drafting tools are an undeniable factor in improving the performance and quality of the judge's work, they cannot replace his or her discretion in decision-making. The judge must always be able to waive them and be able to usefully enrich the documents produced.
34. Moreover, the quality of these new working methods presupposes the control of documents presented as models through frequent updates that can usefully take place under the supervision of a judge chosen by and within the working community or the responsible authority. The constant improvement of applications that support documents is also essential to ensure that they fully meet the needs.

C. Openness guideline: ensure openness to judicial updates by disseminating them via an electronic channel and holding internal or partner-open meetings in order to encourage the emergence of new points of view

35. It is essential for judges to keep themselves informed of judicial developments, whether legislative or jurisprudential, but also concerning working practices. This knowledge of developments is the hallmark of a justice system that is open to the times. It is with this in mind that many tools have already been developed.

Example 1: Access to databases for consulting legislation and case law.

36. **Slovenia** has web tools that are made available by the Supreme Court or the Ministry of Justice. These include “iusinfo.si”, the main online portal for legal and commercial information, which includes:

- consolidated texts with full legislation in the Republic of Slovenia
- IUS-INFO Register, a directory of current legal acts classified by subject, which contains useful information and references.
- the collection of case law from all Slovenian courts;
- European Union legislation and case law;
- a complete collection of legal publications, professional articles and legal opinions;
- official notices and public tenders:
- the schematic collection of the preparatory acts named Poročevalec Državnega zbora RS;
- daily updated information on legal issues (news, comments and columns).

37. In Poland, as far as legal support is concerned, Polish court judges can use the commercial systems “LEX” or “Legalis”. These are the basis for legal regulation, court judgments and legal literature.

38. In the **United Kingdom**, England and Wales, there are jurisdictional electronic letters that inform about changes in the law and all important cases. The Judicial College offers a Learning Management System (LMS) that contains training materials and resources accessible to all judges.

39. In **Italy**, many tools have been made available to judges at the National Judicial Training School, who have a free subscription to a wide range of legal journals and publications, as well as free access to some websites providing daily updates on legal news.

40. The Court of Appeal in Stuttgart, **Germany**, states that judges can use web-based databases such as www.juris.de or www.beck-online.de. These are paid databases, the fees are paid by the Ministry of Justice of Baden-Württemberg. It includes verdicts and other decisions of German, Austrian and European courts, as well as books and magazine articles.

41. The Novi Travnik Cantonal Court (**Bosnia and Herzegovina**) notes that the website of the High Council of Judges and Prosecutors hosts manuals and documentation. In addition, the website of the Judicial Documentation Centre and the websites of the B&H courts provide quick access to specific content.

42. In **Finland**, the Turku Regional Administrative Court uses a number of websites (Finlex Suomenlaki.com for Finnish law and Edilex for the collection of case law, legal articles, etc.), made available to the courts by the Ministry of Justice.
43. Similarly, access to an electronic collection of laws and decisions of the High Courts and the Supreme Court (the Curia of **Hungary**), as well as to other sources of law, is also possible in Hungary or the Czech Republic where each judge has access to a database and general decisions.
44. In **Lithuania**, an IT tool has been set up to post decisions online and to monitor developments in case law as often as necessary. This tool was developed for case law updates, but is missing for legislative updates. Furthermore, case law is frequently updated by assistants in the Courts of Appeal and the Supreme Court.
45. In **Croatia**, the website <https://sudskapraksa.csp.vsrh.hr/search>, a public website, is provided by the Supreme Court of the Republic of Croatia and is searchable.

Example 2: The use of referent judges

46. The Court of Appeal of Bologna (**Italy**) refers to the note of the Supreme Council of the Judiciary concerning the organisation of courts for the period 2017-2019: Article 54 of the note states that the President of each court must indicate in the annual organisation plan how to ensure the exchange of case-law information between judges dealing with the same subjects.
47. With regard to information on European laws and case law, the Italian Higher School of the Judiciary organises a network of local and decentralised trainers, whose tasks include disseminating among the judges in their district all European new legislative and case law, which is done regularly through an e-mail mailing list containing the addresses of all judges operating in the district of the Court of Appeal concerned. Events such as conferences and seminars are organised regularly, with the participation of academics, judges and other lawyers.
48. In **Austria**, particularly in the Linz District Court, the Section President is specifically responsible for reviewing all decisions of the higher courts that review district courts and informing all judges in the Section of new and interesting issues. Similar tasks are carried out by the judges of the Municipal Court of Varadzin in Croatia.
49. In **Poland**, within the Warsaw District Court, there is a person responsible for reviewing all new judgments of the European Court of Human Rights and disseminating all important judgments to judges by e-mail.
50. In **France**, the first president of each Court of Appeal is given a file with the decisions of the Court of Cassation, which he must distribute, especially to the courts of first instance. Similarly, in the Netherlands, one to three vice-presidents per jurisdiction report on legislative and jurisprudential changes and in the United Kingdom, England and Wales, where a judge is responsible in each court, to inform staff on judicial reforms.

Example 3: The organisation of meetings between judges and other professionals

51. The District Court of Linz, **Austria**, organises meetings four times a year that bring together six to seven court directors to discuss problems and developments. Three of these meetings are organised by court directors, while the last one is organised by an external trainer. This system has been approved and the Ministry covers travel costs.
52. In **Finland**, within the jurisdiction of the Rovaniemi Court of Appeal, the courts have organised working groups composed of judges, and sometimes also external personalities (prosecutors and lawyers), with

the aim of improving the quality of decisions rendered and harmonising practices between the courts of the jurisdiction.

53. In **Italy**, the Turin Court notes that 'Riunioni di Sezione' (section meetings) take place regularly between the civil and criminal sections. Their objective is to try to produce uniform case law, at least on the most sensitive subjects related to the activity of each division. These meetings are not open to professionals other than judges from the relevant sections...

In addition, the Observatories of Civil Justice are voluntary associations that are formed spontaneously in many judicial districts of Italy in order to encourage comparison and collaboration between the subjects involved in the trial - judges, lawyers, judicial administration staff - and to develop and support, without any political logic, certain operational, practical and concrete choices considered as improving the quality and efficiency of civil justice. The organisation of meetings and symposia on a regular basis in order to achieve a common legal culture, as well as the implementation of concrete projects, is at the heart of the work of many observatories

54. In **France**, the Tribunal of Strasbourg has created and continues to regularly organise steering committees or working groups to set up and monitor projects aimed at modernising the functioning of the court, making the work of all professionals more efficient and improving the quality of justice. These working groups meet regularly, usually every two months. They gather the judges and officials of the services concerned, and according to the purpose of the working group of the representatives of the bar (the president and the lawyers appointed by him), the departmental chamber of judicial officers (the president and the judicial officers appointed by him) and the regional society of judicial experts (the president and/or the experts appointed by him)⁶. In addition, the Colmar Court of Appeal organises an annual meeting with the judge of the CrEDH elected in respect of France, to hear case law developments. Meetings between judges belonging to the same section also take place regularly.
55. In **Albania** it is a legal obligation to organise monthly meetings between all the judges of the court. Jurisprudential changes are followed by trainees in first instance courts. Judges of the courts of appeal meet four times a month with the judges of the various chambers of the Supreme Court... In addition, at the Dürres Court, meetings with other professionals are organised on presentation of the Court's annual report, but also on an ad hoc basis.
56. In **Azerbaijan**, within the jurisdiction of the Sheki Court of Appeal, the Presidium of the Court has organised working groups composed of judges, with the aim of improving the quality of decisions rendered and harmonizing practices between the courts of the jurisdiction. Seminars are held weekly with the participation of judges and staff to systematically study judicial practice and different areas of law. During the weekly seminars cases are discussed with a view to forming a unified judicial practice in the field of enforcement and exchanges of views take place around these cases.
57. The Court of First Instance of Antwerp (**Belgium**) has a section for criminal cases, in which judges and staff are represented and in which all issues relating to working procedures, quality of justice, etc. are discussed and debated. They are trying to develop the same system across the country. In addition, they have an internal system to share their own case law. The case law of the ECHR is not included.
58. In the **Netherlands**, regular exchanges and consultations take place between the President of the Court and the President of the Bar, as well as between lawyers and judges, judges and bailiffs, judges and representatives of the Child Protection Council, etc.
59. The Regional Court Ústí nad Labem (**Czech Republic**) regularly organises meetings of judges from different sections focusing on practical and professional issues. Similar meetings are sometimes held for judges from across the region (i.e. the regional court plus 7 district courts). Prosecutors sometimes attend meetings of judges specialising in criminal law. Other legal professions (lawyers, notaries) do not

⁶ These working groups concern: - the dematerialization of procedural exchanges between the first instance courts and the lawyers (ComCi TGI): first instance court and bar association; - the dematerialization of exchanges between first instance courts and judicial officers (IP WEB et e-jurisdiction) : the dematerialization of the judicial expertise between lawyers, experts, unrepresented parties and the High Court (Opalexe): High Court, bar association and experts; - the legal aid office : the bar association; - the reception at the court : bar association.

participate in these judicial meetings. When several cases deal with the same subject, judges may meet to discuss and try to reach the same decision.

60. In **Bosnia and Herzegovina**, the harmonization of judicial practice takes place at different levels: institutional (with the participation of the Judicial Documentation Centre of the High Council and a dedicated panel), videoconferences between prosecutors' offices and training of different legal professionals.
61. In the **United Kingdom**, England and Wales, the opportunity to share knowledge is in the form of training seminars for judges so that they can share it with other judges,
62. In **Hungary**, within the criminal section of the Veszprém Regional Court, representatives of all judicial professions (lawyers, prosecutors and police officers) are invited to participate in the regular professional meetings of the Regional Court. This practice is in effect once a year in the Kristiansand court in Norway. Informal meetings may also be held on cases heard by the court.

Conclusion / questions

63. These examples show that most countries have IT tools, including databases to compile legislative and case law sources and to provide organised information on current events. The usefulness of these databases makes it necessary to update them regularly, to develop ever more efficient search engines and to develop easy-to-use and intuitive tools.
64. In addition to these databases, some countries have recourse to the appointment of referent judges responsible, within the jurisdiction of the Court of Appeal or the Court, for disseminating legal and jurisprudential developments, in the form of electronic newsletters or meetings.
65. With regard to electronic letters, if the time saving compared to physical meetings is certain, the frequency of distribution must be controlled in order not to saturate the information channels. In addition, the referencing of letters using keywords as well as their compilation ensures their durability over time and avoids the loss of information.
66. Many countries ensure regular meetings between court judges, sometimes under the supervision of the judge appointed to monitor current events and intended to disseminate legal developments in case law but also good professional practices. In addition to harmonising legal certainty, these meetings enable judges to overcome their isolation by allowing them to share their difficulties.
67. **Finland, Italy, Hungary** open such meetings to other partners in the jurisdiction and legal professionals. The development of these multidisciplinary meetings ensures that the court and its judges are open to the outside world and especially to its main partners. It is an opportunity to develop common objectives and working methods but also to discuss the respective difficulties of the participants. As such, the opening of meetings relating to judicial activity seems to be a good practice to be encouraged.

D. Cooperation guideline: build a team around the judge in order to gain in quality and time by focusing his/her work on decision-making without questioning his/her independence⁷

68. While the dissemination and sharing of knowledge between judges allows exchanges that bring the judge out of his or her isolation, it can be complemented by the development of a team around the judge. The judge's work is the culmination of the decision-making process in which other professionals are involved. Rethinking the links between the actors of this chain as a team dedicated to the elaboration of the decision makes it possible to enrich the judge's work through the specialities of each one as well as to get him out of his/her isolation and to significantly accelerate his/her work.

Examples

69. In **Italy**, the Supreme Court has set up a partnership with several universities to host trainees in order to assist judges in the exercise of their judicial activity through research or the preliminary drafting of certain documents. In this country, a mixed structure is also set up within the courts (*ufficio del processo*). This structure is composed of trainees, clerks and honorary judges and is supposed to assist the judge in the search for activities, preparation of the hearing, statistical reports, etc.
70. In **France**, many courts have assistant lawyers or judicial assistants who are responsible for preparing hearings and pre-drafting certain decisions. This allows the judge to refocus on conducting the debates during the hearings and on the motivation of the decisions. Thus, at the Strasbourg Regional Court, an assistant lawyer is assigned full-time to the commercial department of the court to draft judgments. In addition, 14 legal assistants are employed in the court, 13 of whom work for the legal aid service, drafting judgments or preparing documentation for the judge.
71. At the Varazdin Municipal Court in **Croatia**, the legal advisers of the courts (lawyers) work on certain types of simpler cases for which they prepare draft decisions for judges.
72. In **Lithuania**, judicial assistants carry out duties such as collecting legal acts and other information necessary for the judge, analysing, systematizing and providing conclusions, summarising the legal problems of cases, providing reasoned conclusions concerning the solution of legal problems, drafting procedural documents and participating in working groups and committees.
73. In **Slovenia**, senior judicial advisers and court assistants are responsible for drafting simple acts, preparing draft court decisions and hearings. In addition, other court staff members are responsible for statistics to allow the judge to focus on his or her main activity.
74. In **Finland**, administrative courts such as the Turku Regional Administrative Court have referendaries who are assistant judges. They also have a computer scientist who prepares the statistics.
75. In **Azerbaijan**, each judge has an assistant and a clerk to assist with research, drafting of procedural decisions and preparation of statistical reports. In addition, due to the high volume of work, law students and young people interested in law are involved in the preparation of cases, as well as in the use of ICT on a voluntary and public basis.

⁷ The toolkit of good practices for the improvement of the functioning of civil and administrative justice adopted by the CEPEJ in 2016 gives several examples of professional figures that support the judge's work.

77. 76. In the Warsaw District Court in **Poland**, there are "assistant lawyers" in each department of the court. Their tasks are to assist the judge in his/her research activity, in the preparation of the hearing, in the drafting of simple acts. In the **Netherlands**, secretaries collaborate and assist judges.
78. In **Bosnia and Herzegovina**, two professional partners assist the judge.
79. In the District Court of Prague (**Czech Republic**), two judges cooperate with an assistant who is a trainee judge.

Conclusion/ questions

80. Legal assistants in several countries may be responsible for preparing hearings; performing simple tasks, or assisting the judge in his or her research, so that the judge can focus on his or her main activity. This assistance, focused on specific tasks, aims to accelerate and qualitatively improve the judge's work by dedicating his/her time to decision-making.
81. By putting the judge at the heart of a team where everyone brings their own specific competencies, decision-making can only be enriched. The judge is an integral part of a decision-making chain (civil or criminal) in which the parties, lawyers and other members of the judicial staff (prosecutors and registrars) are involved. The quality of the decision-making process also implies taking into account the efficiency and quality of this chain (civil and criminal) in all its components.
82. However, this does not mean delegating all the prerogatives of the judge. It does not seem acceptable for judges to delegate certain functions because of their status, particularly those directly related to their judicial activity. The impartiality and independence of the judiciary imply that the decision-making content must be the result of the judge's personal reflection.

II. Breaking isolation to improve the judge's knowledge and skills

83. Sharing knowledge, while enriching the judge's know-how, can also improve his or her interpersonal skills. Indeed, the risk for the judge, because of his/her isolation, is to lack perspective on his/her professional practice. This in turn can lead to inappropriate professional practice, but also to the emergence of psychosocial disorders or ethical questions that remain unanswered.
84. Faced with this, the member states of the Council of Europe have developed new tools to break the isolation of the judge in order to work on everyone's knowledge in the interest of quality justice.

A. Exchange guideline: consider developing intervision, in order to encourage positive peer exchanges on professional practices

85. Intervision is a mechanism for meeting and exchanging ideas among peers, with a view to collective reflection on professional behaviour and practices. It must be distinguished from evaluation in that it is a voluntary and benevolent process, outside any hierarchical framework.
86. The development of such a practice makes it possible to decompartmentalize the judge's work by facilitating constructive criticism of his/her professional practices and interpersonal skills. It also makes it possible to cultivate a common culture of questioning and harmonizing practices.

Examples

87. The **European Judicial Training Network** incorporates in its manual on judicial training methods in Europe the principle of intervision, which it stresses may be a cheaper and more effective alternative to supervision⁸.
88. In 2002, in the **Netherlands**, an independent Justice Council was established to oversee, in collaboration with the Ministry of Justice, a comprehensive programme to assess and improve the quality of justice: the "RechtspraakQ". In this programme, intervision, which was already practised in some Dutch courts before the reform, is presented as a quality criterion, allowing both evaluation (in relation to the results of user and court staff satisfaction surveys, internal audits, visits by persons outside the courts and the unified handling of complaints about malfunctioning services) and improvement of service quality.

It is a voluntary process involving two judges (one interviser - observer - one interviser - one interviewee - one observer), who observe each other at public hearings or cabinet hearings and then a phase of restitution, discussion and exchange. These two phases do not concern the legal terms of the dispute, the applicable law or even the appropriateness of the decision, which belongs to the judge who makes it, but only the judge's conduct in all its aspects (attention to the litigant and his/her colleagues, taking notes, listening and using silence, gestures, etc.).

The observation phase can take place from a filmed audience, and the restitution phase can involve a third party facilitator.

It is advisable to form pairs of judges who, of the same or different specialities, have similar experience and are not used to working together, in order to avoid embarrassing the interviser at the time of restitution.

⁸ http://www.eitn.eu/PageFiles/11019/JUST_FR-TRA-00.pdf

The results of the intervision remain confidential and are never published, even if it is a criterion of "quality" within the meaning of the RechtspraakQ, unlike the results of satisfaction surveys conducted among court staff and users.

A guide for Dutch judges has been developed at the national level to guide them in the elements to be observed and to guide the discussion at the time of restitution.

In the Zutphen District Court, judges and secretaries are free to choose to participate in the type of intervision they want. If judges choose intervision by a third party, they can also obtain a regular feedback on their profession as judges in general or in relation to a specific area of law. This third party may be a retired judge, psychologist or consultant, for example.

89. In **France**, a parliamentary committee of inquiry recommended, in a 2006 report, "the development of horizontal control with technical exchanges and discussions between judges, and even silent attendance at hearings conducted by colleagues (...) whenever possible, especially when the collegial body is involved".

The practice of intervision has been tested on a small scale in some jurisdictions. To date, it has been tested in the courts of Roanne, Coutances, Avranches, Albertville and Caen, but not in the long term; only the experience of intervision at the Roanne court of first instance has led to a written report available. These experiments highlighted very varied practices, particularly concerning the type of hearing, in chambers or in public hearings, in collegial hearings or single judges, or the variability of the observer's position in the courtroom and in relation to the observer observed. They also gave contrasting results depending on whether the judges were from different specialities or the same speciality, on the degree of experience of the judges (judges who had just left the initial supervisory training and did not have the same relationship to intervision as the older ones), on the size and atmosphere of the court, and on the observation time chosen (too short a hearing time does not allow sufficiently spontaneous behaviour, since the person concerned tends to be more vigilant when he knows that he is being observed).

These experiences led to the elaboration, by a working group of about fifteen judges convened by the National School of Magistracy (ENM), of an "Intervision Charter", as well as an "observation grid" to guide and equip judges who so wish. The ENM also continues to play a very active role in promoting intervision in its training courses.

The Charter incorporates the main principles set out above, as well as the form of the binary and reciprocal interview based on the Dutch model:

- volunteering: the richness of the exchange implies an adherence that can only result from a voluntary approach;
- twinning: the intervision is carried out by two judges who freely choose each other, in accordance with the principle of voluntary service mentioned above;
- benevolence: the absence of a hierarchical relationship and the benevolence of the intervisor's restitution to the person being intervised, allows the person being intervised to adopt the most natural and spontaneous behaviour possible, thus contributing to making the restitution as useful and constructive as possible; this requirement of benevolence stems from the duty of delicacy required of all judges towards their peers;
- reciprocity: the two judges observe each other successively, taking the place of the interviser and then the interviser;
- confidentiality: everything said during the restitution must remain confidential in order to avoid any risk of misuse of the process for foreign purposes (including pressure);

- respect for judicial independence: the auditor may under no circumstances criticise the decision taken by his/her colleague, unless the latter expressly requests his/her opinion.

In the appendix, an observation grid is used to guide the viewer in the type and nature of the issues to be discussed with the person concerned in order to ensure not only the usefulness of the restitution, but also compliance with the principles.

90. In **Germany**, at the Berlin District Court, intervision is carried out on the basis of the judge's voluntary participation.
91. In **Belgium**, in 2015, the judicial training institute developed intervision as part of modules dedicated to the training of judges in management⁹. Especially, a session was organised with groups of five presidents of courts and public prosecutors who met outside their courts and discussed their difficulties. If the approach differs from the intervision as it has just been considered, it has the same objective of peaceful peer-to-peer sharing. The observation phase is not carried out, as it concerns criticism of court management and not a hearing. This approach was particularly well received by the participants, which in turn prompted the judicial training institute to invest in and develop this program. It notes that it is particularly useful, especially in that it makes it possible to identify solutions from practitioners that save time for each court by being most often directly applicable.
92. In Austria, a similar solution is practised in the form of seminars restricted to court presidents.
93. In Slovenia, intervision between colleagues has been practised for some years and is organised and paid for by the Judicial Training Council (CJC). Supervisors are selected by the CJC on the basis of a request and must first attend a special supervision workshop. As this is not a formal procedure and is entirely voluntary for the judge, it is not integrated into the judicial evaluation process conducted by the Personal Court Council.
94. In addition to intervision, Slovenia has developed a programme of mentorship of new judges who have recently changed their legal area. This programme is part of a larger series of initiatives which led Slovenia being awarded the CEPEJ 2019 Crystal Scales of Justice¹⁰. In over 2 years, more than 100 first and second instance judges were trained to become mentors to younger judges all over the country. The mentorship is done individually, with the judge mentor preparing an individual training programme together with the mentored judge. The activities include attending a trial and discussing the way the procedure was handled, debating the following topics - how to conduct a case and a hearing, how to address the media, how to write qualitative judicial decisions, how to organise judicial work, etc.
95. The transfer of knowledge is also achieved through special developed judicial skills workshops with supervision techniques. These workshops are conducted by senior higher and Supreme Court judges who were specifically trained in supervision techniques and are competent trainers. These workshops were attended by more than 200 judges of all instances. At these workshops judges of the same legal area meet monthly (up to max 10 meetings) in smaller, geographically mixed groups to discuss case-law and

⁹ <http://www.questionegiustizia.it/rivista/2016/1/vandebroeck.pdf>

¹⁰ Equally interesting are the initiatives concerning the support to newly appointed judges. Based on the interviews with newly elected judges a guidebook on the work of the court (145 pages) has been created with practical tips on the functioning of the court through the eyes of a new judge, covering topics from court premises, IT equipment, personal data protection, the organisation of court offices, staff, where to get the information you need, how to organise a file, the career of judges and their evaluation, etc. Every newly elected judge gets a welcome letter by the head of the project, presenting the available products and their use. The guidebook is online and is only available for judges and court staff. In more than two years it had more than 800 downloads.

Specific online procedural manuals written by senior experienced judges provide judicial tips and skills together with an extensive list of important national and international judicial decisions (with links to the original documents) and examples of procedural decisions from different experienced judges on a wide variety of topics and legal areas.

practical issues they encounter in the exercise of their judicial functions. The sharing of experiences, skills, fears and feelings, improves the settlement of case-law, and, more importantly, reinforces the bond among judges and creates a community with individuals that are ready to help fellow judges, while completely respecting their independence.

Conclusion / questions

96. Intervision is a practice known in professional circles. Faced with a certain isolation on the part of judges that can lead to a lack of perspective on their professional practice, this mechanism allows the judge to be surrounded and to discuss his or her working methods. It has only been developed to a limited extent in European courts, with the exception of the Netherlands, which has made it a tool for assessing the quality of their fully fledged judicial system.
97. The limited use of intervision may be explained by judges' fear due to a rather individualistic professional culture and fear of affecting judicial independence. Letting a colleague observe an audience implies showing his/her difficulties and exposing himself to criticism, which presupposes a real open-mindedness. Moreover, the fact that criticism can reach the heart of the judicial decision may lead to reluctance with regard to the principle of impartiality and independence of the judiciary.
98. This limited recourse may also be explained by the lack of judges or their heavy workload, but also by the lack of appeal of a practice that takes a long time and whose effects in terms of quality and performance are not immediately perceptible.
99. Nevertheless, intervision appears to be an interesting tool for improving the quality of justice delivery. It helps to develop a culture of exchange and sharing in peer relationships, thus breaking down the barriers between the judge's work. It also leads to a harmonization and evolution of practices. It serves the permanent questioning of judges, an essential guarantee of a justice that is rooted in time and of quality. Finally, it makes it possible to open up reflection on essential aspects of the quality of judicial activity that are difficult to assess otherwise, such as the quality of the working environment, the relationship with users or the image of justice. Finally, as the Belgian example shows, intervision can also serve experienced judges who discover new responsibilities for which they have not been trained, and especially the managerial functions assigned to heads of prosecution and courts.
100. It therefore seems necessary to offer quality tools to make the practice more readable and to propose concrete solutions to the various issues it raises, following the different experiences conducted in Europe. This includes highlighting its strictly confidential and benevolent nature, distinct from any evaluation procedure, providing judges with specific training on this issue, but also developing turnkey tools to facilitate practice, including for instance fact sheets listing the objectives planned or the elements to be observed.

B. Prevention of psychosocial risks guideline: provide support to judges through support groups, seminars or training to ensure their well-being at work

101. Traditionally, the function of judge is not considered as a risky profession requiring particular consideration of psychosocial risks. However, during the course of a judge's professional career, he or she may be confronted with situations that can create a real psychosocial burden. In addition to possible attacks, he must face situations or images that can be very violent (child pornography, terrorism...) and, on a daily basis, the very precarious situation of a large proportion of those subject to trial.
102. In such situations, the judge may find himself even more powerless by his/her isolation and by the fact that the principle of impartiality requires that emotions be excluded from the decision-making process. Studies conducted in the judicial world show that judges are confronted with real emotional work that generates stress in their daily lives¹¹.
103. While there is currently no comprehensive strategy developed on this issue, it is increasingly being taken into account, particularly in the context of the development of the trade union movement and judges' associations.
104. Indeed, the quality of the judicial decision is closely linked to the quality of the judge's working environment. The judge's emotional control and ability to manage induced stress (as well as organisational stress) will influence the judge's image of justice. The condition of "good judgment" therefore also lies in the "well-being" of the judge. This is why it must be possible to address this issue in the context of public policies on the efficiency and quality of judicial systems.
105. In Europe, tools involving judges and external professionals have been created to analyse, prevent and protect judges from psychosocial risks.

Example 1: psychosocial risks analysis

106. In **France**, an experimental protocol set up by psychologists has been implemented in 4 jurisdictions in the Paris region. This protocol includes 3 main lines of work:
 - establishing a diagnosis of professional experience;
 - the definition of work objectives;
 - the research and implementation of relevant working tools to meet these objectives;
107. The implementation of the protocol is based on the establishment of groups of judges (in this case, children's judges) participating in successive and progressive interviews in accordance with the three lines of work mentioned above and facilitated by psychologists. These groups are more or less important depending on the size of the court, but may not have more than 10 judges.

Example 2: prevention of psychosocial risks

108. In the **Netherlands**, the Dutch Judicial Training Centre ("Studiecentrum Rechtspleging") offers specific training such as "Aggression Management" training to provide judges with techniques and methods for analysing, anticipating and reacting to an individual's aggression, or "Morally demanding work" training focused on emotion management to prevent stress.

¹¹ FLINDERS UNIVERSITY, Sharyn Roach Anleu et Kathy Mack, « Le quotidien des magistrats et le travail émotionnel », Les cahiers de la justice, 2014 p. 27. Enquiries and interviews with Australian judges working at first instance courts where the parties are not represented by a lawyer, thus increasing the emotional toll; these enquiries show that the litigant's and the judge's management of emotions is a major concern for Australian judges.

109. In **France**, the National school for judiciaries offers, at both the initial and continuing training stages, a wide range of courses on the psychosocial burden of judges, stress and violence in the workplace (for example, the following training courses): "judges and difficult cases", "judges facing situations of violence and conflict", "stress management", etc. These trainings are mainly organised in the form of a support group supplemented by theoretical contributions. Some training courses are more suitable for heads of departments and courts. The Douai Court of Appeal has also hired a psychologist through in-service training to support judges in difficult cases and to meet young judges leaving the school of the judiciary. The Court of Appeal of Colmar organises a welcome day for newcomers at the beginning of each school year in order to introduce them to the jurisdiction and show them an emblematic place in the region. The aim is to integrate the new judges into a territory they are not necessarily familiar with and this helps to prevent social isolation.
110. In **Albania**, a two-day stay in the Albanian countryside was organised to combat social isolation. It is a matter of judges meeting, relaxing, learning to manage their emotions and stress, and breaking away from the world of work. This practice has shown excellent feedback that leads to the organisation of this stay again.
111. In **Slovenia**, stays consisting of both theoretical training and informal exchanges between professionals are held every year in the northern valleys of the country and.
112. In **Lithuania**, seminars led by psychologists are organised to teach judges how to manage their stress and the conflicts they may encounter. . On the other hand, there are informal meetings that allow judges to share their opinions with each other.
113. In **Belgium**, the judicial training institute offers training in workload management, stress management, conflict prevention and aggression management in the workplace.
114. In **Poland**, the National School of Judges and Public Prosecutors organises training for judges on the psychological aspects of judges' work or on the organisation of working time.

Example 3: protection of judges

115. In **Belgium**, after a 2011 report by the Commission de modernisation de l'ordre judiciaire, relating to the psycho-social burden within the judiciary¹², an individual and social support service, composed of psychologists, may be requested by any member of the Federal Public Service of Justice, including judges, facing difficulties at work.
116. In addition, between 2005 and 2008, the Belgian Red Cross was commissioned by the European Commission to implement a project co-financed by the European Union entitled "EURESTE" on terrorism. One of the components of this project concerned the management of the stress generated by the experience of "judges in the field". On this basis, an experiment was carried out in the Brussels and Nivelles public prosecutors' offices, in the form of discussion groups led by an external professional and allowing participants to discuss their traumatic experiences. This project was so successful that it was renewed and supplemented by individual interviews.
117. Beyond European borders, particularly in Canada, there is a "Judicial Consultation Programme" which provides advice, assistance in finding solutions to reconcile family and professional life and psychological support, particularly when the judge will have to conduct a particularly difficult trial, with the aim of supporting judges and their families before, during or after a trial. These services are provided by a private group and are currently funded by magistrates' associations ("Superior Court Judges Association" and "Provincial Court Judges Association").

¹² http://cass.justitie.belgium.be/cmro-cmoj/doc/Charge_psychosociale-2011.pdf

118. In the **United States of America**, dedicated numbers for an anonymous 24-hour helpdesk have been created specially for judges to ensure a free space in which judges can express their discomfort and be supported in possible specific psychosocial approaches¹³.

Conclusion/question

119. Confronted to a significant psychosocial burden, the judge, isolated, may find himself helpless and suffer an environment that can be very violent. This state of affairs is unsatisfactory insofar as the mental situation of judges will necessarily have an impact on the quality of their work. It is therefore in the interest of a well-done justice that the balance of judges be taken into account. The judge's work environment should therefore provide the resources needed to ensure their well-being at work. The apprehension of the function of judging as a rational and objective intellectual act must not prevent us from thinking about the individual who endorses and exercises it.
120. Support mechanisms are now being developed in Europe and elsewhere to address this issue. These are individual or collective accompaniments that aim to assess and prevent the risks of pressure and contribute to improving the working environment of judges in the interests of justice.
121. The quality of the decision-making process is inseparable from the quality of the judge's work environment. The apprehension of the function of judging as a rational and objective intellectual act should not preclude us from thinking of the individual endorsing and exercising it. The question of the well-being of the judge has its rightful place in the reflection on the quality of justice.

¹³ <http://louisianajlap.com/>

C. Positive ethics guideline: develop positive ethics through the creation of ethical guides and encourage their practical implementation among judges.

122. In 2002, the Consultative Council of European Judges, in its opinion (N° 3) on the ethics and responsibility of judges, recommended that "declarations of principles of professional conduct" should be drawn up to guide the judge's action, independently of any disciplinary procedure. This opinion, among other European and international instruments, in addition to the national reflections under way at the time, supported the emergence of a new concept within the judicial system, that of positive ethics.
123. This concept promotes the understanding of rules of conduct and professional behaviour as self-regulatory and self-monitoring standards that a professional body gives to itself. The objective is not to punish but to guide and, more broadly, to answer the legitimate questions of judges who are isolated and confronted with certain delicate situations, in a benevolent and non-judgemental environment.
124. It is in this context that many European judicial systems have adopted codes of ethics or professional conduct, including the broad guidelines, values and principles that should guide the professional practice of judges, but also their private conduct, in order to guarantee independence and impartiality and, consequently, public confidence in justice.

Example 1: The creation of ethical standards

125. The opinion of the **Advisory Council of European Judges** reiterated the existing codes of ethics. The oldest European code of ethics is the "Code of Ethics" adopted by the Association of Italian Judges on 7 May 1994 and amended in 2010, which consists of 14 articles covering the entire conduct of judges (including heads of courts) and prosecutors. These are not disciplinary or criminal rules but an instrument of self-control of the body generated by itself.
126. The articles cover relations with individuals, the duty of competence, the use of public resources, the use of professional information, relations with the press, membership of associations, impartiality and independence, relations with employees, professional and extra-professional conduct, and the duties of heads of courts.
127. Other countries, such as **Estonia, Lithuania, Ukraine, Moldova, Malta, Slovenia**, the **Czech Republic** and **Slovakia** had also already developed a "code of judicial ethics" or "principles of conduct" adopted by representative assemblies of judges and separate from disciplinary rules.
128. In 2003, a judicial conduct guide was developed in the **United Kingdom**¹⁴. The latest version, dated 2018, is based on the principles of independence, impartiality and integrity and provides guidance on specific issues such as for instance data protection or political activities.
129. In **France**, since a reform in 2007, the High Judicial Council has been responsible for drawing up a compendium of ethical obligations. The first version, produced in 2010, was revised in 2019¹⁵. This compendium reflects the values of the judge: independence, impartiality, integrity and probity, loyalty, professional conscience, dignity, respect and care for others, reserve and discretion. This document is not presented as a professional standard that could lead to sanctions in case of violation but as a compilation of good professional practice.
When the compendium was revised in 2019, the High Council of the Judiciary made available separate fact sheets setting out, in a thematic manner, good practices, comments, guidelines and recommendations, intended to guide judges in their ethical reflection.

¹⁴ <https://www.judiciary.uk/wp-content/uploads/2016/07/judicial-conduct-v2018-final-2.pdf>

¹⁵ http://www.conseil-superieur-magistrature.fr/sites/default/files/publication/recueil_des_obligations_deontologiques_des_magistrats.pdf

130. In **Norway**, a document containing ethical principles for judges was produced in 2010¹⁶. It reflects the main principles and sets out the ethical obligations to which judges are subject both in and outside the performance of their duties.
131. . In 2012, the High Council of Justice of Belgium drafted a guide for judges entitled "principles, values and quality", based on the main values of independence, impartiality, integrity, reserve, discretion, diligence, respect and listening, equal treatment and competence, drawing on the text of the European Network of Judicial Councils. This guide lists the expected qualities of wisdom, loyalty, humanity, courage, seriousness and prudence, ability to work, listening and communication and open-mindedness. It is presented as a support for the understanding of ethics by judges formally distinct from the discipline. It contains comments aimed at enriching the principles with concrete applications.
132. Such codes created by judges and which reflect the idea of positive ethics and the structure divided between principles and practical application have also been developed, particularly in **Croatia** in 2006, **Bulgaria** in 2009, the **Netherlands** in 2010, **Finland** and **Georgia** in 2012, **Denmark** and **Hungary** in 2014.

Example 2: Training for accompanying judges

133. In **Spain**, the National School of the Judiciary has developed initial training modules on ethics and professional conduct, organised around two main areas: on the one hand, analysis of the behaviour that judges and prosecutors can adopt in response to situations typical of daily life and, on the other hand, collective reflection in the form of round tables or discussion fora, focusing on the figure of the judge in society and, especially, relations with the media and social networks.
134. In **France**, since 2016, the National school for judiciaries has been organising new educational sessions on the question of the ethical and deontological rules of the judicial profession and the management of emotions, at the initial training stage and specialization in the first functions. In addition, the initial training was supplemented by educational sequences entitled "Justice and the Media", aimed at raising awareness and introducing future judges and prosecutors to the use of institutional communication tools, in accordance with ethical rules.
135. In the **Netherlands**, the Dutch National Centre for Judicial Training (Studiecentrum Rechtspleging) has created a training course entitled "Dealing with Moral Dilemmas" for practicing judges. These are focus groups in which judges can, under the supervision of external professionals, discuss cases of conscience that they may have encountered in their professional practice.
136. The latest table on justice in Europe produced by the European Commission in 2017 shows that in-service training for judges includes modules on judicial ethics in most Member States¹⁷. Thus, more than 50 % of continuing education is dedicated to ethics in **Slovakia**, **Romania** and **Malta** and nearly 80 % in **Latvia**. The CEPEJ report on the evaluation of judicial systems in 2018 (data 2016) also mentions specific training in the field of ethics carried out in Slovenia.

Example 3: Support and answer questions from judges: monitoring and assistance programs

137. In **France**, the status of the judiciary has recently been reformed with a view to creating several complementary bodies to support judges and prosecutors. First, it is the College of Ethics, composed of honorary or current judges and external personalities, which may be called upon to deal with questions of conflict of interest concerning a judge or prosecutor, following an ethics interview which must now take

¹⁶<https://www.juristforbundet.no/globalassets/dokumenter/organisasjon/dommerforeningen/ethical-principles-for-the-proper-conduct-of-norwegian-judges.pdf>

¹⁷ <https://www.ency.eu/images/stories/pdf/Scoreboard/scoreboard2017-report.pdf>

place after any new appointment. This interview is an opportunity to prevent situations of conflict of interest and thus to apply ethical principles in practice and with another judge.

138. In addition, in June 2016, an "Ethics Assistance and Monitoring Service" was created. It is attached to the Higher Council of the Judiciary, and can be contacted directly by telephone during the week by any judge facing ethical or deontological difficulties. It is composed of former members of the High Council of the Judiciary and is strictly confidential in order to guarantee a free and peaceful space for discussion.
139. In order to preserve the independence of judges using these mechanisms, it is provided that the information collected by the College of Ethics and the Supervisory Service is anonymous and may only be used for the purpose of amending the ethical rules in the light of new issues raised. Thus, the disciplinary authority may under no circumstances ask these authorities for personal data for the purpose of sanction.

Conclusion / questions

140. Following the impetus of the CCJE, rules of professional ethics have been created in recent years in European countries, in a context of the development of positive ethics. Distinct and even opposed to disciplinary action in both spirit and implementation, these new standards seek to positively influence judges' behaviour by placing them at the heart of the production and application of standards. In addition, revisions of the guides are systematically planned, ethics being a subject that by its nature must evolve in the light of new practices and needs.
141. The creation of these ethical rules must, in order to make sense and have a real involvement in practice, be accompanied by an awareness of these new practices among judges. The latter is already carried out mainly through training institutes and makes it possible to relay to judges the expectations placed on their behaviour at the stage of in-service training but also throughout their careers, while ethical issues are more concrete and the workload, habit and isolation can deprive judges of a retreat from their practices.
142. In addition, new measures are being introduced to make ethical standards even more operational in a context of personalised support for judges. The development of systematic ethics interviews when entering a position, for example, or of ethics monitoring services open to all, makes it possible to lift judges out of their isolation by offering them a secure framework within which they can find answers to the moral questions that will inevitably arise during their time in office.

Conclusion

143. It appears from the practices of European countries that many mechanisms have already been implemented to prevent and break the isolation of judges by ensuring an effective sharing of knowledge that can improve their know-how but also their life skills by developing a culture of exchange.
144. Thus, computer tools aimed at both the exchange between judges and their access to judicial news or decision models are now part of the daily life of courts. In a less developed, more time-consuming way but with great added value, particularly in view of the openness provided, there are also meetings between judges and other legal professions. In addition, the development of a team around the judge is nowadays largely developed and makes it possible to enrich the work of judges while concentrating it on decision-making.
145. Today, paradoxically, it is the excessive development of these tools as source of information that can pose a problem. Indeed, they can quickly saturate and become counterproductive. In addition, particular attention must be paid to both the security of the shared data and its quality. The development of IT tools, which are now essential to good work in courts, must therefore be supervised in order to bear fruit and can usefully be supplemented by the maintenance of non-dematerialised actions that are open to the outside world.
146. The actions implemented to improve the judges' interpersonal skills are more recent and less rooted in the daily life of the courts. However, they are developing, with the promotion of intervision, increased prevention of psychosocial risks and the practical implementation of the ethical standards created in recent years. These tools are essential to ensure the delivery of quality justice. They make it possible to foster a culture of exchange and questioning the professional habits essential in judicial functions.
147. Faced with a tradition of isolation of the judge, the development and improvement of knowledge sharing between judges but also with external actors has become essential in order to ensure the delivery of quality justice.

Appendix I: Questionnaire related to the Background Note on the evaluation of judges' activities from a qualitative perspective (deadline to the CEPEJ Secretariat: 11 July 2018)

The purpose of this questionnaire is to assist the Secretariat in collecting good practices and identifying points of interest in relation to two of the major themes in the above-mentioned Note:

- Overcome the isolation to increase the judge's expertise
- Overcome the isolation to increase the judge's life skills

Your comments with all specific examples will be used by the Secretariat to complete the document. A clear reference to the practices used in your courts might be made in the document.

Please answer the following questions **by 11 July 2018 at the latest**. Note that the "comments" section will be particularly useful for us in order to better understand the context of your response.

Ms Clementina Barbaro (clementina.barbaro@coe.int, tel +33 390 21 44 78) **is your contact point** within the CEPEJ Secretariat for any question or request of clarification from your side.

- 1) Does the High Judicial Council, or the equivalent body, encourage knowledge sharing between judges or between judges and other justice professionals?

YES NO Comments/description :
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If yes, have you received any guidelines on this subject?

- 2) Within your court, do you have a system that promotes regular exchange among different justice professionals (judges, lawyers, other legal professionals) on matters of common interest concerning efficiency and quality of justice?

YES NO Comments/description :
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- 3) Within your court, do you have a tool for sharing the court jurisprudence and disseminating legal news among judges? Does this equally include the case law of European Court of Human Rights and its impact on national decisions among judges?

YES NO Comments/description :
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- 4) Within your court, do judges use "discussion lists", "blogs" and "forums" to exchange or find solutions to problems, share information and documentation? (for more information, please see page 5 of the background note)

YES

NO

Comments/description:

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- 5) In your opinion, which are the challenges faced by judges in the use of the "discussion lists", "blogs" and "forums"? (for more information, see page 6 of the background note)

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- 6) Could you give one or two examples of applications used in your court in support of the judge's decision? (see page 7 of the above-mentioned document). Are these tools developed in your court or are they made available by the Ministry of Justice or the High Judicial Council?

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- 7) Within your court, do you have "assistant lawyers" or "teams" assisting the judge in his research activity, and/or in the preparation of the hearing, and/or drafting of simple acts, and/or in the preparation of statistics?

- 8) Is intervision (supervision among colleagues) practised in your court?

If the answer is yes, please indicate a) whether it is based on voluntary work and/or on a court project, and b) whether it can be integrated into the judge's evaluation process.

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If not, could you explain why?

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- 9) Do judges in your court regularly obtain feed-back from a third party on your judge-craft in general or with regard to specific areas of law or areas of functioning (for instance management of hearings, behavior in respect of the parties and so on)?

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If yes:

Is the feed-back given with regard to specific areas of law or areas of functioning and if so which?

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If yes:

Could you please share what professional background the third party has ? (i.e. psychology, consultant, language skilled, skilled in body language etc)

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- 10) In your court is there a scheme in which you are asked to provide feed-back to other colleagues on their judge-craft skills?

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If yes:

Could you please share the structure of the scheme and the time involved and with what frequencies it is conducted?

[Cliquez ici pour taper du texte.](#)

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