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Handbook for the Implementation of Cyberjustice Projects in Spain

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Introduction

Cyberjustice is broadly understood as encompassing all situations in which the application of information and communication technology (ICT) forms part of a dispute resolution process, whether in or out of court, and is used in preference to the 'e-justice' term as the latter implies the use of information technologies (IT) as means to applying justice in a digital environment.[1]

With time, the concept of cyberjustice expanded towards the digital transformation and overall digitalisation of justice systems with regards to both the uptake of existing digital solutions and the introduction of new ones, and the significant investments in infrastructure, design, implementation, maintenance and training these processes require.[2] Thus, herein, when cyberjustice projects are discussed, this refers not only to the introduction of digital solutions for the administration of justice but also to the transformation of public services of justice to make it more accessible and efficient and to contribute to the common effort of cohesion and sustainability in Spain.[3]

To better reflect on the project management aspects to be considered with regards to cyberjustice projects, several important considerations should be pointed out.

- Digitalisation of justice should be understood as a systemic and comprehensive reform that goes well beyond the technical one.[4] It expands towards legal, organisational, and cultural measures, and a variety of ethical implications that digitalisation brings in the justice sector.[5] The benefits of a cyberjustice project are unlikely to be sustained unless the needed changes and/or reforms are in place to ensure the adequate provisions for sustaining its results.
- It is not the technology that drives the change, it is the need to change that drives the use of technology. Every cyberjustice project shall embed this concept rather than just deliver a digital solution as an end in itself. Therefore, before starting any transformation(-related)

[1] European Commission for the Efficiency of Justice – CEPEJ (2016). Guidelines on how to drive change towards Cyberjustice, CEPEJ (2016)13, § 2.

[2] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'Digitalisation of justice in the European Union. A toolbox of opportunities', COM (2020) 710 final.

[3] Ministry of Justice of Spain. 'Justicia 2030' Strategic Document, Summary in English, p. 4. Accessed via https://www.justicia2030.es/.

[4] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Item I.1.

[5] Cordella, A., Contini, F. (2020), Digital Technologies for Better Justice: A toolkit for Action, Inter-American Development Bank/World Bank, Washington D.C.

process, one must have a clear vision of the exact goals to achieve and a full understanding of what this will involve and what impact the desired changes will have.

- It is often considered that a cyberjustice project fails when the technology does not work (properly); however, the most prevailing reason is a strategic one.[6] This refers to the way in which the judiciary positions itself, its role and purpose, and to whether the development strategy in place is in line with the technological function. Thus, a successful cyberjustice project could be defined as a project that substantially replaces a process within the judiciary with an end result that is superior in terms of both efficiency and effectiveness.[7]
- It is key to first determine the unique factors that are most relevant to the change targeted by the project and the weight of each of these factors in the specific context. Then, the project needs to carefully target this unique set of requirements to deliver its outcome.
- The outcome of a cyberjustice project is a combination of institutional, organisational, legal, technological, and behavioural interventions, aligned with the judicial values they aim to impact. Thus, a cyberjustice project needs to be seen through a change management perspective and implemented with appropriately resourced change management support.[8]
- Implementing cyberjustice projects within a public environment, such as a justice system, imply the need to introduce specific strategies to obtain tangible impact. In particular, it is crucial to take into account the particular organization and apply proper and customized dynamics of change, with an adequate communication strategy and promoting the stakeholders' engagement for the new technological solutions[9].

Considering the above, the present Handbook for the implementation of cyberjustice projects in Spain (the Handbook) aims to provide for exemplary change and result-based management techniques, and methods for clear, adequate, and transparent involvement of key stakeholders and users, as provided by relevant European Commission for the Efficiency of Justice (CEPEJ) standards and good practices, and lessons learnt from cyberjustice projects implemented across Council of Europe member states. Through its studies and guidelines on how to drive change towards cyberjustice, the CEPEJ aimed to foster reflections on the underlying principles which should guide the deployment of ICT within the European judicial systems, and to highlight the most common challenges by public decision-makers in this connection and how they can be encountered.

[6] Reiling, D. (2009). Technology for Justice. How Information Technology Can Support Judicial Reform, p. 71. Leiden University Press.

[7] Walsh, B., Lansdell, T. (2008). Exporting Australian Court Technologies to the Developing World – Help or Hindrance? 4th AIJA Law and Technology Conference.

[8] USAID (2019). Practical Guidance for DRG Officers on Designing and Implementing Court Automation Projects.

[9] The Economist, "Government offline" (2008), https://www.economist.com/node/10689634/print.

While the Handbook could be used as a baseline for all cyberjustice projects, differences occur between requirements applied to civil, administrative, and criminal proceedings, as well as with regards to the various organisational aspects to facilitate the use of a technical solution. The unique institutional, legal, and/or technological context must always be considered when a cyberjustice project is planned, designed, and implemented.

To avoid any doubt, the Handbook is built upon the understanding that supporting activities and infrastructure facilities including network, hardware, software development and maintenance, following up-to-date common criteria and standards for information technology development, availability, scalability, information security, and (data) quality management, are already in place.

Therefore, the Handbook delivers an umbrella framework for implementing cyberjustice projects applying change management techniques; yet it should not be understood as a project management step-by-step manual or a complete change management action plan[10]. The present document starts with a series of considerations on the importance of change management in cyberjustice projects and then deepens on topics related to governance and strategic matters as well as the need for a digital ecosystem approach prior to setting in motion any efforts towards such projects taking place. The following chapters go into details on specific techniques and good practices that could be applied when dealing with complexity constraints, stakeholder involvement, communication, usability of the solutions and their development management, and the type of support and training required by users of these solutions. A special commentary on sustainability efforts and how they could be enhanced long-term concludes the Handbook.

[10] Further references in this regard could be found in the 'Driving cyberjustice reforms in Spain through change management' Report, developed by CEPEJ experts in 2020. The report elaborates on twenty recommendations for short-, mid-, and long-term implementations of change management techniques in cyberjustice reforms.

Chapter 1. Importance of Change Management in Cyberjustice Projects

by Alexandra Tsvetkova

Change management is a collective term for all approaches to prepare and support a change on individual, group, or organisational levels by redirecting or redefining processes, use of resources, or other operational aspects that could have the desired effect towards that change. In the context of the present Handbook, a change management strategy is, therefore, the way the judiciary could address a change in and around it. It is a mechanism that aims to minimise any negative effects the changing events bring and capitalise on the transformation processes.

There is a significant number of theoretical models to deliver an effective change management; yet they all evolve around several key elements: careful planning demonstrating thought and strategy behind the change; transparent and honest communication; strong leadership; active participation of all involved, including increasing their skills and knowledge to master the shift in technologies or processes; and maintaining consistent oversight over implementation and rollout.

A sustainable change does not happen in a rush. The proper implementation of a cyberjustice project requires a longer and more strategic rollout. This shall not only give all stakeholders, be they external or internal ones[11], a chance to adjust to the change, but the product owner[12] shall be able to address all questions and issues well in advance of the change being implemented. It should be noted that people are generally slow to adopt new habits, thus having more and consistent communication and stable progress over a longer period of time shall provide all users the opportunity to familiarise themselves with the new ways of doing things, gradually phase out old practices and adapt to the change.

In general, organisational change management applies a structured approach to ensure that changes are well documented, smoothly implemented, and they successfully achieve lasting benefits. Directed change management, often also called 'planned' or 'managed', is a common

[11] As described in *European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2,* internal users refer to judges, prosecutors, and other judicial bodies' personnel involved in administering judicial proceedings, while external users refer to parties to the proceedings, be they citizens, private companies, public institutions, lawyers and/or legal practitioners, (expert) witnesses, and/or other actors involved in judicial procedures.

[12] Every cyberjustice project should be run by a product owner and a project manager. They are both responsible and accountable for its implementation: the product owner defines the overall vision and identifies the goals and objectives and he/she has the full authority, and is then responsible for product development and value optimisation; the project manager, on the other hand, is responsible for the execution of the vision that is developed by the organisation via the product owner and is responsible to complete the project in a timely manner with effective resources' allocation and utilisation.

organisational change methodology designed to achieve a specific purpose. To deliver on this type of change means aligning the management, the work force, and the organisational culture with the strategies, structure, processes, and systems implemented to achieve the desired result (state). Within directed change, there are three different types of change management (developmental, transformational, and transitional) requiring different strategies and plans to gain engagement, reduce resistance, and ease acceptance. While most cyberjustice projects could easily be listed under one of these categories, some expand over two or more types of change-related interactions needed.

Developmental change management aims to improve what an organisation is currently doing (e.g., existing skills, processes, methods, performance standards, working conditions, etc.). Examples of such changes include quality improvement, interpersonal communication training, simple work process improvements, team development, problem-solving efforts, etc.

Transitional change management usually leads to the replacement of what already exists within an organisation with a different system/process/solution that is regarded as 'new' by the people involved. For such a change to happen, it requires individuals to (emotionally) let go of the old ways of operating, which leads to the organisation having to dismantle the old state while the new state is being put into place. In transitional change, the final state can be fully visualised and detailed before the transition takes place. Transitional changes are best delivered via projects and traditional change management techniques and tools, as the people involved are mostly impacted at the level of skills and actions, while the underlying cultural values are usually barely affected. Examples of such projects include re-organisations, creation of new products or services that replace old ones, and IT implementations that do not require significant shifts in culture or behaviour.

In transformational change management, the future state typically arises from evolutions as an outcome of trial-and-error exercises with new information, requirements and interactions being integrated at every stage of the process. Unlike projects that require predetermined outputs and outcomes and a linear trajectory of activities defined within a resource-bounded plan, transformational programmes are mostly designed to deal with ambiguity. Though a vision and a strategy are fundamental, the actual change processes, their sequence, content, and timing are mostly determined by the rates at which the underlying beliefs and value systems change. Examples of such projects could refer to complex transformation from traditional business channels to virtual and electronically mediated ones, and radical rebranding.

Theory provides for a variety of models to be followed through the process of change: the Lewin's change management model[13], McKinsey's 7-S model[14], Kotter's 8-Step Process for Leading Change[15], the ADKAR model[16], Bridges' transition model[17], Kubler-Ross' change curve[18], and so on. Despite their differences and types of changes each is best suited for, when applied they all seek to understand and manage the very essence of why a cyberjustice project exists in the first place:

- who raises the change – developing a system incorporating appropriate controls is of key importance when addressing change handoffs across functional areas, especially with regards to performance monitoring, accountability, and follow-up audits;

[13] Kurt Lewin developed a 3-step model to implement change; with the three steps being unfreezing, changing, and refreezing. This model of change is a simplistic view of the process to change, where one first improves the readiness and the willingness of people to change by making them aware of the need for change and improving their motivation for accepting the new ways of working for better results. Then, one implements the actual change through careful planning, effective communication and encouraging the involvement of individuals for endorsing that the change is necessary. The last step refers to moving from the stage of transition (change) to a much more stable state. For strengthening and reinforcing the new behaviour or changes in the way of working, the people involved should be recognised and provided with positive reinforcements, supporting policies or structures. See also Burnes, B. (2019). 'The Origins of Lewin's Three-Step Model of Change'. *The Journal of Applied Behavioral Science. 56 (1): 32–59. doi:10.1177/0021886319892685. ISSN 0021-8863*.

[14] The model categorises seven internal elements of an organisation that need to align for the organisation to be successful. The three 'hard' elements: strategy, structures (such as organisation charts and reporting lines), and systems (e.g., formal processes and IT systems), are relatively easy to identify, and management can influence them directly. The four 'soft' elements are typically harder to describe, and are less tangible, thus more influenced by the organisation's culture: shared values, the actual skills and competencies of the organisation's staff, style of leadership, and staff and their general capabilities. The model states that the seven elements need to balance and reinforce each other for an organisation to perform well. See also Peters, Thomas J. (1982). *In search of excellence: lessons from America's best-run companies.* New York: Harper & Row.

[15] The model consists of eight steps: creating urgency, building a powerful coalition, creating a strategic vision for change, communicating the vision, enabling action by removing barriers, generating short-term wins, sustaining acceleration, and instituting change. These steps are closely linked to Lewin's model and build upon his simplistic process of creating change. See also Kotter, J. P. (1996). *Leading Change.* Boston: Harvard Business School Press.

[16] The ADKAR Model is a prescriptive and goal-oriented change framework where each milestone must be achieved to define success. It uses a 1-5 scale to determine how strongly an individual meets the requirements of each milestone. ADKAR is an acronym of the five building blocks of successful change: awareness of the need for change; desire to participate in and support the change; knowledge of what to do during and after the change; ability to realise or implement the change as required; and reinforcement to ensure the results of a change continue. See also Hiatt, J. (2006). *ADKAR: A Model for Change in business, Government and Our Community,* Loveland, CO: Prosci Learning Center Publications.

[17] The model helps organisations and individuals understand and more effectively manage and work through the personal and human side of change. The model identifies three stages an individual experiences during change: ending what currently is, the neutral zone and the new beginning. See also Bridges, W. (1991). *Managing transitions: Making the most of change. Reading, Mass: Addison-Wesley.*

[18] The 'change curve' describes the internal emotional journey that individuals typically experience when dealing with change and transition in the workplace: shock and denial, anger, bargaining, depression, and acceptance. After the initial 'shock' of being confronted with a change, people often resist engaging with change, as if trying to prove that the change is either unreal or unnecessary. See also https://www.ekrfoundation.org/5-stages-of-grief/change-curve/.

- what is the reason for change – being able to answer this question and to frame the change with specific needs and requirements leads to avoiding making changes that introduce risk without offering the corresponding benefits. This also supports the development and validation of a project vision and assessment criteria, and ensures appropriate prioritisation of steps over resources;
- what return is expected from the change – there are several key inputs into the change management process and answering this question provides for both value-based metrics to objectively measure the actual impact of the change, and for useful cost-related information;
- what are the risks involved in the change – risk management strategy needs to be applied to every change management process, and to do that in a proper way one must understand the (worst-)case scenarios and the mechanisms and resources to facilitate and mitigate the risks;
- what resources are required to deliver the change – this refers not only to assets but to people as well. Understanding the resources needed expands from infrastructure facilities, human and financial resources through management and decision-making assets to skills and knowledge needed to make the change, as well as whether these skills are available, etc. However, these considerations should not only look at the cyberjustice project as such, but also how it relates to other projects (to be) run in the domain. If people and assets are re-allocated to address the change to be brought by the particular project, this may impact – by causing delays (in time and cost) – to other projects currently in progress, and/or to projects that are prioritised for implementation in near future;
- who is responsible for building, testing, and implementing the change – responsibilities for each of these three functions should be appropriately segregated, not only in light of compliance and auditing requirements, but also in consideration of the stakeholders involvement and the applicable advocacy measures; however, this segregation should not be restricted to technology development alone. The distribution of responsibilities should be traceable, enforceable, and actionable across the entire change and release management process;
- what is the relationship between this change and other (ongoing) changes – typically, any change occurs in a complex environment, be it digital or not. Change relationships need to be determined from within and across functional boundaries to be able to better prioritise and plan not only the most optimal change sequences, but the resources needed. Shared scheduling, change impact analysis and relationship mapping could be successfully applied techniques.

Answering these questions will allow the judiciary to create a set of metrics for objective measuring change risks and – by extension – to make judicial services' transformations reliable and closer to their users. This will also serve for better assessing how well the change management process complies with current mandates and what gaps need to be address along the way when applying process automations and new technologies.

A number of European states apply change management methods and techniques to guide their cyberjustice projects and deliver results-based management. For example, **Finland** adopted Kotter's theory when planning and carrying out the Finnish National Courts Administration's Material Bank System (AIPA) project[19], which digitalises the administration of justice by the public courts and the National Prosecution Authority. In Kotter's model, the first stage of the change is to create the climate for it, followed by the stage when the organisation is being engaged and enabled, and, finally, the third stage refers to implementing and sustaining the change. This model has been adjusted, and the change management functions in the AIPA project have been divided into four groups: the participation of end users in the project, the implementation of new digital working methods, the communication of the project vision and success stories, the mitigation of risks and problems, and the commitment of the leadership. To ensure sustainable progress, a network of change agents was created at the earliest stage of the project and a series of concept-based experiments was initiated. End users have been placed at the centre of the change, and the usability of the IT system have been constantly considered and measured. Introducing an ongoing feedback loop and sharing of practices were valuable lessons learnt.[20]

The AIPA project's network of change agents consisted of judges, prosecutors, secretaries, and other staff working for the project as part of their everyday responsibilities in courts and the Prosecutor's offices across Finland. These change agents are assigned with two main tasks: (1) planning and advancing new working methods, and (2) acting as trainers and supporting their colleagues on a local level during the implementation of the IT solutions. The network includes up to 250 people with every General Court and Prosecutor´s office having at least two change agents; and the project office regularly organises training and plans events for members of the network.

To get used to the new digital working methods, a culture of experimentation was created within the Finnish judicial authorities. The AIPA project, through its network of change agents, started experiments to understand how digital working methods could be used even before the IT system designed within the project was launched, e.g., it was recommended that all members of the staff worked with two computer screens, the scanning of paper materials was used to advance digital working methods, the use of video conferencing in court proceedings was increased and so on. This activity resulted in hundreds of experiments taking place around Finland. The different ways of

[19] The AIPA project won the KAIKU-award of New Working Methods 2017 for creating a culture of experimentation.

[20] The issue is also discussed in the 'Sustainability and Long-term Monitoring' Chapter.

working in a digital environment have become a part of the everyday activities of the staff, and when the new IT system was gradually introduced the change in the way of working was not considered as extensive as it could have been before.

Ireland adopted both the Kotter's theory and the ADKAR model to ensure proper change management for their eLicencing project, part of the Civil Reform Programme to the Courts Service Modernisation Programme. The project aimed at digitalising licensing applications (end-to-end) by introducing a case management system, e-payment of court fees, e-service on notices, and e-notifications to the revenue agency; with the system users being state bodies, legal firms, and active circuit and district court staff. The focus of the project's communication efforts was placed on early-on managing of expectations through visual materials, highlighting benefits and reasons for change, demonstrating functionalities (deriving from the understanding that people shall only support what they understand), and providing constant support in case of questions and concerns.

What is considered a key lesson learnt from the eLicencing project is with regards to stakeholders' communication and engagement being addressed early in the project. The project team developed a four-stage model to create awareness, understanding, engagement and action (through assessment, review, and feedback). Going from paper to digital was seen as a significant behaviour change and it was considered that efforts on people should match efforts on technology.

Further, the eLicencing project aimed at creating a single change management framework combining good practices. It was heavily supported by a commonly agreed structure and governance model, with a new Enterprise Change Board to oversee and control the change projects within the organisation, and a Single Approach to Change governance structure agreed for the purposes of the modernisation programme.

The success of the eLicencing project was also heavily impacted by the presence of leadership with a visible top-down support from senior management and bottom-up communication on operational effectiveness, both implemented with regards to internal and external users.

Another good practice comes from **Germany**[21], where a five-phase model of excellence in change[22] was put in place with regards to the implementation of the electronic case file and electronic legal

[21] Promoting electronic legal communication and introducing the electronic case file for the judiciary and gradually replacing paper files has been the biggest digital transformation process in the history of the German judiciary, starting in 2014 ('the eJustice Programme'). According to the applicable federal laws, the judiciary must complete these processes by the 1st of January 2026. In Germany, the judiciary is regulated by 16 federal states, each of which as well as the federal courts joined one of the three collaborative initiatives for the development of the electronic case file software, leading to three different software solutions in place across the country. Baden-Württemberg and Schleswig-Holstein (with examples presented herein) were joined by Saxony, Thuringia, and several of the federal Supreme Courts, in the development of the electronic case file system called 'eAkte'.

[22] The methodology used does not explicitly follow a specific change management model. Its approach is most closely aligned with the five-phase model according to Krüger, W., Bach, N. (2014), *Excellence in Change. Springer Fachmedien Wiesbaden.* Krüger/Bach identifies five phases of change (initialisation, conception, mobilisation, implementation,

communication in the judiciary. High-level user acceptance of innovation[23] was seen as a decisive aspect for the success of any change measure, and – in the context of larger change processes – the acceptance management should have ideally been carried out by a separate accompanying project.

In the State of Schleswig-Holstein, this has been implemented by a permanent team 'advocating' for the change the cyberjustice project envisaged in all individual courts and public prosecutors' offices. A significant number of informative visual materials was also created to support the project (posters, flyers, videos, intranet space and blog section, quarterly newsletter, giveaways, etc.). However, the most successful instrument used was an event series with presentations by peers, where staff at all positions could understand how their workplace and daily work process were to change, and to receive answers to any (technical) questions relating to the new tools. This allowed the staff to get to know the new equipment, software tools, and scanning processes, before the actual launch of the IT system.

From the very beginning of the eJustice Programme, the State of Baden-Württemberg[24] set up a project staff position to ensure a comprehensive approach to change management and demonstrate the project value and priority to all judicial professionals. Initially, the emphasis of the different change management measures was on informing professionals of the upcoming change process and facilitating their participation in the software development processes and the elaboration of the various concepts concerning the digital workplace. Considering the great number of employees and the stark differences between the different parts of the judiciary (e.g., administrative courts vs. prosecutors' offices), this required substantial efforts and time. Complementing the measures already mentioned above, dedicated change management seminars for executives within the judiciary were conducted. These day-long seminars, supported by a communication coach, informed the participants about the process organisation regarding the electronic case file and taught the basics of successful change management. Since nearly every executive has participated in this first-round of seminars, the second one focused on the courts where the introduction of the electronic case file was imminent and addressed the specific challenges arising out of this.

Regarding the involvement of future users of the system, several advisory panels were formed with professionals coming from different sectors of the judiciary. These panels proved very valuable, as they provided practical insights on the software and hardware requirements and ensured strong

stabilisation) and allows for the possibility of redesign measures and flexible adjustments to the respective situation within the different phases.

[23] Acceptance management is defined by the contributor as 'the planning and implementation of measures that serve to promote acceptance of a product or a changed situation among users or those affected'.

[24] The judiciary of Baden-Württemberg employs 20,000 persons, working for the Ministry of Justice, 152 courts, 19 prosecutors' offices, and correctional facilities. Approximately 12,000 of them shall be equipped with the electronic case file software. As of April 2022, approximately 4,500 professionals are already working with the system.

focus on software usability. Concerning the hardware equipment and the design of the workplace as such, the Programme established experimental workplaces as test sites. The latter provided for different setups to be tested and rated by the professionals and proved fundamental for the high levels of acceptance among both internal and external users.

Working groups with external stakeholders (such as lawyers) were conducted on a regular basis. This practice continues to date and provides valuable feedback from the biggest group of external professional participants of the electronic legal communication. Using this low-threshold approach, any arising problems or concerns with electronic legal communication can be addressed and brought to the attention of those responsible within the Programme. Since 1st of January 2022, the use of the electronic communication with the courts has been mandatory for external users (lawyers, authorities, etc.) in many circumstances. This important milestone has been discussed extensively with the participating lawyers within those groups, and it has been ensured that they were well prepared for the transition.

Further, part of the introductory process to the electronic case file required courts and prosecutors' offices to name one or more contact persons for questions regarding the IT tools. These contact points formed a network often addressed directly by the Programme and they worked together in focus groups. This approach served a double purpose: on one hand, it provided insights into the challenges arising locally from working with the electronic case file, and at the same time provided for change ambassadors on local level. For example, these contact persons informed their courts or prosecutors' offices about upcoming updates and served as a first level support on many topics. In addition to information delivered directly from the Programme, the adopted approach ensured a more personal contact with end users.

Switzerland is currently implementing the 'Justitia 4.0' Project[25] which aims to digitise the Swiss judicial system on behalf of the cantons, courts, and the Federal Public Prosecutor's Office. It involves approximately 300 Swiss courts, the public prosecutors' offices of the cantons and the Confederation, the lawyers' community, and the authorities involved in legal proceedings. The project covers all types of criminal, civil, and administrative proceedings, and encompasses the replacement of the current physical case file by an e-court file and electronic communication in the judicial field, including online consultation of procedural files. To facilitate this electronic communication, a secure platform 'Justitia.Swiss' shall serve as a virtual one-stop shop for the Swiss judicial authorities.

What is important in this example is that the Justitia 4.0 Project has been managed as a change management (transformation) project from the beginning. Focus is placed on the people being the future users, considering a change of mindset and culture is a prerequisite for them to cope with a changing working environment. To facilitate this, the Swiss judiciary deploys the so-called 'change

[25] https://www.justitia40.ch

barometer'[26], testing the readiness of the judiciary for the transition to digital technology. Together with the heads of the judicial authorities, the project team emphasises the benefits of the project and overcomes any obstacles as they go along with the project implementation.

In **France**, key factors for success in implementing cyberjustice projects refer to (i) immediately involving end users (the ones to test and learn) and delivering value in a quick manner without waiting for the officially finished product; and (ii) limiting the scope of the services to be introduced and applying iterative step-by-step development. Both approaches allow for the users to gradually accept the complexity of combining the old and the new systems of work. A transformation project, driven by the central office, is considered successful when implemented locally with the support of the courts' presidents and staff. On one hand, the local implementation of the processes of testing, using, measuring, adjusting, etc. allows for users to get their hands on the future product before its official launch; on the other hand, it gets them deeply involved in its improvement. However, this approach also contributes to sustaining a number of local initiatives, including a national incubator for 'state start-ups', by guaranteeing compliance with the well-established functional framework and techniques used on national level.

Other countries have also adopted holistic approaches towards introducing digitalisation aspects with a focus on impact and a variety of change management techniques.[27] Highlights can be given with: **Austria**, where working groups were set up to consider topics related to organisational reforms, adopting an agile approach[28] towards introducing future changes; **Italy**, where external experts in change management in the public sector were involved during the design and deployment phases of their 'Processo Civile Telematico' project[29], in the first pilot courts; **Latvia**, where any unforeseen changes to existing systems or systems in development (i.e., new requirements that differ from the initial technical specifications) are identified and summarised on a regular basis with acting magistrates and judicial officials and an implementation plan is elaborated as part of the systems' maintenance or towards a supplementing functional specification; and **Portugal**, where

[26] A participatory method to collect perceptions and experiences of a group of users on a particular topic with the aim to contribute to an increased participation of the users in a certain process, by providing credible, independent, and representative data about the status quo and creating a space for dialogue. The selected methods for data collection may vary, yet a combination of quantitative and qualitative data should be explored, while the data analysis is typically conducted using a participatory approach.

[27] "Analytical Overview of the State of Play in Electronic Court Filing (e-Filing)" Report, prepared by Giulio Borsari, Alexandra Tsvetkova and Harold Epineuse for CEPEJ-GT-CYBERJUST Working Group, CEPEJ-GT-CYBERJUST(2021)4, p. 4.

[28] Further information is provided in the 'Results-based Project Management' Chapter.

[29] 'Processo Civile Telematico' (in English, Online Civil Trial; in short, PCT) Project is developed by the Italian Ministry of Justice. Since 30th of June 2014, it has been mandatory for Italian lawyers to file some of their lawsuits through the PCT system, with the same obligation applying to judges: payment injunctions must be written and sent to the clerks only online. At first, it was mandatory only for injunctions both ways; then, it became mandatory for other legal acts (i.e., all the acts which are filed after the first act). It is an option for the lawyers to file electronically the first act as well.

some measures focused on organisational transformation of the courts' back-offices adopting the Japanese Kaizen methodology[30].

Spain already has positive experience with applying change management techniques in cyberjustice projects. In 2009, the Spanish Ministry of Justice started an ambitious programme of judicial reforms aimed to gradually introduce a new organisational model,[31] namely 'Nueva Oficina Judicial' (in English, New Judicial Office). The Judicial Office incorporated the use of information and communication technologies using the criteria of flexibility, effectiveness, efficiency, rationalisation of work and responsibility for management. The launch of the new model was in 2010 following a comprehensive Change Management Plan[32] with five areas of intervention: internal coordination, communication, public awareness, training, and users´ motivation. The plan became successful and was later replicated in other regions. As a proof of viability of this project and as a second generation of this important reform of 2010, the Spanish Parliament is expected to adopt in 2022 a new draft Organic Law on the Organisational Efficiency of the Public Justice Services (in parliamentary procedure; in Spanish, *Ley de eficiencia organizativa del Servicio Público de Justicia*)[33].

Another positive Spanish example can be given with the LexNET Project[34]. It was the first secure virtual network allowing bidirectional electronic exchange of judicial documents among courts and other legal practitioners (lawyers or police forces, among others) introduced in Spain. Its deployment represented a great effort in terms of change management since many stakeholders showed resistance to move from paper to electronic documents' management. That is why, when implementing the LexNET Project in a pilot jurisdiction (Murcia) in 2006, the Spanish Ministry of Justice decided to complement trainers and consultants´ work with a small group of court officers (i.e., the "business LexNET change" responsible team). The latter worked full time for 6 months, together with technicians, towards overcoming their colleagues' resistance and ensuring better implementation. As a result, the project became successful and was later launched in all other jurisdictions. Creating this additional team of judicial officers with direct hands-on experience where

[30] Kaizen, translates to 'change for the better' or 'continuous improvement', is a Japanese business philosophy that focuses on gradually improving productivity by involving all employees and by making the work environment more efficient. The small changes used in Kaizen typically involve quality control, just-in-time delivery, standardised work, the use of efficient equipment, and the elimination of waste.

[31] Ministry of Justice of Spain (2009). Presentation of the New Judicial Office Programme. See original brochure in English: https://rm.coe.int/new-judicial-office-modernisation-of-justice-presentation-of-francisco/168078f5af.

[32] Ministry of Justice of Spain (2009). New Judicial Office Change Management Plan 2009-2010.

[33] The reform implies no changes in the number of judges, nor in the number of hearing locations (i.e., physical places where cases can be heard). The existing unipersonal courts are expected to become specialized Sections of the *Tribunales de instancia* based on their subject-matter jurisdiction. More information is available at https://www.congreso.es/proyectos-de-ley?p_p_id=iniciativas&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&_iniciativas_mode=mostrarDetalle&_iniciativas_legislatura=XIV&_iniciativas_id=121%2F000098

[34] https://lexnetjusticia.gob.es/

the change was going to take place has proven a key lesson learnt at the time. In addition, once the outsourced trainers and/or consultants have completed their work, these judicial officers remain inside the organisation as ongoing change agents and proactive insiders.

All considerations and good practices given herein testify for the need to apply a change management framework of tools and techniques to successfully implement cyberjustice projects. Such a framework should be embedded at the earliest stages when an overall cyberjustice strategy is being put in place.

Chapter 2. Governance and Strategic Matters

by Elena Alina Onţanu

Nowadays, all reforms related to justice services or administration of justice have to be thought of as part of an overarching strategy of development and implementation of digital solutions for judiciary and justice users. Having a vision for what should be achieved in terms of cyberjustice is key for the planning of a project based on this vision. In such circumstances, the design, development, and implementation of several projects may be carried out contemporarily or in stages. To favour an efficient use of resources and avoid redundancies and fragmentation, it is important for cyberjustice projects to be designed and developed based on building blocks that can be reused or easily remodelled in the implementation of several cyberjustice projects. This also facilitates a successful process of co-evolution of the components on which the projects and systems rely. The planned measures should consider the medium- and long-term objectives that aim to be achieved, where long-term planning builds on the medium-term achievements to preserve accomplishments and ensure continuing progress.[35]

On a broader level, the development and implementation of cyberjustice projects should be aligned and integrated with other national projects on digitalisation of justice or EU-wide strategies.[36] This will facilitate a process of building upon existing progresses and 'ensure long-term efficiency and effectiveness' in the field,[37] as well as favouring a 'systemic and comprehensive reform' in the digitalisation of justice.[38] The strategy design should embed the "digital by default" principle[39] while considering the existing culture where cyberjustice projects are going to be implemented, the

[35] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Item I.13.

[36] See, for example, Regulation (EU) 2022/850 of the European Parliament and of the Council of 30 May 2022 on a computerised system for the cross-border electronic exchange of data in the area of judicial cooperation in civil and criminal matters (e-CODEX system), and amending Regulation (EU) 2018/1726, OJ L 150, 1.6.2022, p. 1-19; and the Proposal for a Regulation on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation (Digitalisation of Judicial Cooperation Proposal), COM(2021) 759 final.

[37] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Item I.5.

[38] Cordella, A., Contini, F. (2020). Digital Technologies for Better Justice: A toolkit for Action, p. 58. Inter-American Development Bank/World Bank, Washington D.C.

[39] "Digital by default" is a principle with both organisational and technical dimensions and strategic importance. This principle refers to providing public services by digital means as the preferred option for people to use them. See Section on Guiding Principles, *European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2*.

community openness and readiness to switch to digital tools, and the users' digital skills both for judiciaries and end users.[40]

The scope of the cyberjustice project will determine its objectives, the target groups subject to change, the IT systems or components concerned, and the exact processes the IT systems should include in the future. The more extensive the cyberjustice project's scope is, the more detailed the planning for its implementation needs to be.

Furthermore, technological developments in cyberjustice projects are interrelated and reliant on adequate legislative measures and organisational and institutional transformations.[41] The following elements should be considered at both the stages of designing and implementing cyberjustice projects:

- the justice values that need to be upheld or improved in the justice system concerned through the implementation of the cyberjustice projects will determine which technology applications will have to be used to deliver on the expected goals;
- legislative actions with respect to strategic, organisational, and social developments underlying judicial digitalisation might be needed to secure proper implementation of the cyberjustice project;
- organisational developments and adaptation for digital processes are to be taken into account with regard to the judicial context of the project;
- administrative simplification might be needed before initiating the digital transformation;
- service improvement and user-centricity are to be embedded to strengthen trust in judicial institutions and improve the perception of justice;
- transparency, accountability, and inclusiveness shall be guiding underlying principles.[42]

Regardless of the particularities of each cyberjustice project's implementation, in the actions undertaken a broader consideration has to be given to what 'the national needs for further advancement of the judicial domain'.[43] Additionally, actions should aim to achieve a 'simpler, digital, and open judicial services' for users.[44]

[40] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Item I.22.

[41] See also Cordella, A., Contini, F. (2020). *Digital Technologies for Better Justice: A toolkit for Action, p. 58. Inter-American Development Bank/World Bank, Washington D.C*.

[42] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, p. 6.

[43] Ibid, Item I.12.

[44] Ibid.

Besides organisational, technical, and legislative developments specifically developed for the implementation of a particular cyberjustice project, authorities should also seek to rely as much as possible on pre-existing elements such as governance structures, infrastructure, political support, and relevant legislation. A clear picture of existing elements and those that still need to be adopted for the implementation of a cyberjustice project should be taken care of in advance of the actual rollout phase.[45] Policy guidelines should be adopted to address strategic, organisational, and technical measures, and social developments. These elements must be reflected in legislation put in place or relied upon to facilitate reforms concerning judicial digitalisation.[46]

With regard to the technological features, their impact on and deployment in cyberjustice projects have to:

- determine and plan the characteristic infrastructural, institutional, and technological factors that are most relevant for the change targeted by the cyberjustice project and establish their weight in the configuration of the project,[47] and
- carry out a feasibility study to establish and analyse the institutions and factors that must be considered, the characteristics that have to be met and the risks involved for a specific cyberjustice project. In this, the following steps should be followed: (1) establishing the project's goals and how they would impact the justice values, (2) determining the institutional factors relevant for upholding the judicial values and how these values would be impacted by the ICT, the desired reforms, and the cyberjustice project implementation, (3) identifying and verifying the infrastructural preconditions (e.g., bandwidth infrastructure) that would determine the technological background upon which the cyberjustice project would be implemented and which can enable or hinder the deployment of the project, and (4) determining the institutional factors[48] and technological developments that will be compatible with the justice values concerned (see step (1) above).

[45] For a detailed overview of the toolkit for assessing the feasibility of such ICT projects, see further Cordella, A., Contini, F. (2020). *Digital Technologies for Better Justice: A toolkit for Action,* p. 65. Inter-American Development Bank/World Bank, Washington D.C.

[46] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Item I.3.

[47] The weight assigned to each factor may vary across projects, domains and national realities and context. See further on this in Cordella, A., Contini, F. (2020). *Digital Technologies for Better Justice: A toolkit for Action,* p. 64. Inter-American Development Bank/World Bank, Washington D.C.

[48] In identifying the relevant institutional factors, it is key to establish whether the agency in charge of the ICT-mediated service is capable of sustaining the organisational changes. See further on this in Cordella, A., Contini, F. (2020). Digital *Technologies for Better Justice: A toolkit for Action,* p. 64-65. Inter-American Development Bank/World Bank, Washington D.C.

A number of European states that are in a process of introducing digital transformation of the judiciary have been relying on long-term comprehensive strategies. An example in this regard is the *Justiça + Próxima* programme (as well as *Simplex +* and *Capitalizar* programmes) in **Portugal**. This is a long-term strategy to justice reforms and developments aiming to develop a 'swift, transparent, human and closer to the citizen' justice by simplification and dematerialisation of judicial procedures, integrating the use of interoperable technologies, enhancing clarity, transparency, and quality of information on laws and procedures, and promoting justice innovation and modernisation. The process set up for identifying modernisation measures is a bottom-up effort relying on input from a wide range of stakeholders. This approach made it possible to identify immediate gaps and develop measures to achieve quick results in improving the justice system from users' perspective. For the long-term strategy both institutional and policy transformation – across branches of power and a complete chain of justice and legal institutions (i.e., courts, the prosecution service, the legal profession, legal aid, enforcement agents, etc.) – have to be combined and reflected on the legal needs of various groups of stakeholders.[49] The importance of good planning before the actual implementation of the project and relying on a continuous process of planning on a step-by-step basis during the implementation stage has come across as an essential feature in several national projects identified as good practices. This is the case for the AIPA Project in **Finland**[50] and for the project management strategy on agile implementation in **France**. According to the AIPA experience in Finland, the project plan entailed a change management plan, communications plan, and a plan for the IT development, and implementing management practices such as risk assessment tools and customs in the project. In France, this involved the participation of different categories of users following a bottom-up approach for the project's design and implementation strategies. Then, a small team is involved in the planning and decision-making; for example, for the Portalis[51] a single governance unit responsible for the planning involved a project director, an assistant technical director, and a project manager.

A **Spanish** example in this regard is the *NOJ Change Management Plan* initiated in 2009 by the Spanish Ministry of Justice on judicial reforms. This project aimed at gradually implementing a new organisational model called *Nueva Oficina Judicial* (in English, the New Judicial Office).[52] Its implementation began in November 2010 in a number of regions on the basis of a comprehensive Change Management Plan.[53]

[49] OECD (2020). Justice Transformation in Portugal: Building on Successes and Challenges. OECD Publishing, Paris.

[50] This example is presented in more detail in the 'Importance of Change Management in Cyberjustice Projects' Chapter.

[51] Portalis is the French justice website.

[52] Available at https://rm.coe.int/new-judicial-office-modernisation-of-justice-presentation-of-francisco/168078f5af. This example is discussed in more detail in the 'Importance of Change Management in Cyberjustice Projects' Chapter.

[53] See Ministry of Justice of Spain (2009). New Judicial Office Change Management Plan 2009-2010.

Another useful example of good practice from Spain is the *Secretarios de Gobierno,* a national committee of the Superior Court of Justice General Secretaries. This working group was established in 2020 by the Ministry of Justice's Cyberjustice General Directorate[54] and consists of promoters and engineer designers of IT projects (Director General and one or two members of the General Directorate) and supervisors of professionals' groups, namely General Secretaries from different regional Courts (Asturias, Balearic, Murcia, Navarra and National Central Court). The working group currently plays a key role in the design, planning, and implementation of different cyberjustice projects in Spain. The committee works in a flexible manner, meeting every fortnight to discuss projects, their design, identifying IT needs, discussing change management strategies, reviewing pilot experiences and tested solutions before their presentation and dissemination in the rest of the Spanish judicial authorities. Their work helps also identify the group of professionals and teams affected by change and act on risk prevention by choosing the appropriate method of management for project implementation.

Building on the recent work of the Council of Europe on driving change towards cyberjustice[55], the CEPEJ e-Filing Guidelines[56] introduce a set of principles playing a key role in establishing a cyberjustice e-governance strategy:

- the "digital by default" principle;
- inclusiveness and accessibility as key dimensions of effectiveness (user centricity)[57];
- inclusive processes that are guided by openness and transparency[58] of information to create trust and establish accountability;
- observing performance, security, and integrity of information requirements;
- data management and preservation of information;

[54] *Dirección General de Transformación Digital de la Admininistración de Justicia,* depending on the Spanish Ministry of Justice, https://www.mjusticia.gob.es/ca/ministerio/organigrama/biografias/directora-general.

[55] See *European Commission for the Efficiency of Justice – CEPEJ (2016). Guidelines on how to drive change towards Cyberjustice, CEPEJ (2016)13*, and *European Commission for the Efficiency of Justice – CEPEJ (2019). Toolkit for supporting the implementation of the Guidelines on how to drive change toward Cyberjustice, CEPEJ (2019)7*.

[56] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, p. 5-6.

[57] A project following a user centricity approach is able to consider all end-users when designing, delivering, implementing and evaluating cyberjustice solutions as well as the digital divide obstacles technology use may involve.

[58] While transparency may be expected to be an immediate consequence of digitalisation of judicial services, this does not appear to be automatically the case. See Contini. F. and Lanzara, G.F. (2018), 'The Elusive Mediation between Law and Technology. Undetectable Errors in ICT–Based Judicial Proceedings', Branco, P., Hosen, N. Leone, M. and Mohr, R. (eds.) *Tools of Meaning*, Aracne Editrice.

- rely on indicators to properly monitor, assess, and allocate resources in the management of processes, implementation of projects and changes introduced.

An interesting example in this regard can be identified in **Germany** (in the State of Rhineland-Palentine) for the eJustice Programme which relied on a single governance format created around the project director having a good knowledge and decision-making capacity in the areas that were considered key for the cyberjustice project implementation (e.g., resources, planning, architecture, and technological choices) and responsibility in observing the budget limitation. The director was supported by an assistant technical director and a project manager in charge of the programme management. In their activity, the project team relied on the strong involvement of the users both in the design and management of change. During implementation, they also established 'feature teams' observing the principles of collegiality and limitation of intervention in other hierarchies.

Another good example is provided by the AIPA Project in **Finland** where a number of groups were established. The project relied on a small team of professionals in charge of the project implementation and management that was allocated clear tasks. Further, a steering group of end users' organisations and other important stakeholders' representatives was established. Another group was retained necessary for the steering and management of the everyday work of the project. Both the steering group and the project office were set in the early phases of the project to work together and manage different relevant aspects of the AIPA Project. The steering group worked at strategic level, while the project office was responsible for the everyday work in the project. In terms of decision making supporting the project implementation, the AIPA Project used a risk assessment approach to evaluate in a timely and comprehensive manner the implementation process. This made it possible to react and mitigate the project's risks. Since early stages, measurements were made to assess the impact of the new digital working method and the new IT system. These measurements were carried out before the deployment of the large part of the AIPA system as well as after a few months of use to assess the effects it had on the work of the courts and the Prosecutor's office. The impact measurement used for the project and its stakeholders provided important information on the effects the project was having and made it possible to change course, if needed.

To sum up, policymakers and/or institutional stakeholders involved in the design, development, and implementation of cyberjustice projects should consider developing a long-term inclusive and comprehensive justice strategy encompassing the entire legal and justice chain. This exercise should bring together different branches of power and should not mirror or be limited to the next local and national electoral cycles in order to be able to respond to the legal needs of people, businesses, and other users (including vulnerable users) have across a national territory.[59] The same exercise can be

[59] OECD (2020). Justice Transformation in Portugal: Building on Successes and Challenges. OECD Publishing, Paris

scaled down to the particularities of the cyberjustice project concerned (e.g., open data for justice, common data management protocols, etc.).[60]

The implementation strategy for cyberjustice projects needs to be backed by adequate planning of concrete actions that have to be undertaken for their attainment as well as a good governance and decision-making process. Additionally, for successfully achieving judicial transformation it is necessary that – next to a well-developed strategy and governance and an all-embracing management approach – the cyberjustice projects benefit from strong political support and gather broad stakeholders' involvement in the process.[61]

The political context within which cyberjustice systems are deployed is extremely important to determine the roles and functions associated with such initiatives. Political support and commitment are expressed in the government's justice policies and in the public debate on the role, functions, and future of the judiciary. To assess political support for the government's justice policies, the analysis should look at the actual state of the judiciary and the specific issues addressed in the public and political debate in this regard (e.g., analysis of social media, media publications, and judicial framework and legislation).

Decisions have to be taken at various levels of the implementation of the cyberjustice projects. This concerns not only the establishing of a clear roadmap for the project, but also the whole implementation process, and, subsequently, its maintenance and use in the long run. During the initial phase, the decision-making process will involve establishing the stages and steps that have to be undertaken in the implementation of the cyberjustice project as well as the necessary changes and the impact these actions are expected to have, including at legislative and organisational levels. For the process of planning and implementing cyberjustice projects, the actions undertaken should be part of an ongoing evaluation process that can directly support the decision-making process, allowing it to act smoothly when necessary or required. For this, measurable key performance indicators should be established and used in the decision-making process. This will ensure proper monitoring of the efficacy and efficiency of the actions undertaken as well as the timing of the process of implementation. The process could be supported by a 'dedicated indicators management system' to further enhance the 'monitoring and development of internal procedures aiming at digital transformation'[62] and supporting the decision making process related to the project implementation and use.[63] The measures and indicators used for evaluation should be part of a process of adaptation over time in order to reflect the needs of the stakeholders, evolution of

[60] Ibid.

[61] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Item I. 11.

[62] Ibid, Item I.14.

[63] On the importance of establishing indicators and carrying out periodic evaluations see also the 'Sustainability and Long-Term Monitoring' Chapter.

technology, internal reviews of the processes, organisational changes, and governance of the project as a whole. This will support the decision-making process, provide valuable information when changes or adaptation in the project implementation are necessary, and when the decisions taken have achieved the desired results or not. Furthermore, it is important to evaluate the transparency and clarity of digitally mediated actions and how these actions may affect or not the judicial decision-making process. This aspect is not directly related to the implementation process, but it is of key importance in making sure that if cyberjustice projects may have an influence or introduce changes in the judicial decision-making process, the judiciary is able to maintain their proper functioning in accordance with judicial values.

The governance of the cyberjustice projects has also to be part of a comprehensive process of evaluation, review, and checks to guarantee a functionally oriented process with coherent initiatives and actions. In this, it is important to have leaders acting at different levels of the cyberjustice project in its implementation. However, the structure should be simple and agile for the decision-making process. An example in this regard is the eJustice Programme approach in **Germany** which relied on two decision-makers at the top who were sharing technical and functional responsibilities. A clear structure of project management is important for the successful implementation of the cyberjustice project (see experience of the eJustice Programme in the State of Rhineland-Palatinate in Germany).[64] They can be acting at the level of the court, or another authority involved, at national level, or in relation to the legislators. The focus should not be only on the technology part, but support must be available at all levels of the judicial system and the legislative process. The institutional and organisational elements the project's implementation impacts should also be considered.[65] A strengthen cooperation and streamlined interaction across judicial authorities (including judges and prosecutors) involved through a shared vision of the justice transformation process and, where possible, of the resources involved (e.g. human, financial, physical) will encourage the stakeholders to work in a goal-oriented manner and help prevent unnecessary costs and waste of resources due to inefficiencies.

The involvement of the team members providing support to the project manager or the managing team implementing the project is essential in order to have a continuous flow of information coming in regarding the project status and applying it in making project-relevant decisions.

Reliance on the "digital by default" principle will support a gradual introduction of technology-led changes for justice services in cyberjustice projects. Opting for this approach will encourage the use of ICT solutions in a gradual manner while considering the different levels of readiness in dealing with digital tools, improving digital skills for users (institutional, professional, and private parties).

[64] This example is presented in more detail in the 'Importance of Change Management in Cyberjustice Projects' Chapter.

[65] See further on this Cordella, A., Contini, F. (2020). *Digital Technologies for Better Justice: A toolkit for Action,* p. 63. Inter-American Development Bank/World Bank, Washington D.C.

This approach was chosen for the introduction of the electronic case file (eAkte) in the State of Baden-Württemberg in Germany. The implementation of the project followed a gradual approach.[66]

Opting for imposing strict obligations in the implementation of cyberjustice projects should be decided based on the assessed levels of readiness for such switch, the necessary transition periods, and chain of successive measures. As underlined by CEPEJ e-Filing Guidelines, implementing digitalisation 'obligatory measures could be beneficial only if relevant supporting measures and infrastructure facilities (including network, hardware, software, development, maintenance, and assistance) are already in place.'[67] For countries where major national digitisation developments are still ongoing a gradual adoption approach might be preferred as more appropriate. The process should also keep other channels open for those who are not able to use the preferred digital channels either by choice or necessity.[68]

Reliance on third-party systems should be seen as a 'necessity rather than a conformity' when developing and implementing cyberjustice projects. 'Semi-automation or limited integration with external systems should be envisaged only as a temporary solution where key facilitating platforms or integration processes are underway.'[69]

[66] For more details, see the 'Importance of Change Management in Cyberjustice Projects' Chapter.

[67] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Item I.24.

[68] Ibid., Item I.25.

[69] Ibid., Item I.26.

Chapter 3. Dedicated Legislative Framework

by Elena Alina Onţanu

Adequate legislation is one of the pre-requisite elements for the implementation of cyberjustice projects. Legality is the principle by which the state and all state institutions, natural persons, private and public entities must abide by. Overall, this includes observance of international human rights, principles of supremacy of law, equality before the law, accountability to the law, fairness, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency.[70] These are values that all judicial authorities follow, and they have to be considered and upheld in the implementation of cyberjustice projects. Judicial actions have to follow specific legal requirements in order to produce legal effects and their legality 'is determined by their level of compliance with the specific and contingent legal frameworks'.[71]

It is likely that national legislation in place has been developed at different stages prior or during the design and/or implementation of a cyberjustice project and it is not meant *ab initio* to deal with technology elements but is rather considering a paper-based framework. Therefore, consideration needs to be given to existing rules regarding electronic signatures and other electronic identification data and whether these are compatible with the technology solutions used within the cyberjustice project being implemented. In this regard, it is recommended that the initial strategy related to the project development and implementation also considers and analyses the existing legal framework and how appropriate it is for the project, including what changes are necessary and/or could easily be carried out to support the technology needs in terms of simplification/simplicity of its design, development, and implementation. This is an important step to keep complexities related to such projects at a manageable level.[72]

A dedicated cyberjustice legislation is usually necessary for the successful implementation of cyberjustice projects. Legislative amendments with respect to strategic, organisational, and social developments underlying judicial digitalisation are key in facilitating digital reforms for justice (as seen in **Portugal** and **Slovenia**, for example).[73] Such legislation should be able to deliver on the necessary formal framework, provide a basis for the design of the project and its subsequent

[70] See Cordella, A., Contini, F. (2020). *Digital Technologies for Better Justice: A toolkit for Action*, p. 9. Inter-American Development Bank/World Bank, Washington D.C.

[71] Ibid, p. 60.

[72] Ibid, p. 62-63.

[73] "Analytical Overview of the State of Play in Electronic Court Filing (e-Filing)" Report, prepared by Giulio Borsari, Alexandra Tsvetkova and Harold Epineuse for CEPEJ-GT-CYBERJUST Working Group, CEPEJ-GT-CYBERJUST(2021)4, p. 4.

administration. This has to support simplification, dematerialisation and uniformity of processes, and strike a balance between addressing technical specifications and maintaining an overall flexibility of the legal texts[74] given technology development but also potential (future) use cases.[75] Thus, the legislation supporting the implementation of cyberjustice projects has to facilitate standardisation and procedural uniformity given the need of simplification (and maintaining complexity manageable) in cyberjustice developments, while not sacrificing the need of flexibility.

The adopted legislation has to be coherent and stand-alone without being misaligned with existing legislation in relevant areas such as legislation concerning e-government. The legislative framework provides the fundamental sources to assess potential compliance of the cyberjustice systems with the institutional and normative framework.[76] Fragmentation, patchy rules and overly detailed rules should be avoided due to the complexity this may pose in the short- to medium- and long-term as well as to the sustainability of the project concerned and future developments.

The legislation has to make the object of regular evaluations as to its continuing appropriateness with the needs and developments that are ongoing and be cautiously reviewed when necessary.[77] If cyberjustice projects to be implemented concern or involve the use of technology forms that limit possibilities of human control (e.g., artificial intelligence, blockchain technology) or which have an evolutive component (e.g., reliance of neuronal networks), dedicated legislation should be carefully prepared and pursued in order to respect fundamental rights, the rule or law, and principles such as transparency, accountability, and inclusiveness.[78]

[74] This flexibility can be achieved by the way the drafting style is chosen, but also by the level of legislation at which the technical specifications are adopted and how easy it is to adapt and change them over time considering the technological advancements and evolving needs of digitisation of justice services and their users.

[75] This has to do also with the need of flexibility for specific use cases that may be identified or considered in the process of transforming the justice services or due to changes in the choice of technical solution chosen.

[76] Cordella, A., Contini, F. (2020). Digital Technologies for Better Justice: A Toolkit for Action, p. 62-63. Inter-American Development Bank/World Bank, Washington D.C.

[77] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Item I.7.

[78] Ibid., Item I.9. See further on this the European Commission's Proposal for a Regulation laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) and amending certain Union legislative acts, Brussels, 21.04.2021, COM (2021) 206 final; Council of Europe, Recommendation CM/Rec(2020)1 of the Committee of Ministers to member States on the human rights impacts of algorithmic systems, 8 April 2020; *Feasibility study on a legal framework on AI design, development and application based on CoE standards*, adopted by the CAHAI on 17 December 2020; Ben-Israel, I. and al. (2020). *Towards a Regulation of AI Systems. Global Perspectives on the Development of a Legal Framework on Artificial Intelligence Systems based on the Council of Europe's Standards on Human Rights, Democracy and Rule of Law*. Council of Europe Study DGI (2020)16.

Novel regulatory practices could be considered or tested to respond in a more agile way[79] to innovation and disruptions that can be created by digital developments in the justice domain, better grasping the opportunities and mitigating the risks. However, for the time being techniques such as anticipatory regulation,[80] outcome-focused regulation,[81] experimental regulation,[82] or data-driven regulation[83] are not supported by significant evidence on their long-term efficiency and effectiveness in comparison to the exciting regulatory practices; thus, their usage and impact should be carefully monitored and evaluated if implemented.[84]

The analysis of existing legislation in relation to cyberjustice developments in several countries reveals a significant variation of the level this legislation follows in terms of depth and detail. In general, legislative initiatives have not been generally discussed as part of the good practices to consider in the implementation of cyberjustice projects. However, the importance of the adaptation of the law to avoid actions leading to the nullity of carried out procedural acts or procedures due to the use of ICT has been acknowledged in **France**. The legislative basis (e.g., Civil Procedure Act, Enforcement Act, Courts act, Criminal Code, etc.) was also amended for the implementation of business processes changes related to the Automated system for enforcement of authentic documents (COVL) in **Slovenia**. Changes of primary legislation and a number of by-laws were prepared in cooperation with the Slovenian Ministry of Justice. In other national experiences, the

[79] Agility implies an action or method of nimbleness, fluidity, flexibility, or adaptiveness. See further European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Item I.10.

[80] Anticipatory regulation refers to the identification of changes beyond the considered domain over a given period and in consideration of the implications of these changes (jointly or individually) for the regulator's current and future approaches such as with regards to the impact of technological innovation.

[81] Or goal-based regulation places a focus on the achievement of 'real-world' outcomes for end-users and the environment and defines high-level goals that stakeholders' actions must achieve using their own judgement (by employing or combining such techniques as experimentation clauses and regulatory guidance). This regulatory technique is distinct from prescriptive rules-based regulation, which defines in advance precisely what actions stakeholders must or must not carry out. See also United Kingdom Government, Department for Business, Energy & Industrial Strategy (BEIS), 'Goals-based and rules-based approaches to regulation', BEIS Research Paper No. 8, May 2018.

[82] Experimental regulation refers to a process of learning and adaptation, where regulators engage with businesses on ideas, products, and business models to learn how both parties need to adapt to enable innovative products and services to be brought to market efficiently.

[83] This refers to introducing rules as machine-readable codes and is also known as machine-consumable regulation. Data-driven technologies enable a new approach to regulation, in which interventions may be finely targeted, outcomes may be monitored in real time and rules may be evaluated and updated at pace. As the systems mature, regulators could use the data gathered to help model the effects of future changes to their codes, and businesses could execute changes to their systems much more rapidly, enabling a much more agile governance system. See World Economic Forum (2020), *Agile Regulation for the Fourth Industrial Revolution A Toolkit for Regulators*, p. 27-31; Hildebrandt, M. (2018), 'Algorithmic Regulation and the Rule of Law', *Phil. Trans. R. Soc.* A 376: 20170355. http://dx.doi.org/10.1098/rsta.2017.0355.

[84] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Item 10.

importance of the legislative component is only indirectly coming up. This is in relation to the scope of the development or regarding collaboration between stakeholders. Overall, it can be generally recognised that a dedicated and coherent legislation is a prerequisite for successful cyberjustice projects, but the national steps taken in this direction are not detailed to the extent that good practices could be identified as such for the purpose of this Handbook. A number of examples in relation to legislative actions in the implementation of projects related to the digitisation of justice were identified as part of the 2021 CEPEJ Study on e-Filing. For example, uniform rules for digital proceedings are recognised as a good practice in **Bulgaria**, **Turkey**, and **Portugal**.[85] A good approach for a legislation that becomes or risks becoming overly complex with the introduction of additional provisions dealing with digitalisation would be to opt for the creation of a separate body of legislation that deals with the digital aspects. This solution was adopted in **Italy** in the projects digitalising court proceedings giving the complexity of the national legislation already in place. Further, in terms of embedding the "digital by default" principle as part of the regulatory framework national preferences differ. For example, this was considered not desirable in countries such as **Austria**, **France**, **Latvia**, and **Portugal**. Other countries apply strict rules for simultaneous work with both digital and paper documents, including technical specification and details. This is the case for **Bulgaria**, **Italy**, **Slovenia**, and **Turkey**. Continuous amendments to further formalisation, simplifications, and uniformity of the processes have been mentioned in relation to **Austria**, **Latvia**, and **Portugal**.[86]

In **Spain,** the reforms carried out under the Justice 2030 Programme[87] address the need for adaptation of procedural rules, organisational needs, broader cyberjustice concept, and interaction between various stakeholders. Creating the appropriate legal framework to support the various digital reforms that are being implemented or are being prepared for future implementation is a recommended step. This is recognised as a desirable approach and the process is progressively advancing in stages also from a legislative perspective.[88]

[85] "Analytical Overview of the State of Play in Electronic Court Filing (e-Filing)" Report, prepared by Giulio Borsari, Alexandra Tsvetkova and Harold Epineuse for CEPEJ-GT-CYBERJUST Working Group, CEPEJ-GT-CYBERJUST(2021)4, p. 4.

[86] Ibid.

[87] https://www.justicia2030.es/

[88] See for example the legislative projects related to the Law on Procedural Efficiency of the Public Justice Services (*currently in parliamentary procedure; in Spanish, Ley de eficiencia procesal del Servicio Público de Justicia*), the Law on Organisational Efficiency of the Public Justice Services (*currently in parliamentary procedure; in Spanish, Ley de eficiencia organizativa del Servicio Público de Justicia*), and the Law on Digital Efficiency of the Public Justice Services (*currently pending referral to the Spanish Parliament; in Spanish, Ley de eficiencia digital del Servicio Público de Justicia*).

Chapter 4. Ecosystem Approach

by Alexandra Tsvetkova

By definition, a project is a temporary effort to create a unique product, service, or result, and has a defined beginning and an end.[89] However, successful judicial value[90] realisation is not limited to the success of a single cyberjustice project. It begins with comprehensive strategic planning and management by the judiciary's decision makers and is dependent on a whole portfolio of cyberjustice projects being aligned to the judicial strategy in such a way to optimise or integrate costs, scheduling, efforts, and benefits towards the changes the judiciary pursues for its digital transformation.

The deployment of hardware and software alone may have been perceived as a modernising factor per se in past decades, helping to make judicial authorities more efficient. The feedback received, however, showed the limits to what can be achieved by merely deploying new technologies on the ground, e.g., under-utilised hardware and/or software, adherence to old ways, widespread resistance to the new technology, attempts to bypass it, etc.[91] Cyberjustice projects implemented in recent years show that better results have been achieved in terms of technology take-up and correct use where the respective technology upgrade or an introduction of a new solution has been part of a wider strategy for change that allows sufficient room for measures to support all affected users.[92]

Given the large, diverse, and constantly evolving needs of the different judicial users and the persistent evolution of technology, administration of justice must not remain a sovereign function; it should evolve both as a service to mitigate, contain, and resolve dispute resolutions, and as a range of public, private and citizen sector actors, bringing as much added value as possible to its stakeholders at large. Digital alone is not sufficient to achieve such a result, as one needs to look at the hard questions of how the judiciary works. This goes beyond the digital and the technology foundations it establishes. Nowadays, key considerations refer to how delivering digital services

[89] Guide to the Project Management Body of Knowledge (PMBOK® Guide) - Seventh Edition, Project Management Institute, Inc., 2021, p. 3

[90] Business value, no matter of the domain the definition applies, refers to the total sum of all tangible and intangible elements of a business. The value may be created and grow only through consistent and effective management of all ongoing operations.

[91] European Commission for the Efficiency of Justice – CEPEJ (2016). Guidelines on how to drive change towards Cyberjustice, CEPEJ (2016)13, § 73.

[92] "Analytical Overview of the State of Play in Electronic Court Filing (e-Filing)" Report, prepared by Giulio Borsari, Alexandra Tsvetkova and Harold Epineuse for CEPEJ-GT-CYBERJUST Working Group, CEPEJ-GT-CYBERJUST(2021)4, p. 4.

puts the users at their core, how establishing data-driven solutions could work across departmental silos, and how developing a proper framework for security, personal data protection, transparent communication, and ethics-by-design would best support all cyberjustice projects at once. In this context, true digital transformation can be achieved only through changes not only on the level of need, but also on the fundamental ways the judiciary considers use of technology: user centricity requires redesigning services around what users need; collaborative stakeholder involvement is no longer about communication alone but suggest empowering people to solve problems on their own; etc.

In this contest, digitalisation of judicial procedures and administration of justice need to be considered as ongoing processes that are part of a wider and complete ecosystem of processes, services, and tools, be they digital or not, rather than separate (cyberjustice) projects with a firm timing of implementation.[93] Further, judicial systems need to develop in terms of nurturing digital justice ecosystems[94] that are constantly evolving to meet the needs of different service users rather than framing the digitalisation of judiciary in one cyberjustice project after another.

In 2019, a Toolkit for supporting the implementation of the Guidelines on how to drive change toward Cyberjustice (the Toolkit)[95] was developed and brought to the attention of the Council of Europe member states. It builds on the understanding that improving quality of justice is the driving factor behind the deployment of cyberjustice taking account of both the requirement to guarantee higher quality standards for the public justice service and of the expectations and needs of justice system professionals and users.[96] The Toolkit suggests the technology should be a means for accomplishing certain reforms for the benefit of the justice system (be they organisational restructuring, updates of the judicial map, simplification of procedures, or else) rather than a response to pressure from in-house departments or third parties;[97] and it should be part and parcel of an overall strategy for modernising the judiciary and improving the quality of justice, formulated via clear, measurable, and verifiable objectives.[98] While the Toolkit also brings a comprehensive and holistic step-by-step approach towards designing and managing an IT strategy in a justice system

[93] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Item I.1.

[94] A digital ecosystem herein is understood as a distributed, adaptive, open socio-technical system with properties of self-organisation, scalability, and sustainability.

[95] European Commission for the Efficiency of Justice – CEPEJ (2019). Toolkit for supporting the implementation of the Guidelines on how to drive change toward Cyberjustice, CEPEJ (2019) 7.

[96] European Commission for the Efficiency of Justice – CEPEJ (2016). Guidelines on how to drive change towards Cyberjustice, CEPEJ (2016)13, § 3, § 71.

[97] Ibid, § 71.

[98] Ibid, § 79.

touching upon a number of aspects a judicial ecosystem is to be built upon, the overall ecosystem concept towards managing cyberjustice projects is not present.

Such an understanding requires a paradigm shift[99] on the approaches to technology-enabled changes undertaken by the judiciary so far.

- Judiciary should be open to change. On one hand, dedicated structures to work with external ecosystems should be created[100], connecting government resources already in place, and encouraging diverse provider mix. On the other hand, it should seek for new delivery models and rethink the digital supply chain from both data exchanges and technologies' points of view;
- Judiciary should become more adaptive to change by shifting from a waterfall[101] to agile[102] policy development, encouraging lifelong learning among its users, and shifting organisational focus to preventing problems rather than solving them;
- Judiciary should enhance ongoing operations with multidisciplinary or cross-functional teams to progress with digital transformation. Yet, small teams should be employed to focus on the changes to take place diversifying day-to-day challenges from innovations;
- Judiciary should be human-centred. This means not only using user experience design methods to place the stakeholders in the centre of a digital solution, but also to deliver experience rather than just a service. To achieve this, behavioural science concepts might be employed to improve the performance of both individual users and groups;
- Judiciary should remain sensitive to technology development by mapping emerging technologies to domain-specific implications and seeking ways to augment the transformation process through innovation.

Most European judiciaries have not reached a strategic evolution towards an ecosystem approach. However, in many states there are a number of efforts in this direction.

In recent years, **Portugal** followed an all-round consistent cyberjustice strategy implementing digital transformation within both its organisational and technical dimensions; the strategy was regularly updated, aligned/integrated with the national digitisation strategy, and encompassed strategic,

[99] Canning, M., Eggers, W. D., O'Leary, J., Chew, B. (2020). *Creating the government of the future*. Deloitte Development LLC.

[100] In this context, interoperability should be seen not only as a technical concept but rather as a complex construct also encompassing policy, legal, and social dimensions.

[101] More information on the waterfall management model is presented in the 'Results-based Project Management' Chapter'.

[102] More information on the agile management approach is presented in the 'Results-based Project Management' Chapter'.

organisational, and technical aspects.[103] During the implementation of the judicial map reform (2013-2014), CITIUS – the system that supports the management and processing of judicial court proceedings in Portugal – became fully inoperative for several months in September 2014, which led to significant loss of trust in judiciary especially with respect to use of technology. The need to increase the trust in justice institutions among both professional community and citizens, along the ongoing structural changes, led to the initiation of a major reform on strategic, organisational, and technical levels in 2015. The Closer Justice (Justiça + Próxima) Programme spanned over 150 measures[104] during the 2015-2019 legislature focusing on simplification and dematerialisation of procedures (especially with respect to (inter-) dependencies), use of interoperable technologies, and implementing citizen-centric, collaborative, and bottom-up approach, extensive stakeholders' engagement, and a variety of measures on transparency and accountability. The programme was extended and reinforced for the 2020-2023 period with a strategic vision for further expansion both in terms of timing and measures. Such periodic updates are expected to continue in the future based on the ongoing needs and technological development.

The key pillars of the Programme from a strategic point of view are building trust, mutual respect of boundaries and cooperation, transparency, and promoting broad cultural change towards citizen-centred services; implemented measures embedding these principles is considered a key success factor of the reform. Portugal experimented with piloting the projects and changes envisaged prior to their country-wide launch for the first time within the Closer Justice Programme; this is now considered a good practice. Other success factors refer to specific measures on inclusiveness, all-round integration, and interoperability.

The integration of the sectoral strategy underlined by the Justiça + Próxima Programme in the national strategy Simplex +[105] is seen as largely beneficial for all services provided to citizens.

The methodological approach adopted in Closer Justice refers to scheduled measures implemented in successive waves, with periods of analysis supported by alignment with the judicial organisations and officials that were essential to carry them out. The prioritisation of the measures and the setting of a timetable for implementation is passed on to the organisations with capacity and competence

[103] "Analytical Overview of the State of Play in Electronic Court Filing (e-Filing)" Report, prepared by Giulio Borsari, Alexandra Tsvetkova and Harold Epineuse for CEPEJ-GT-CYBERJUST Working Group, CEPEJ-GT-CYBERJUST(2021)4, p. 4.

[104] A measure refers to joint implementation of solutions (organisational, technological, procedural, legislative, training, etc.).

[105] Cross-cutting programme composed of a set of measures that aims to ensure the simplification of administrative and legislative processes to facilitate citizen and business interaction with the administration.

to execute them, with the guidance of the Portuguese Ministry of Justice which oversees the plan and the management and reporting routines.[106]

Regarding delivery of new solutions, the successive staged approach is highly preferred by other states as well. Step-by-step implementation and prioritisation of projects, undertaken by e.g., **Austria**, **France**, **Latvia**, and **Slovenia**, is based on a variety of impact-based considerations, including with respect to bringing most value to end users, affecting high volume of cases and/or procedures, low-risk operations and/or procedures, etc. Procedure-by-procedure approach is often considered as well (e.g., **France, Italy, Latvia, Norway, Slovenia**).[107] Interesting example can be given with Latvia, where digitalisation has also been prioritised with respect to domains and implemented in several stages, starting by digitising the judicial process first, then proceeding with the investigation and the enforcement processes. Depending on national priorities related to building trust and promoting broad cultural change and transparency, in some cases prioritisation has been given to services provided directly to citizens (e.g., **France**).[108]

Spain is now following a similar approach with the newly adopted 'Justicia 2030' Programme[109]. It is a 10-year joint work plan, developed in co-governance, that promotes the rule of law and access to justice as levers of country transformation. It only aims to affect those points that have the greatest impact on the system or that have become obsolete and are already barely operational; thus, focus is placed on generating transformations in points that have systemic effect in the justice environment. This plan is set out in nine separate programmes: (i) three programmes reflect on improving citizens' access to the public justice service via simple, clear, understandable, and accessible procedures, and respond to the needs of all social groups and territories, with special care for the most vulnerable ones; (ii) others aim at ensuring that digital transformation takes the form of organisational and process improvement, where the resulting efficiency is measured in terms of reducing time and of citizen satisfaction, efficient allocation of invested resources, environmental impact, and data management capacity; while (iii) the last three seek to facilitate an administrative ecosystem of municipal, autonomous, and state data, to connect public policies of justice with the ecological transition and economic recovery, and to establish co-governance architecture that makes the administration of justice a public service of quality and efficiency. The programmes are made operational through 27 projects, and these are in turn divided into sub-projects whose number varies according to needs (starting from 47 in total with the option to

[106] "Analytical Overview of the State of Play in Electronic Court Filing (e-Filing)" Report, prepared by Giulio Borsari, Alexandra Tsvetkova and Harold Epineuse for CEPEJ-GT-CYBERJUST Working Group, CEPEJ-GT-CYBERJUST(2021)4, Appendix 9 'Country report – Portugal'.

[107] Ibid, p. 4

[108] Ibid, Appendix 4 'Country report – France'.

[109] Ministry of Justice of Spain. 'Justicia 2030' Strategic Document, Summary in English. Accessed via https://www.justicia2030.es/.

increase). The core of the Spanish 'Justicia 2030' Programme is the generation of a new normative framework for digitalisation that establishes the legal bases for the digital transformation of the administration of justice, replacing the current regulations, in force since 2011, to provide it with a new data-based information architecture, which also guarantees digital legal certainty in the processing of procedures.

As already envisaged by Spain, the importance of information, advanced analytics, and human-centred services and platforms are the three exact pillars the ecosystem approach builds upon[110].

In the judicial domain, information is often fragmented, inaccurate, partial, or hard to access. Many of the processes and documents are still paper based, while the information systems are designed in such a way that it makes data upload and extraction challenging or linking data from different sources burdensome. Coordinated approach to data governance (on national or domain level), common data standards and application programming interfaces, and use of cloud-native technology would allow for a wide range of systems to interface seamlessly with data pools. In future, data capabilities will provide for new tools to support visualisation of data readiness and quality, analysis of data gaps, etc. and to support efficient classification, management, and discovery of data. Some good practices across European countries can be found on ensuring reliable, up to date and accurate case-related (meta-)data in case management systems, including in the context of minimising efforts by court officials in checking and/or performing data remediation or completion. In **Austria**, for example, approximately 500 checks are performed before accepting e-filing by lawyers to minimise efforts by court officials; if checks are not passed, the e-filing process is blocked. The applicable technical specifications are publicly available to facilitate the work of system developers of legal tech and e-filing solutions. In **Portugal**, most of the metadata requested by courts from lawyers are mandatory and validation errors cannot be overcome; all systems have embedded mechanisms for verifying the quality of the input data. In case of incoherence, structured data prevails. Master data management is in place, meaning that some reference information is centralised. Portugal is currently working on implementing certain entities' checks accessing the related "sources of truth" (e.g., commercial registry).[111]

When high quality data is available and data accessibility tools are in place, they can become very powerful in enabling data correlation, effective searches, and analytical functionalities (beyond judicial statistics) and/or performing clustering analyses and predictive analytics. Some countries are working on cyberjustice projects to allow for the extraction of information and knowledge in this context. For example, **Austria** is working on a Big Data project to build some specific tools

[110] As a tangible example of this initiative, an open data website with ample analytics related to the Spanish Justice system is available at https://datos.justicia.es/en-US/web/databijus/homepage.

[111] "Analytical Overview of the State of Play in Electronic Court Filing (e-Filing)" Report, prepared by Giulio Borsari, Alexandra Tsvetkova and Harold Epineuse for CEPEJ-GT-CYBERJUST Working Group, CEPEJ-GT-CYBERJUST(2021)4, p. 12-13.

especially for police forces and prosecutors. In **Bulgaria**, a dedicated specialised information system for monitoring and analysis of judicial data is under development to enhance and automate judicial statistics and workload assessment. In **Latvia**, a forecast tool is already available and being developed. This tool allows the persons considering the possibility of litigation to take a path consisting of several steps within the framework of the possible legal proceedings in specific fields (family law, recovery of debts, recovery of maintenance, etc.) and perceive the possible solutions for the resolution of dispute by answering a scripted number of questions.[112]

Building on a robust approach to data and a variety of analytic tools, judicial systems can enhance the design of and increase the number of services offered to users, based on their specific needs. Well-designed and integrated online platforms are key to deliver human-centred services, if common data standards are applied, microservices embedded, and exceptional service experience is provided. One-stop-shop principle is often adopted by providing a single platform for delivery of e-services by judiciary, including on e-filing. In this context, applying 'whole systems' approaches[113] to support users in their interaction with judicial services is becoming a must.

As implied before, supporting activities and infrastructure facilities including network, hardware, software, development, and maintenance, following up-to-date common criteria and standards for information technology development, availability, scalability, information security, and (data) quality management, are considered already in place. However, they are the core infrastructure prerequisites to enable actions towards the ecosystem approach described above.

- The access bandwidth, characteristics, security, and reliability of network capacity are fundamental for the functioning of digital judicial systems.[114]
- Any cyberjustice tool should be designed in such a way to interoperate with external systems, ensuring maximum compatibility on a national level to exchange data effectively and efficiently with other authorities. Proper state-of-the-art architectural principles and technological standards should be adopted.[115]
- Considering the complexity of some judicial exchanges of documents and information, an enterprise architecture could be considered suitable as it contributes to a reduction in IT

[112] Ibid, p. 13.

[113] Whole systems approach typically involves identifying the various components of a system and assessing the nature of the links and relationships between each of them.

[114] Cordella, A., Contini, F. (2020). *Digital Technologies for Better Justice: A toolkit for Action*, p. 60. Inter-American Development Bank/World Bank, Washington D.C.

[115] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Item III.93.

complexity, consolidation of data and applications, and better interoperability of the systems.[116]

- Interoperability streams should be designed to ensure proper security, personal data protection and confidentiality arrangements, based on the level of sensitivity, e.g., setting up encrypted channels and a public key infrastructure to ensure authenticity, integrity and privacy of data exchanged.[117]
- Reuse of government-facilitated building blocks is a must, e.g., existing national platforms or frameworks for e-signatures, e-IDs, e-payment, e-delivery, etc.[118]

Skills and competencies, including both professional technological capabilities and general user capabilities, further underline the concept of ecosystem approach. While the former refers to the specific IT skills of the organisation or institution designing and implementing the cyberjustice project, the latter refer to competencies and skills of the internal and external users of digital judicial systems and refer to individual users' acquaintance with digital technology in general and with regards to specific cyberjustice tools.[119] Therefore, if sufficient general user skills and capabilities are not present, the much-needed human interoperability supporting the existence of an unique digital judicial ecosystem is to be considered missing.

It is evident that policymakers, judicial professionals, external users' representatives' groups, operational delivery teams, and IT teams need to work together to create better service experience and to embrace open and agile methods of working that can – at first – feel unfamiliar and challenging. It is also clear that a single cyberjustice project cannot deliver a complete digital ecosystem on its own; yet every cyberjustice project needs to be considered in the context of the ecosystem already in place, or with regards to the to-be ecosystem the change management strategy pursues. Building on this ecosystem approach and way of thinking shall allow for interconnected policies, technologies, workforce, and behavioural factors to be brought more easily together to support a change.

[116] Ibid.

[117] Ibid, Item III.94.

[118] Ibid, Item III.95.

[119] Cordella, A., Contini, F. (2020). *Digital Technologies for Better Justice: A toolkit for Action*, p. 60. Inter-American Development Bank/World Bank, Washington D.C.

Chapter 5. Results-based Project Management

by Alexandra Tsvetkova

In general, when upgrading existing or developing new cyberjustice solutions, success comes from the adoption of a strong project management with all-inclusive and continuous involvement of stakeholders.

Project management approaches can be divided into three broad categories: traditional, agile, and hybrid. Traditional approaches are characterised by a diligent sequential step-by-step process of product or service delivery, and they emphasise on careful requirements gathering, detailed analysis and design. Therefore, they are best for (business) projects with well-defined requirements to start with and stress the importance of documentation. Waterfall Model[120], PRINCE2[121], or PMI/PMBOK®[122] are such examples. In comparison to the Agile approach, the traditional approaches do not go into detail in terms of how to create a product; instead, they concentrate on a higher-level management of the project. The Agile approach refers to a set of values for (software) development, with most notable examples being Lean[123], Scrum[124] and Kanban[125] methodologies.

[120] The Waterfall Model is a sequential (non-iterative) project management methodology, where the progress is represented as flowing steadily through project stages.

[121] Prince2, also known as 'PRojects IN Controlled Environments', is a prescriptive, process-based methodology for project management that originated in the UK's public sector. It divides the project into manageable and controllable stages that need to be followed with some detailed planning for stages closer in time. Prince2 can be applied to almost any project, regardless of its size, type, or the industry; and it is best suited for projects which have a low level of uncertainty and require a high degree of regulatory control.

[122] The Project Management Body of Knowledge (PMBOK®) is a knowledge-based framework that describes established norms, methods, processes, and practices. The Project Management Institute's (PMI) PMBOK® Guide serves as a collection of recognised practices, knowledge, and techniques for various aspects of project management. This methodology can be applied to almost any project, regardless of its size, type, or the industry; and works best with projects which have a low level of ambiguity and uncertainty.

[123] The Lean approach, also known as 'Lean Software Development', is an agile framework based on optimising development time and resources, eliminating waste, and ultimately delivering only what the product needs. It is often referred to as the Minimum Viable Product (MVP) strategy, in which a team releases a bare-minimum version of its product, learns from users, and then it iterates based on this feedback.

[124] Scrum is best for projects which are very likely to involve a lot of changes in the backlog or when project requirements could change very often. It is an iterative software development framework for managing software development by prioritising working software over in-depth documentation and emphasising on team collaboration and self-management. Each iteration (known as 'sprint') contains a combination of project phases (e.g., analysis, design, implementation, testing, etc.) and aims to deliver a working, tested and potentially shippable product. A review follows, along with a request for further functionalities to be developed and implemented within the product.

[125] Kanban is a lean scheduling system that works best for projects which require quick response times with a minimal amount of planning and where priorities change frequently. It is a visual methodology where current work progress is

Hybrid models of project management combine aspects of both the traditional and the Agile approaches, catering for both the development and the business side of a project.

Agile development on both organisational and technical levels, following successful software development methodologies, close monitoring on progress and resources and strict time management procedures are recognised as good practices by virtually all European countries. Some states explicitly mention the use of Scrum methodology (e.g., **Germany**, **Italy**, **Slovenia**, **Switzerland**, **Poland**) when it comes to software development; as a result, each project is broken down into two-week or one-month implementation stages with strong monitoring on expected results. In **France**, cyberjustice projects are reportedly following the SAFe methodology[126].

Finland, in its AIPA Project, is a good example of transitioning between different project management methodologies for IT development. In the beginning, a traditional Waterfall Model was implemented with the end users describing the requirements for the IT system to vendors during both the procurement process and the actual building up of the system. During the first phase of the project, it became clear that the Waterfall Model was not the best fit as the scope of the project was too large. The chosen methodology did not provide for sufficient flexibility and possibilities to change course, when needed; and implementation was not as efficient as expected. As a result, for all next phases of the project the SAFe methodology was adopted. It proved to be successful in terms of delivering results, yet the budget and timetable management remained challenging. While it allowed for more flexibility and was well suited for large scale IT projects where the product owner learnt from each feedback iteration, following an agile methodology was also very demanding and required more time for adoption towards a fully working approach. Overall, a key lesson learnt for the AIPA Project is that it is more controllable to take a large-scale IT system into gradual use rather than relying on a 'big bang' adoption[127].

The practice of "timeboxing" is applied by some states. While **Switzerland** refers to timeboxing with regards to project development iterations with fixed development periods and budgets, this approach was used in **Austria** in a different context. Representatives of legal professions (lawyers, notaries, etc.) and relevant stakeholders (i.e., trade unions), alongside the judiciary, were involved in the implementation of the Austrian "Justiz 3.0" Initiative and the development of all new solutions. More than ten working groups were set up, each composed of ten to fifteen experts, and focused on topics and issues not only related to IT but also to organisational reforms, adopting an agile approach towards solving problems and introducing changes. The working groups provided

shown on a board that puts a limit on the number of tasks in each workflow step removing blocks and ensuring smooth progress.

[126] SAFe (Scaled Agile Framework) is a set of organisation and workflow patterns intended to guide organisations in scaling lean and agile practices. It seeks to address the problems encountered when scaling beyond a single team.

[127] Big bang adoption is a hardware or software migration method that involves getting rid of the existing system and transferring all users to the new system simultaneously.

and tested the mock-ups of different functionalities prior to their adoption. The approval of the working groups on various matters was obtained, while respecting a "time-box" approach, thus avoiding too lengthy discussions or long no-decision waiting periods.[128]

In addition, both the Toolkit[129] and the Guidelines on electronic court filing (e-filing) and digitalisation of courts[130] (the CEPEJ e-Filing Guidelines) recommend agile project management to be applied by the states with regards to managing their cyberjustice projects, but with a different level of details[131]. Further, they comment on the need for a strong project governance structure. In **Austria**, for example, a key actor is the Austrian Federal Computer Centre (BRZ), a public IT service provider which acts as a private company, that is not only responsible for managing most of the national judicial information systems, but also for providing experienced project managers. **Slovenia** refers to appointing seconded magistrates as co-managers to each new project (the secondment lasts for a period of 3 years each), while engaging acting judicial officials and magistrates in the project steering committees and expert groups. In addition, **Slovenia** and **Portugal** report the adopting of a structured managerial approach very similar to that of a successful business endeavour, including on monitoring key performance indicators (KPIs), return of investment (ROI) parameters and saving of human resources (estimated in man-hours) in courts.[132]

In 2011, the State Technical Committee on Electronic Judicial Administration (in Spanish, *Comité Técnico Estatal de la Administración Judicial Electrónica*[133]; in short, CTEAJE) was set up as the coordination body for the electronic administration of justice in **Spain**. It is independent from any public entity but has no legal personality. It consists of a Plenum and a Permanent Commission, composed of representatives of the Administration of Justice, General Council for the Judiciary, the

[128] "Analytical Overview of the State of Play in Electronic Court Filing (e-Filing)" Report, prepared by Giulio Borsari, Alexandra Tsvetkova and Harold Epineuse for CEPEJ-GT-CYBERJUST Working Group, CEPEJ-GT-CYBERJUST(2021)4, Appendix 2 'Country report – Austria'.

[129] European Commission for the Efficiency of Justice – CEPEJ (2019). Toolkit for supporting the implementation of the Guidelines on how to drive change toward Cyberjustice, CEPEJ (2019) 7, p. 25-27.

[130] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Item II.34.

[131] The 2019 Toolkit reflects briefly on the overall project management concepts, p. 25-27, and then provides for a more in-depth outline on building a case management system, p. 28-34, and a checklist on the different steps and actions to be taken when designing, developing, and implementing an IT project within a justice system, p. 35-44. The 2021 Guidelines, on the other hand, presents a list of good practices and recommendations on both organisational aspects (resource allocation, project management methodology, addressing complexity constraints, strategising on user centricity and effective communication, multi-level support and training), Items II.27-II.54, and technical aspects to be addressed during implementation in cyberjustice projects (e.g., electronic documents, data and document management, online payments, court data, public availability of court decisions, business continuity requirements, security safeguards, interoperability), Items III.55-III.96.

[132] "Analytical Overview of the State of Play in Electronic Court Filing (e-Filing)" Report, prepared by Giulio Borsari, Alexandra Tsvetkova and Harold Epineuse for CEPEJ-GT-CYBERJUST Working Group, CEPEJ-GT-CYBERJUST(2021)4, p. 4.

[133] https://www.cteaje.gob.es/.

Office of the General Prosecutor, and the Autonomous Regions, as well as judicial professionals and experts with technical knowledge of the electronic administration of justice. The CTEAJE Secretariat coordinates the work of the eleven CTEAJE working groups. CTEAJE is primarily responsible for the adoption and constant revision of the Guidelines on interoperability and security, along a series of definitions and standards (including the specification of forms, look-up lists and data schemes) for the electronic documents and electronic case files. From a 'federal' perspective, it represents a response to the crucial need of coordination, sharing of experiences and exchange of IT solutions. The mandate of such a body with sufficient experience in coordinating the national cyberjustice policies could be expanded to play a more significant project governance role on a digital justice ecosystem level.

The project management methodologies and techniques listed above are considered highly successful but mainly within the context of one or a series of cyberjustice projects no matter their end goal or length. When there is a need for long-term coordination of an entire digital judicial ecosystem of programmes, projects, and tools, a more results-oriented methodology shall be applied to complement the project management methodologies already in place and to successfully support the implementation of the change management strategy over time.

Results-based management embeds theories on planning, follow-up, evaluation and management of the whole project and operations cycle – this entails the handling of the change process from the very beginning to its end. The main principles behind this methodology are broad participation in the planning process (with regards to both stakeholders and target groups/users), structured and clear plans with clear objectives and allocation of responsibilities, continuous risk analysis and risk management, continuous monitoring, analysis of results during follow-ups and revisions of plans when and where needs, effective dissemination of results for positive influence and strategic communication, and continuous organisational learning. The purpose is to achieve as positive and sustainable results as possible.

While results-based management provides overall guidelines for what should be considered during planning, management, and evaluation stages, it describes what instead of how one must manage the different stages of the project and operations cycle to achieve good planning, feedback, and control. However, the individuals or bodies responsible for implementing change processes through all projects and programmes in place also require assistance on how exactly a plan should be developed and how to monitor its results. This is where the support from the project management teams come in.

There are a few methods and tools that can be used in Spain following the principles of results-based management, such as Logical Framework Approach[134], Balanced Scorecard[135], SWOT Analysis[136], Total Quality Management[137], Theory of Change[138], Outcome Mapping[139], etc. depending on the level of maturity and the contextual needs the responsible body applying the tools has. The joint application of selected results-oriented methods could provide for a common framework for interagency collaboration in digital ecosystem design, implementation and managing for development results. Nevertheless, some of these methods could also be used on a project-management level, where applicable.

No matter the management techniques used, a few important decisions need to be made on implementation level. One refers to the product-based versus tailor-made solutions dilemma. Technologies based on products that are commonly used are easier to manage but do not allow for wider tailoring to specific needs and expectations of end users. On the opposite side, when a tailor-made solution is chosen it should meet these exact needs and expectations at the end but is more demanding in terms of development and maintenance; also, the flexibility of the solution is questionable if it is not properly designed. **Finland**, for example, explored a mix approach for the AIPA Project – open-source solutions are used as a base for the development of the system, while off-the-shelf products are used for specific functionalities such as text-editing.

Another decision refers to the engagement of internal resources for development and maintenance of judiciary systems. This approach is recommended by the CEPEJ e-Filing Guidelines to avoid

[134] The Logical Framework Approach is a methodology mainly used for designing, monitoring, and evaluating international development projects. Variations of this tool are known as Goal Oriented Project Planning or Objectives Oriented Project Planning. See also Schmidt, T. (2009). *Strategic project management made simple: practical tools for leaders and teams.* Hoboken, N.J.: John Wiley & Sons.

[135] The Balanced Scorecard is a strategic planning and management system that stems from the idea of looking at strategic measures in addition to traditional financial measures to get a more "balanced" view of performance. See also Kaplan, Robert S., Norton, David P. (1996). *The Balanced Scorecard: Translating Strategy into Action.* Harvard Business Review Press.

[136] SWOT Analysis is a strategic planning and strategic management technique used to help an organisation identify strengths, weaknesses, opportunities, and threats related to – among others – project planning. It is also called situational assessment or situational analysis.

[137] Total Quality Management is a management system for a user-focused organisation that involves all employees in continual improvement. It uses strategy, data, and effective communications to integrate the quality discipline into the culture and activities of the organisation. See also Cobb, Charles G. (2002*). From Quality to Business Excellence: A Systems Approach to Management.* Asq Pr.

[138] Theory of Change is a methodology for planning, participation, adaptive management, and evaluation to promote social change. See also Brest, P. (2010). *The Power of Theories of Change.* Stanford Social Innovation Review. Spring.

[139] Outcome mapping is a project progress measurement system that does not focus on measuring deliverables and their effects on primary stakeholders but on behavioural change exhibited by secondary ones. The outcome mapping process consists of a lengthy design phase followed by a cyclical record-keeping phase. Outcome mapping is intended primarily for change-focussed organisations that deal with complex systems and issues in changing environments. See also Earl, S., Carden, F., Smutylo, T. (2001). *Outcome Mapping.* International Development Research Centre.

procurement delays and improper spending and to ensure knowledge preservation and continuity within judiciary (such as with the example with Austria given above).[140] However, when the judiciary do not have the internal resources, some states recommend the use of a multi-vendor approach to avoid vendor lock-in[141]. **Finland** utilised this approach in the AIPA Project which resulted in several vendors being familiar with the technologies used and knowing the needs of the end users. Yet, it should be noted that in such situations the efforts required from the judiciary in terms of project and procurement management are significantly higher. Diversification of vendors is also commonly used practice in **France**, among others; however, the involvement of internal production teams in drafting all technical specifics is explicitly stated as a must.

As in Spain, piloting projects to a limited number of judicial bodies and gradual improvement of the technical solutions prior to their country-wide launch is considered a good practice in **Austria**, **Italy**, **France**, **the Netherlands**, **Norway**, **Portugal**, etc.[142] However, it is important to be aware that pilot projects are carried out in a conditional environment and cannot therefore simply be extended to a more general context. However, they could provide for findings and recommendations towards deploying a technology or a new organisational structure more widely. In this regard, it could be useful piloting projects to explore as many scenarios as possible in order to produce both success and failure factors to be considered.

Another good practice relates to experimental sampling by using proof of concepts, prototypes, and experimental releases (e.g., **Austria**, **Switzerland, Portugal**, **Turkey**). While experimental sampling could be more challenging and entailing risk of failures, it is also seen as a practical low-risk implementation long-term, and an added value towards engaging stakeholders, promoting cooperation, and facilitating the acceptance of the tools by the judicial community while the cyberjustice project is still running.[143] Further, where cyberjustice projects rely on new uses of technology (e.g., artificial intelligence systems or blockchain technology, where the nature of the technology imposes limits to its control once enforced), judiciary could adopt novel regulatory practices to respond in a more agile way to innovation and disruption. However, techniques such as anticipatory regulation, outcome-focused regulation, experimental regulation, or data-driven regulation,[144] are still not supported by significant evidence on their long-term efficiency and effectiveness in comparison to the exciting pool of regulatory practices; thus, their usage and impact

[140] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Item II.29.

[141] Vendor lock-in, also known as proprietary lock-in or customer lock-in, makes a customer dependent on a vendor for products, unable to use another vendor without substantial switching costs.

[142] "Analytical Overview of the State of Play in Electronic Court Filing (e-Filing)" Report, prepared by Giulio Borsari, Alexandra Tsvetkova and Harold Epineuse for CEPEJ-GT-CYBERJUST Working Group, CEPEJ-GT-CYBERJUST(2021)4, p. 5.

[143] Ibid, p. 5.

[144] See also World Economic Forum (2020). *Agile Regulation for the Fourth Industrial Revolution A Toolkit for Regulators.*

should be carefully monitored and evaluated if implemented.[145] Such experimental programmes or related regulatory efforts in well-defined AI fields are already in place in **Germany**, **Finland**, **France**, **Poland**, **Switzerland**, etc.[146]

[145] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Items I.9 and I.10. Further details are also provided in the 'Dedicated Legislative Framework' Chapter.

[146] "Feasibility Study for Electronic Judicial Procedure Regulations" Report, prepared by Giulio Borsari, Alexandra Tsvetkova and Elena Alina Ontanu in December 2021, p. 62-64, as part of the "Promoting cyberjustice in Spain through change management" Co-operation Project, SRSS/S2019/033. The report also offers a detailed overview of national initiatives and projects on deploying artificial intelligence tools.

Chapter 6. Complexity Constraints

by Elena Alina Onţanu

The combination of political, organisational, and technical factors in cyberjustice projects may be particularly complex at times.[147] Further, research carried out has also underlined the importance of considering the complex impact digitisation of the judiciary and judicial services can have on fundamental judicial values such as accessibility, legitimacy, legality, and economy of judicial systems.[148] Projects looking to develop full online proceedings where the aim is to translate all the complexity of the paper-based procedures into digital ones have proved to be particularly challenging in terms of piloting stages and mounting costs that may eventually result in a halt of implementation.[149] This was the case in the **Netherlands** that led to the rolling back of the Quality and Innovation – KEI Project in 2018.[150] Such situations should be avoided as much as possible. To understand the complexity of the interaction between technology and justice reforms aiming at digitisation, it is essential to first have a clear understanding of the characteristics of the technology used or intended to be used for the project and the impact this will have on the justice services and intended reforms.

Cyberjustice projects generally have to deal with elements of complexity at different stages and the complexities that are not properly addressed at design and development stage can create serious setbacks and delays at the implementation stage. This appears to have been the situation in **Spain** with the synchronised introduction of both the Judicial Office Project and the related Digital Justice tools.[151] At projects' design stage complexity constraints usually have to do with the functional requirements. These identified functional requirements have to be rationalised and simplified at the development stage to reduce the variety and number of requirements that need to be observed and with which the system needs to work in a coherent manner. At this stage, the collaboration of

[147] Rekenkamer A. Algemene Rekenkamer, 2007. Lessen uit ICT-projecten bij de overheid. Deel A. (General Accounting Chamber, Lessons from government ICT-projects. Part A). Den Haag, p. 15-22 (available at https://www.rekenkamer.nl/publicaties/rapporten/2007/11/29/lessen-uit-ict-projecten-bij-de-overheid).

[148] Cordella, A., Contini, F. (2020). *Digital Technologies for Better Justice: A toolkit for Action*, p. 1. Inter-American Development Bank/World Bank, Washington D.C.

[149] Velicogna, M. CEPEJ (2007), Use of Information and Communication Technologies (ICT) in European Judicial Systems. European Commission for the Efficiency of Justice. CEPEJ Studies no. 7, p. 48 (available at https://rm.coe.int/european-commission-for-the-efficiency-of-justice-cepej-use-of-informa/1680788281). Reiling, D. (2009). Technology for Justice. How Information Technology Can Support Judicial Reform, p. 60. Leiden University Press.

[150] https://www.rechtspraak.nl/SiteCollectionDocuments/2018-brief-reset-digitalisering.pdf

[151] 'Driving cyberjustice reforms in Spain through change management' Report, developed by CEPEJ experts in 2020, p. 17.

all stakeholders or as many of the different categories concerned is desirable as for example the judge or clerk who has to use a certain form or system may find the format, requirements or tasks suggested by the form or the system not in line or coherent or perceived as being coherent with what the actual requirements set by the legislative framework are.[152] This reaction from the professionals involved or concerned by the cyberjustice project implementation may at times be considered as resistance to change, but this can potentially be related to the perceived difference between what the new system proposes and the perceived legal or procedural requirements that have been previously applicable or are expected to be applied in parallel should a gradual implementation strategy be followed.[153]

The way the cyberjustice project to be implemented is managed can be a factor of complexity constraints.[154] Changes in project governance during its implementation together with a complex organisation and management that are not appropriate for steering and controlling the project may affect the project's success and lead to tensions in relation to the solution chosen by the various managers (e.g., systems that opt for maximum control of integrity of information management and systems that allow developing different work flows and support experimenting with practices).[155] The approach is also problematic when the different managers involved want to continue to keep their own working methods rather than agree on a uniform approach.[156] This resistance leads to too many exceptions being built in the system that results in an unacceptable complexity that cannot be extended to other courts or judicial authorities (e.g. the Unified Judiciary Information System – REIS, in the **Netherlands**).[157] These circumstances add to the complexity constraints that cyberjustice projects have to consider since their design and development, and which have to be worked up within the implementation.

Technology should not be considered only as a tool in cyberjustice projects. It has to be well understood that technology comes with its unique regulative and configurative properties that impact judicial systems in a variety of ways.[158] Cyberjustice projects do not occur in an institutional

[152] Cordella, A., Contini, F. (2020). *Digital Technologies for Better Justice: A toolkit for Action*, p. 28. Inter-American Development Bank/World Bank, Washington D.C. See also the 'Ecosystem Approach' and 'Collaborative Stakeholder Involvement' Chapters.

[153] See here also the 'Importance of Change Management in Cyberjustice Projects' and 'Ecosystem Approach' Chapters.

[154] See examples of good governance in the 'Governance and Strategic Matters' Chapter.

[155] This has been the case with the Dutch KEI system and its development and implementation with tensions between the civil and criminal side of the project. See Reiling, D. (2009). Technology for Justice. How Information Technology Can Support Judicial Reform, p. 64. Leiden University Press. See also the 'Driving cyberjustice reforms in Spain through change management' Report, developed by CEPEJ experts in 2020, p. 62.

[156] Such situations may be also related to the different (or even opposing needs) organisations can have.

[157] 'Driving cyberjustice reforms in Spain through change management' Report, developed by CEPEJ experts in 2020, p. 62.

[158] Cordella, A., Contini, F. (2020). *Digital Technologies for Better Justice: A toolkit for Action*, p. 3-4. Inter-American Development Bank/World Bank, Washington D.C.

and technological vacuum. The unique institutional and e-government technological ecosystem of each country must be taken into account when cyberjustice reforms are planned, designed, and implemented.[159] The national e-government framework provides common technological standards, architecture, and functionalities that can be leveraged to reduce the complexity of cyberjustice developments and to increase compatibility and interoperability among systems and with other relevant e-government systems.[160] Technology used for various tasks can select and extract the sequences of operations to be performed in a specific legal, organisational, and institutional domain to achieve a certain outcome. In this, the use of ICT can reduce the specific legal, organisational, and institutional complexity by capturing the essential causal chains needed to produce an output. With this approach technology can contribute to a standardisation and disentanglement of judicial procedures, reducing the judges' autonomy in handling the proceeding. This can reduce complexity but may create tensions and resistance to the implementation of the new system that may be perceived as not in line with the familiar legal requirements.

Other complexity elements that will have to be dealt with by cyberjustice projects are related to data management and/or data access.[161] The extent of the complexity related to data access and management is influenced also by the characteristics of the cyberjustice project implemented, and how much data needs to be converted from the old system used and whether this can be integrated in the new one.[162] Often such projects require for their implementation a reconfiguration or redesign of core judicial processes to achieve improvements in productivity, time cycles and quality. This is because the digitisation is not and should not be intended as a mere replication of the initial paper-based system. Furthermore, designing the future cyberjustice projects without incorporating the current constraints should be encouraged, but legal required checks and features are necessary and have to be reintroduced for ensuring the legality of the proceedings. Where prior system architecture has to be integrated, its constraints have to be embedded in the new project design in such a way to allow continuous service delivery during future architecture updates.[163]

If the cyberjustice project includes automated operations such as automated case assignment, summons, case tracking, case relationship management, scheduling, reporting, and features minimising workload efforts such as introducing templates with variable content, pre-filled data, notifications on contradictory citations of the law, these should not be seen as complementary

[159] See also the 'Governance and Strategic Matters' Chapter.

[160] Cordella, A., Contini, F. (2020). *Digital Technologies for Better Justice: A toolkit for Action*, p. 3-4. Inter-American Development Bank/World Bank, Washington D.C.

[161] See further on this "Analytical Overview of the State of Play in Electronic Court Filing (e-Filing)" Report, prepared by Giulio Borsari, Alexandra Tsvetkova and Harold Epineuse for CEPEJ-GT-CYBERJUST Working Group, CEPEJ-GT-CYBERJUST(2021)4, p. 12-13.

[162] USAID (2019). Practical Guidance for DRG Officers on Designing and Implementing Court Automation Projects, p. 13.

[163] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Item 38.

measures but embedded in the design of the cyberjustice project. Technology constrains the causal chain connecting selected organisational activities, processes, and operations in predefined, stable, and standardised patterns. These processes are the essential characteristics of functional simplification and closure.[164] As information technology standardises a sequence of operations, it attempts to disentangle and disambiguate the operations from the specific legal, organisational, and institutional domains to which they belong. An autonomous judicial culture, in which judges' chambers deal with judicial procedures in heterogeneous ways, multiplies the entanglements and makes it extremely difficult to simplify the developments cyberjustice projects require.

Overall, the following clusters of complexity can pose a risk to cyberjustice project implementation:

- political complexity leading to additional requirements and political deadlines;
- organisational complexity linked to the goals of the project;
- complex cooperation between parts of the information chain, stakeholders, insufficiency of the chain's governance, broad and diverse variation in use of data, and bulkiness of business process;
- technical complexity related to development and implementation.[165]

In order to reduce complexity as much as possible the Rekenkamer's (Dutch General Accounting Chamber) advised project developers to start small and move forward in small steps.[166] In dealing with organisational complexity, this can be reduced by 'limiting the number of organisations involved, or by choosing an approach with pilots'.[167] For technology components, whenever possible opting for available standard software will reduce technical complexity related to its design, development, testing, and implementation.[168]

A good practice in this regard is the example of the Money Claim On Line (MCOL) in **England** (United Kingdom). MCOL managed to reduce complexity by choosing a simple procedure, a dedicated court, and by moving forward in small steps. The MCOL chose to automate a single claim - money claims - in a simple procedure. Civil procedure rules in England are less formal than in other countries and

[164] Functional simplification is the process by which information technology structures the problem into sequences of operations that must be performed sequentially to solve it. Functional simplification outlines the sequence of operations that information technology structures, performs, and standardises.

[165] See on this Rekenkamer A. Algemene Rekenkamer, 2007. Lessen uit ICT-projecten bij de overheid. Deel A. (General Accounting Chamber, Lessons from government ICT-projects. Part A). Den Haag, p. 15-22 (available at https://www.rekenkamer.nl/publicaties/rapporten/2007/11/29/lessen-uit-ict-projecten-bij-de-overheid).

[166] Ibid. On the limitation of pilot projects in practice, see the 'Results-Based Project Management' Chapter.

[167] Reiling, D. (2009). Technology for Justice. How Information Technology Can Support Judicial Reform, p. 75. Leiden University Press.

[168] On the perils of using standard software and the considerations to be made in this regard, see the 'Results-based Project Management' Chapter.

this helped reduce complexity. There is no need of bailiff to institute proceedings, nor of formal summons, a form filed with the court is sufficient. In terms of simplifying organisational complexity a dedicated court was set up rather than relying on the competence of all the national courts. The project moved forward in small steps and the development spanned over many years and concerned several distinct stages, namely: receiving claims without resulting in a complete automated processing by the court, processing undefended claims without human intervention, and supporting defence.[169] Another similar experience is the AIPA Project in **Finland** for which the large scale IT system was gradually brought into use and developers sought to keep the system simple and to avoid unnecessary complexity.[170] The Justitia 4.0 Project in **Switzerland** also followed an incremental approach for the team while keeping it manageable (i.e. project team consists of eleven people). The team was expanded because of the need to deal with complexity and increased workload of the project. It now includes specialists in the technical field, change management, and project support.[171]

In practice, there are very limited good examples of projects that have managed to appropriately address the complexity constraints cyberjustice projects pose. Failures such as the KEI Project in the Netherlands show that complexity remains critically underestimated in cyberjustice projects not only at the level of the development of the project, but even more so in its implementation phase.

[169] Reiling, D. (2009). Technology for Justice. How Information Technology Can Support Judicial Reform, p. 77, 127-130. Leiden University Press.

[170] See more detailed information on this good practice in the 'Importance of Change Management in Cyberjustice Projects' Chapter.

[171] See also details about the project in the 'Importance of Change Management in Cyberjustice Projects' and 'Collaborative Stakeholders Involvement' Chapters.

Chapter 7. Collaborative Stakeholder Involvement

by Alexandra Tsvetkova

Digital transformation creates expectations for better and faster results, more responsive, targeted, and effective services. In judiciary, the latter refers to – among others – access to legal information, legal assistance, dispute resolution, better enforcement. This requires new thinking towards system design and data management, digitally enhanced or remote ways of working, prioritising the needs of internal and external users in this context, and service delivery frameworks as much within the justice sector as in other policy areas. Whatever the change, fundamental legal principles on which judicial proceedings are based are to be preserved all the same. Also, inherited systems are typically slow to change, based on complex practices, processes and procedures and outdated legacy IT systems, which in many cases contributed to inefficient services, unnecessary duplication and increased margins of error, poor use of resources, and low user satisfaction.

In this context, cyberjustice projects are usually developed to resolve deficiencies in existing environments or systems. However, properly resourced transformation of processes and/or tools development require less time than affecting users' behaviour, habits, and way of thinking towards these changes. That is why, one of the benefits of having a change management strategy in place is to establish an effective communication towards the users to tackle their expectations, answer questions and familiarise them with the new way of doing things, gradually phase out their existing practices or behaviour in certain situations, and support them in adapting to the change. For such a communication to take place, it is important to establish a deep understanding of all stakeholders involved with regards to their values, motivations, and needs in the first place. Therefore, their inclusive involvement at every stage of a cyberjustice project is praised as a highly beneficial practice.[172] User centricity allows the judiciary to take the needs and voices of all end users into account when designing, delivering, implementing, and evaluating digital solutions and services.[173]

In the broader prospect of a digital judicial ecosystem, collaborative stakeholder involvement refers to:

- extrapolating the vision set by policy makers into practical tools and services to be used by both professional and non-professional users[174];

[172] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Item I.17.

[173] Ibid, p. 5.

[174] The bottom-up approach is also popular in some jurisdictions; yet its applicability depends heavily on the governance framework and the change management approach in place. Examples are given both ways throughout the Handbook.

- enabling and supporting participation from non-judicial ecosystems' actors in creating and/or adopting more efficient features, or integration processes[175];
- designing the IT systems and processes for the ease and access of multiple ecosystem actors simultaneously, be they internal users (judges, prosecutors, and other judicial bodies' personnel involved in administering judicial proceedings) or external users (parties to the proceedings, be they citizens, private companies, public institutions, lawyers and/or legal practitioners, (expert) witnesses, and/or other actors involved in judicial procedures);
- designing judicial services that enable different parts of the justice delivery system to collaborate and provide seamless delivery of justice to citizens by reducing touchpoints.

Further, the ecosystem-based approach is an opportunity to create a multiplier effect for change with time. If a sharing environment is properly managed, it could support the more rapid development of future solutions and/or the conceptualisation of such solutions to stem from the ongoing communication flow. In any case, feedback loops need to be equally strengthened on strategy, project, and service levels.

When planning a cyberjustice project, at the very early stages of the (project) strategy development, relevant stakeholders must be mapped, informed, and engaged with submitting feedback for the (potential) improvement of the respective implementation action plan or a road map. Such co-optation guarantees the involvement of stakeholders along the way and provides an opportunity for more collaborative, participatory, and transparent delivery of results later on.[176] However, it should also be noted that a cyberjustice project often requires the collaboration of various (non-)judicial organisations, while – in most cases – these institutions are independent, and have different interests, structures, and priorities. Thus, simply identifying the stakeholders for a particular project is not sufficient; it should be accompanied with an assessment of their interdependencies, related costs, and benefits, to better determine the project's feasibility and identify associated risks.

When professional communities are not involved in the design of new systems and tools, strong resistance is often seen during implementation, which delays all reformative processes. Therefore, stakeholders should be allowed to actively participate in the improvement of judicial procedures or administration of justice, which entails a collaborative bottom-up approach and extensive stakeholder engagement (considering both internal and external user groups) in the stage of defining applicable system requirements and implementing measures.[177]

[175] This mainly refers to involving public authorities with regards to aligning digital strategies, exchanging data with non-judicial systems, or reusing government building blocks. However, it could also cover other measures, as applicable to the specific context of the initiative in question.

[176] Ibid, Item I.18.

[177] Ibid, Item I.17.

Internal users' collaboration could be achieved by (i) setting up focus groups or experimental laboratories engaging key users to support the initial design and development of a digitally enhanced procedure or service, work environment, IT system, or a particular innovative feature; (ii) establishing permanent or initiative-oriented working groups to deal with organisational measures, solving practical or legal issues, and/or to take part in tools and systems' development, testing, and deployment stages, providing feedback on different features and/or functionalities prior to their adoption, etc.; (iii) pairing experts in multidisciplinary teams to work together on the transformation programme or in a single project ensuring all-round view towards the outcomes; (iv) surveys among users to quantify and then address possible issues over periods of time; (v) mutual learning and knowledge exchange practices among peers; and so on.

Judiciaries have clearly understood the importance of involving magistrates and judicial staff in designing the judicial systems, as there are a number of good practices across Europe. As mentioned before, all judicial professions – among others – were engaged in the implementation of the **Austrian** "Justiz 3.0" Initiative and the development of all new solutions by forming working groups on technical and organisational matters with a timeboxed approval approach.[178] In **Portugal**, fourteen working groups were created to support the defining of the courts' information systems' basic concepts and requirements. Several of these groups continued working onto their implementation within pilot projects, testing concepts in real environments before broadening them and rolling them out on a wider scale.[179] Similar approach was employed in the design of the national judicial systems in **Norway** by setting up the so-called "lighthouse", an experimental laboratory engaging key users (magistrates, court officials, etc.) to support the initial design and development of the IT solutions. Special efforts were put on communicating the benefits of using the applications and the possibilities for automating burdensome tasks, especially when introducing more complex systems or digitalisation processes.[180]

Given the diversity of the judicial system in **Switzerland**, with each canton (federal state) having sole responsibility for the organisation of the judiciary, it was also essential to closely involve representatives of the cantonal and federal judicial authorities in their Justitia 4.0 Project.[181] This was again achieved through expert groups[182] of more than 150 users and judicial professionals directly involved in the Justitia 4.0 Project.

Slovenia, among other states, goes a step further. Judiciary appoints seconded magistrates as co-managers to each new project, while engaging acting judicial officials and magistrates in the project

[178] The project is presented in more detail in the 'Results-based Project Management' Chapter.

[179] "Analytical Overview of the State of Play in Electronic Court Filing (e-Filing)" Report, prepared by Giulio Borsari, Alexandra Tsvetkova and Harold Epineuse for CEPEJ-GT-CYBERJUST Working Group, CEPEJ-GT-CYBERJUST(2021)4, p. 7.

[180] Ibid, p. 6.

[181] The project is presented in more detail in the 'Results-based Project Management' Chapter.

[182] Including but not limited to judges, prosecutors, and judicial staff.

steering committees and expert groups. On one hand, this is a rather challenging approach, as it is estimated that at least six months are needed for a magistrate to get familiar with ongoing business flow and project management techniques; thus, often such mandates or personnel turnover become an issue. On the other hand, involving a judge from the beginning to the end is a key success factor for Slovenia so far.[183] This was another lesson learnt from **Finland** as well. Magistrates were included in the project management function in the Finnish AIPA Project. The project office is led by a judge and includes judges, prosecutors, and secretaries working full time for the project. End users act as product owners, and each product owner has a team of five to ten IT specialists at their disposal to apply decisions on the functions of the system being built on a daily basis.[184]

Some good practices also come from **Spain** when looking into the Murcia region, for example. In 2008, supervisors from the Murcia Regional Court identified a group of proactive users (court officers and administrative court staff[185]) to be trained on specific change management skills and organised into a regional network of 25 local contact points. Their main functions referred to promoting better and more efficient use of information technologies among their peers, cooperating with supervisors on the user-friendliness of the IT tools, identifying good practices on a particular topic, etc. This experience represented an extraordinary example of participation and engagement at the time. Their first results[186] were published and recognised by the Spanish Ministry of Justice with the Good Practices Award 2011.[187] In 2022, the network was renewed with new members and broader functions.

Another example from the same region relates to judicial auctions. In 2005, it was required to reduce collusive practices when implementing judicial auctions derived from enforcement processes. Facilitating the participation of bidders from any point without displacements was also needed. Against this background, and as an example of a bottom-up process, a Civil Court[188] in Murcia identified and tested an imaginative solution facilitating the auctions through electronic means. The idea was presented before the supervisors and the Spanish Ministry of Justice put in place a focus group, which – at the end – developed the design for a web application allowing secure electronic auctions. This pilot project[189] was awarded second prize at Crystal Scales of Justice

[183] "Analytical Overview of the State of Play in Electronic Court Filing (e-Filing)" Report, prepared by Giulio Borsari, Alexandra Tsvetkova and Harold Epineuse for CEPEJ-GT-CYBERJUST Working Group, CEPEJ-GT-CYBERJUST(2021)4, p. 7.

[184] The example is presented in more detail in the 'Results-based Project Management' Chapter.

[185] They form the so-called REDINJU Network (*Red de Información Judicial).*

[186] Outcomes of the regional network's work are available at https://www.poderjudicial.es/cgpj/es/Poder-Judicial/Tribunales-Superiores-de-Justicia/TSJ-Region-de-Murcia/Actividad-del-TSJ-Region-de-Murcia/Cursos-de-formacion/Red-de-Informacion-Judicial-REDINJU--Rutas-de-Modernizacion-Judicial---Memoria-de-trabajo-2009-.

[187] https://www.boe.es/diario_boe/txt.php?id=BOE-A-2011-15682

[188] Juzgado de Primera Instancia 11 of Murcia.

[189] Information on the "Enforcement of judgments without borders: the experience on electronic auctions" Project is available https://rm.coe.int/consejo-general-del-poder-judicial/168078b2ae.

2006.[190] The experience was subsequently extended to the entire country and today is a standing practice in Spain.[191] This example shows that exploring good practices in the change management domain should not be limited solely to a specific type of system or tool; a variety of methods and techniques could support a change, if delivered by the right people in the right moment of time.

Continuous involvement of end users, especially representatives of the legal professions, is also considered a key success factor in deploying IT systems facilitating a digital channel that enables the interaction and exchange of data and e-documents between courts and court users. The "ambassador approach" (guiding notable end-user communities' representatives to identify shared interests, values, or experiences with members of their communities and promote a project) is considered hugely salutary especially in the early piloting stages, when an e-filing system, for example, still experiences various problems.[192] This approach was used in **Norway** with a high success rate.[193] In **Portugal**, a single group with representatives of all legal professions was set up (following similar methodology as the one used for designing the internal judicial systems) to define the exact functionalities and how they are to be implemented towards a single portal for all legal representatives; experts in user experience and design were also part of the process, working along the legal professionals.[194]

Extending such consultations to third parties closely linked to the work within the judicial transformation processes are also quite important. In the example of **Switzerland**, the judiciary consults not only representatives of the judicial and legal professions. The expert groups also include communication officers from judicial authorities, representatives of the cantonal justice departments responsible for adapting cantonal legislation for the introduction of electronic communication in administrative disputes with cantonal authorities, experts responsible for change management in cantonal and federal judicial authorities (courts and public prosecutors' offices), IT managers from the judiciary, IT solution providers for lawyers.

Spain is currently implementing a new case management system for civil registers, where a concerted strategy is being developed by project managers involving main stakeholders, local supervisors, and end users. A change management team has been set up having regular meetings by videoconference and fixing dates and strategies. As a result, outsourced IT experts with sufficient

[190] Information on the competition is available at https://www.coe.int/en/web/cepej/events/crystal-scales-of-justice-prize/2006. 'Crystal Scales of Justice' is a yearly competition organised by the Council of Europe and rewarding innovative judicial practices within European judicial institutions.

[191] https://sedejudicial.justicia.es/en/-/subastas-judiciales

[192] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Item I.21.

[193] "Analytical Overview of the State of Play in Electronic Court Filing (e-Filing)" Report, prepared by Giulio Borsari, Alexandra Tsvetkova and Harold Epineuse for CEPEJ-GT-CYBERJUST Working Group, CEPEJ-GT-CYBERJUST(2021)4, p. 6.

[194] Ibid., p. 7.

and tailored knowledge of the matter in question are going to be deployed on site to work jointly with judicial practitioners. Similar example for successful cooperation with third parties comes from the Murcia Superior Court where the outsourced company has deployed a number of IT experts working as on-site support consultants at provincial level ('*Operator In Situ*'). In 2019, to ensure better understanding and constant improvement to the dynamics of change, the Murcia Provincial Coordinator Registrar[195] started regular monthly video-meetings seeking for complementarity on managing new projects. This optimised the results achieved in terms of impact.

Other states seek feedback from common citizens and business representatives as well. In **Turkey**, for example, there is a support line accessible to all 24/7.[196]

No matter the stakeholders addressed in the examples given above, the feedback loops focus more on a qualitative participatory approach. However, a more structured approach through surveys could also be very useful long-term, especially if run on a regular basis. Methods of conducting surveys on justice at European level vary considerably (i.e., public opinion surveys, qualitative and quantitative surveys of sample groups of users, surveys to assess the satisfaction of actual users, etc.) just as the topics to be explored.[197] After the electronic file was first introduced in piloting courts in the State of Baden-Württemberg, **Germany**,[198] users were asked to participate in a survey. The questionnaire was developed in cooperation with judicial personnel, jointly with a local institute for user surveys engaged to oversee the survey from a scientific viewpoint. The external party was also tasked to execute the survey and its statistical analysis. It took the form of an online survey that consisted of a range of questions measuring acceptance with answers on a scale depicting approval or disapproval, as well as several open questions, where users could formulate their own answers. The detailed analysis of the survey led to the identification of possible improvements regarding training and overall implementation process (including software development and hardware-related measures). While the first survey in 2019 targeted roughly 800 users, the follow-up in 2021 addressed over 2700 users and had a much broader scope. To facilitate the comparison between the two surveys, the questionnaire remained mostly unaltered. The survey indicated improvements in several fields and identified possible changes for the future. Apart from the quantifiable fixed answers, the answers to the open questions, which were often very detailed and carefully drafted, gave valuable insights into the daily work with the electronic case file. To fully utilise the information gained by the survey, the findings and related recommendations for improvements were discussed in workshops with representatives of the very same judicial personnel participating in the study.

[195] https://www.boe.es/diario_boe/txt.php?id=BOE-A-2017-8000

[196] "Analytical Overview of the State of Play in Electronic Court Filing (e-Filing)" Report, prepared by Giulio Borsari, Alexandra Tsvetkova and Harold Epineuse for CEPEJ-GT-CYBERJUST Working Group, CEPEJ-GT-CYBERJUST(2021)4, p. 7.

[197] For further examples and guidelines, see European Commission for the Efficiency of Justice – CEPEJ (2016). *Handbook for conducting satisfaction surveys aimed at court users in Council of Europe member states, CEPEJ(2016)15*.

[198] The example is presented in more detail in the 'Results-based Project Management' Chapter.

The last example given with Germany shows how the methods described herein could be successfully implemented into a single recursive initiative to regularly obtain users' feedback and involve them in further actions under the umbrella either of a single cyberjustice project or as part of a wider national initiative.

Chapter 8. User Centricity

by Alexandra Tsvetkova

User-centric way of judicial services' delivery should put the user first and at the core of the judicial or administrative process to provide a positive experience and build long-term relationships. This requires not only to anticipate users' needs but also to create policies, processes, services, and – in a broader sense – a culture, that are designed to support them with a great experience along their interactions with the technology in place.[199]

To properly address the issue of user centricity in judicial context, one must look at the matter in several dimensions. While collaborative stakeholder involvement mainly provides for value creation, enhanced experience for users deals with the aspects of value delivery. Thus, in the context of the present chapter, services delivered through a range of channels that are most appropriate for any interaction, providing an easy to navigate, high-quality service and user experience, shall be discussed.

Creating inclusive services involves an understanding of user diversity and the wide range of their perspectives.[200] Multi-stakeholder consultations when discussing features and functions within a cyberjustice project should remove the barriers that create undue effort and separation in judicial processes' transformations; yet, they do not necessarily bring the best value-for-money results unless user experience is also addressed.

Accessibility is an attribute of inclusive design and refers to the levels of usefulness a service brings to the user, its ease of use (in terms of intuitiveness, functioning, and reliability), and – in general – creating a satisfactory experience.[201] Experts in user experience and design should be part of any cyberjustice project from the design phase, working closely together with stakeholders, to ensure optimum results, as already seen from **Portugal**[202].

There are a few good practices and standards that deal with the delivery of user centricity from a technical point of view. However, user-centric design should not be understood as a technical matter only, but it spans across disciplines to deliver most value for the time and resources spent. It needs to 'map' users' journeys and to foster empathy for their entire experience throughout the digital judicial ecosystem of tools and systems. Also, today's user experience has to be multimodal

[199] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Item II.42.

[200] Ibid, Item II.43.

[201] Ibid, Item II.44.

[202] The example is presented in more detail in the 'Collaborative Stakeholder Involvement' Chapter.

– a service can no longer settle for being accessible through a single medium, it must multiply them while ensuring continuity and consistency across experiences.

"Digital by default" is a common principle adopted with the evolution of the cyberjustice projects and the increased levels of integration and digitalisation. This term refers to providing judicial services by digital means as a preferred option. It also means that the digital services are so straightforward and convenient that all 'those who can use them will choose to do so whilst those who cannot or are not willing to are not excluded'.[203] However, when embedding this principle, one must also consider the existing culture (i.e., values, traditions, beliefs, interactions, behaviours, and attitudes, alongside existing workflows, working habits, etc.), overall readiness towards the adoption of digital tools, and digital skills' levels, to provide a realistic starting point towards a more gradual change. When digital skills are questioned, both the levels of judicial and legal professionals and those of the citizens and businesses need to be evaluated, especially when referred to within a single project, as they might be quite different.

If delivering judicial services digitally is adopted as a preferred option by judiciary, all other lawful channels for communication and exchange of documents shall remain open for 'those who are disconnected by choice or necessity or with respect to certain types of cases/procedures',[204] thus applying a non-discriminatory approach at every stage of the digitalised judicial proceedings or practices in the administration of justice is a must. Special attention should be placed on tools that enable interactions, online access to proceedings and submission of applications online to vulnerable groups or disabled people.[205] For example, to enable communication with the Ministry of Justice via text message in real time for people with hearing and speech disabilities, **Spain** launched the application "Texmee".[206]

There should be no restrictions towards the usage of a specific device either. When the solution addresses the need of external users (citizens, private companies, lawyers and/or legal practitioners and/or other non-judicial actors involved in judicial procedures), it should be available to them without any additional software installation requirements.

Users also expect easy and fast access to (real-time) information when it comes to data stored in judicial databases and document/case management systems. Delivering on quick response times when displaying search results, viewing detailed data, opening a document, etc. has also become a must for any IT architecture.

[203] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, p. 4

[204] Ibid, Item II.64

[205] For strategies, standards, and resources to make web applications accessible to people with disabilities, the W3C Web Accessibility Initiative (WAI), https://www.w3.org/wai/, is a primary reference.

[206] OECD (2019), Equal Access to Justice for Inclusive Growth: Putting People at the Centre, OECD Publishing, Paris.

User interfaces of all judicial systems, websites and portals should apply responsive web design[207] to guarantee the information needed by the users will appear on their screens without loss of context or functionality, no matter the size of the screen. Therefore, the adoption of a mobile-first approach[208] should be encouraged as it leads to content that is more focused towards the user, applies plain and clear language, and eliminates redundancies in both texts and actions.

Legal design[209] could be further applied with great success. It applies design thinking[210] by combining, on one hand, experience in the legal field with an approach that comes from the design profession, and on the other – graphical representation and good visual composition, plain language and interactiveness via technology. The overall need for legal design stems from a problem of how to make laws and regulations easily understandable to people to enable them to better protect their interests.

As mentioned, all judicial tools shall apply clear, easily understandable, and lay-persons-adapted language. Non-professional users are more likely to trust the judiciary if they understand how the judiciary functions in both general and individual proceedings. Information must be provided in a simple, accurate, and user-friendly way. Considering the complexity of the legal language, overly formal legal language should be avoided, yet it should not be oversimplified either. Further, many states make legal information available in a number of languages or in a range of accessible formats, including audio or video formats, or via telephone lines.

One-stop-shop principle is often adopted providing a single platform for delivery of services by the judiciary via electronic means. The number and complexity of the judicial services should be carefully addressed in such cases. On one hand, clear, simple, and cohesive design should be accompanied with access to certain (basic) information about the proceedings and services. Where possible, content personalisation[211] and dashboards should be implemented to provide more

[207] Responsive web design responds to the needs of the users and the devices they are using, and the layout changes based on the size and capabilities of the device.

[208] Mobile-first approach is a strategy based on responsive design: the interface is designed for the smallest device possible and then scaled upwards to automatically adapt to larger devices and desktop computers. It organically leads to a design that is more content-focused, and therefore user-focused. See also European Commission for the Efficiency of Justice – CEPEJ (2021). *Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, p. 4*

[209] Legal design can be defined as a methodology that allows to prioritise legal information and make it more accessible through a visual reading grid. Legal design does not replace legal texts but facilitates their reading and highlights the important points, including via visual techniques (colours, tones, graphics, infographics, videos, storytelling approaches and processes, etc.) and/or interactivity to bring different degrees of reading or classifying information. Where needed, the user could also be redirected to the full (legal) text using interactive tools.

[210] Design thinking conceptualises a set of cognitive, strategic, and practical processes by which design concepts (proposals for products, buildings, machines, communications, etc.) are developed. See also Visser, W. (2006). *The cognitive artefacts of designing,* Lawrence Erlbaum Associates.

[211] Content personalisation in this context could refer to using user data to deliver information and notifications based on the user's role in the proceedings, their needs, behaviour, or maturity of the user within the proceedings.

focused interaction with (or within) the judicial institutions. However, users' digital gaps should always be evaluated upfront, and functionality is to be adapted to the expected users' command of digital services and interactions. Measures to assist users in their electronic interaction with the judiciary should be implemented as well (i.e., user's guides, notifications, pop-up windows, just-in-time messages, references, chatbots, etc.). In all measures applied, the main goal should be to promote agile, transparent, citizen-friendly justice, simplifying processes and procedures, thus, to achieve greater efficiency, monitor results and respond more effectively to what the users of the justice system need.

On the other hand, judicial tools should also serve the needs of the users by providing the highest level of flexibility towards both facilitating the drafting and reading of e-documents and limiting users' administrative burdens. Support for users via system design could be also extended to performing semi- or fully automated operations with regards to metadata and data validations, notifications, scheduling, etc. Where applicable for internal users, the judicial systems should provide for personalise templates for documents created in the various steps of judicial proceedings (e.g., decisions, communications, minutes of hearings, etc.), perform inconsistency checks, validate legal references, automatically recognise the latter towards creating logical links, etc. to allow the judicial professionals to focus on the key aspects of their work rather than administering minor tasks. In **Portugal**, for example, templates are also used in communications with citizens and companies to facilitate the understanding of the communicated information and finding of information in a quick and effortless way. With time, these templates have been simplified in terms of both language and terminology, and communications are now characterised mainly by a clearer language, a more readable text, and an added logical textual organisation, that easily allows the identification of various types of (as relevant as possible) information. At the same time, simplification does not mean losing the accuracy of technical legal concepts. Most recently, the functionality of editing these templates has been "blocked" to ensure greater reliability of the communication means.[212]

Some states also pay attention to involving users in the design of the workplace to make them feel comfortable, as already presented for **Finland** and **Germany**.[213] The **Portuguese** 'Tribunal +' Project delivered transformations and changes in the nature of court staff operations, leveraging on technology and rationalisation at both front and back ends, with impact on judges, prosecutors, clerks, lawyers, users and other stakeholders in a single set of measures.[214] In **France**, a new type of courthouse front desk – 'Service d'accueil unique du justiciable' (SAUJ), was introduced to better

[212] "Analytical Overview of the State of Play in Electronic Court Filing (e-Filing)" Report, prepared by Giulio Borsari, Alexandra Tsvetkova and Harold Epineuse for CEPEJ-GT-CYBERJUST Working Group, CEPEJ-GT-CYBERJUST(2021)4, p. 8

[213] The projects are presented in more detail in the 'Importance of Change Management in Cyberjustice Projects' Chapter.

[214] OECD (2020), Justice Transformation in Portugal: Building on Successes and Challenges, OECD Publishing, Paris.

meet people's needs, namely to provide all citizens with the same quality of general legal and justice information and personal information about the events in each proceeding, and to simplify the access of legal proceedings. The French justice website, Portalis, serves a complementary function to the SAUJ, allowing individual parties to access information about their cases online.[215]

Considering the various social and working environments across states, jurisdictional differences, technology adoption levels and practices-vs-needs assessments, it is hard to explicitly point out what works for a certain cyberjustice project within a user-centric context. Thus, a cyberjustice project could focus part of the efforts towards refining different criteria on the basis of robust evidence and their possible translation into indicators and tools to support accessibility and the design of people-centricity of justice services. Based on studies from the psychology and behavioural economics domains, people-centred tools could include methodologies for integrating behavioural insights and community-based approaches to, for example, develop tailored solutions for vulnerable groups or better analyse how to strengthen legal capability and literacy as a prevention or an empowerment measure. In any way, user-centric approaches could be further refined through focused comparative and national case studies of what works for which user group and how best to respond to these needs. However, what is important for one to remember is that user-centred design is an iterative process and a mixture of investigative methods and tools (e.g., surveys and interviews) and generative ones (e.g., brainstorming) should be used to develop an understanding of user needs.

[215] OECD (2019), Equal Access to Justice for Inclusive Growth: Putting People at the Centre, OECD Publishing, Paris.

Chapter 9. Effective Communication

by Alexandra Tsvetkova

The implementation of a cyberjustice project requires effective supplementing communication to engage stakeholders in advocacy measures and keep target groups informed on the evolution of technology, how it affects their professional day-to-day activities, and how they could benefit from this change long-term. Any such communication framework shall bring on board the broad range of stakeholders and define and map the appropriate approaches, tools and activities that would allow reaching these stakeholders to make the project findings, progress, and outputs usable and accessible to them. It should be pointed out, though, that a project-based communication is not only framed by the project as such but needs to be further aligned with the overall ecosystem approach envisaged by the judiciary.

The implementation of a communication strategy typically combines awareness activities, face-to-face and group interactions, engaging stakeholders in progress discussions, publications and knowledge sharing, distribution of key messages embedding specific details on the tools developed within a project with/to the relevant user groups via recognised multipliers, etc. However, how these activities are delivered within a specific project is a matter of a tailored approach (even if just small adjustments are introduced) as each cyberjustice project is implemented in a different judicial and social context. Yet, whatever the approach is, several key principles need to be followed.

Communication processes must be clear and known to all parties affected by the project. This refers not only to who is in charge of the communication process in general, but also what is the overall communication strategy, what are the key messages to be delivered and in what timeframe, and what are the tools and channels to be used. It is not only the responsibility of one or more dedicated communication professionals to implement these processes, but it is up to each member of the project team – guided by the professionals in charge – to convey key messages to the project audience. The best ambassadors of the project concepts are the people working on the project, not the tools used or delivered. Yet, this applies to both project team and stakeholders involved in the project design and implementation.[216]

Stakeholders vary, they are heterogeneous, with different levels of power or interest in a project's outputs.[217] Although clear differences between the stakeholder categories could be identified, some stakeholder interests overlap as they are in relationship with one another. One must speak a

[216] Explicit examples of this concept were provided in the 'Collaborative Stakeholder Involvement' Chapter.

[217] Wright, G., Cairns, G. (2011). *Scenario Thinking: Practical Approaches to the Future*. Palgrave MacMillan, Houndmills, Basingstoke, Hampshire, p. 92.

language that the audience understands, addressing the very same issues they are facing. In that sense, communication needs of citizens and businesses are in general different from those of judicial or legal professionals, as they require simplified communications with respect to language, terminology, and visualisation to call for action. However, just 'knowing' about the project's audiences' needs in theory is not enough. What is essential to the communication process is an understanding of the stakeholder's interest, motivations, and internal/external drivers to achieve effective dissemination and prioritisation of the information to be communicated.

Communication too often focuses on finding the right words though. Certainly, they are important to a great extent, but what is more important is the story the project is trying to tell. That is the most essential and should always be the starting point for every project communication.

The story-telling process should be shaped around the needs of the audiences affected by the project scope rather than around the scope of the activities as such. The dynamics of the change[218] should be considered as a characteristic of the people's attitude towards the outcomes of a cyberjustice project, as people are almost always reacting with some degree of discomfort to the transformation process. People typically express a variety of concerns with regards to information they are given about the new system or workflow; existing commitments and how the transformation would affect their routines; timing of the change; relevance and impact of the change; collaboration and support during transition periods; and so on. All these concerns need to be tackled when communicating the change.

Communication processes must be purposeful and timely. By checking the relevance and the timely manner of each message as well as its importance to the specific group addressed and the narrative of the respective profession, one should narrow the project story down to the essential points that are truly significant to that group. The effectiveness of the messages should be evaluated through the prism of expectations. Thus, it is important to create a realistic understanding of the project stages, its outputs and impact.

Communication with stakeholders must be open, and honest. It should underline inclusiveness, cooperation, and engagement, supplemented with adequate actionable measures. Due to the complexity of most cyberjustice projects, it is important for the audiences to understand the reasoning behind them, and the struggles they go through by putting a face next to each task, event, or report. 'Humanising' a project through the communication process is often key to its success.

Moreover, stakeholders are not just abstract audiences, they are humans first and then experts in their field or users of a service. Showing empathy to project stakeholders, especially to those that one interacts with in person, is of key importance. Caring, understanding, and giving back are of key importance but only if they are genuine and reflected by the overall efforts of the project team.

[218] https://www.sellingpower.com/2010/02/02/3745/the-seven-dynamics-of-change

Communication should be kept simple, focused, and realistic on the benefits of using the system developed and the possibilities for (semi-)automating burdensome tasks (especially in the context of complex systems or transformation processes). The KISS principle[219] states that most systems work best if they are kept simple rather than made complicated and that simplicity should be a key goal when designing such a system, while unnecessary complexity should be avoided. Keeping the messages simple and focused impacts on the overall understanding of the project and its outcomes and how they are accepted by the different user groups.

Further efforts to increase the take-up possibly through strengthening incentives would be beneficial to reach a cyberjustice project's full potential. However, many projects consider incentives too literally producing an unhealthy number of give-aways. While it is important to produce lasting visuals or products to positively inform, explain, or remind people of the project, main outcomes, expected benefits, etc., it is of most importance to engage them in action. Events, participatory activities, learning by doing exercises, gamification, etc. could be successfully applied to reshape users' attitudes towards the change, bringing them long-lasting experience, positive feelings of engagement and involvement, and a sense of community belonging.

When events are planned, they shall be organised around a problem or an idea instead of an agenda. Each participant shall have a predefined task to contribute to the overall purpose of the event itself.

All messages to stakeholders should be subject to flexibility and adaptability in accordance with the project's actual progress and any events along its implementation that may affect project activities. While the communication framework of the project shall always remain bound by its scope, it is important for the project team to understand the specific needs as they occur. Sometimes a project activity needs more time, more resources, or a change in its nature to produce the desired results or to adjust to a change in the environment, be it legislative, technological, or political. The 'stay flexible' rule applies also to the smaller building blocks of what makes an event successful or a single news readable by the target audience. Adapting the situation to the project's needs and finding the best solution for a problem is a crisis management skill each project should master in time.

The tension between people and technology that tends to appear in cyberjustice projects is well addressed in two lessons learnt from **Germany**. To tackle this, a sustainable acceptance management strategy was adopted by the states of Baden-Württemberg and Rhineland-Palatinate when implementing the eJustice Programme.[220] Benefits for the individual participants and the consequent advantages and disadvantages are to be worked out in advance for one to be able to either present them plausibly or refute them in the discussion with users. Some advantages and

[219] Dalzell, T. (1960). The Routledge Dictionary of Modern American Slang and Unconventional English. Based on U.S. Navy "Project KISS" of 1960, headed by Rear Admiral Paul D. Stroop. Chicago Daily Tribune, Chicago, p. 43. See also Partridge, E. et al. (2007). *The Concise New Partridge Dictionary of Slang*. Psychology Press, p. 384.

[220] The project is presented in more detail in the 'Importance of Change Management in Cyberjustice Projects' Chapter.

disadvantages are objectively measurable, others are based on subjective experience, whereby disadvantages are often based on very personal fears. Participation management is attributable to acceptance management, meaning people and institutions are to be (in-)directly involved in the project. As target groups of acceptance management, they are to be subjected to an analysis that should take into account their roles and responsibilities and possible expectations. Towards this, a corresponding sub-project on acceptance and change management involving representatives of all judicial offices and areas worked out how and in what form the judicial professionals can be involved. The practitioners' suggestions developed within the project were implemented by the Communication Office. Measures in which employees were directly involved were particularly beneficial, e.g., when employees had to know and try out their new workplace in a playful way and without pressure a few months before the change.

Follow-up experience comes from the State of Baden-Württemberg with regards to how communication strategy developed over time. The number of judicial professionals using the electronic case file has increased greatly over the course of the project; thus, it was not about a small, dedicated group, feeling responsible for the improvement of the electronic case file, anymore but about an ever-growing number of employees working with the new software on a daily basis. This led to a shift in the communication with users from providing information about updates and upcoming changes to delivering support in cases of problems and improvements to the existing software and hardware. Thus, evolving the communication strategy towards the right degree of detail and complexity was key to implementing that change. Users should have neither felt overwhelmed by expert language and technical details nor uninformed about important developments. This was especially true for circumstances in which users experienced problems with the electronic case file or electronic legal communication and, in a worst-case scenario, were temporarily unable to work. To address such situations and to ensure appreciative communication with users, the programme has worked towards improving communications with users via a number of measures, such as: organising dedicated workshops for employees working in positions of first-level IT support to strengthen their interpersonal and communication skills, especially in high-stress situations; analysing the communication structures within the programme and from the user to the programme and vice versa, as the adaptation of communication structures to the growing number of users was considered very challenging; etc. As a result, a different approach leading to organised communications was adopted in the place of the so-often personal one-off-communication from the earlier days of the Programme.

Similar shift in the communication strategy was implemented within the **Finnish** AIPA Project[221], where the dissemination activities were greatly supported by the culture of experimentation driven by the project and its network of change agents.

[221] The project is presented in more detail in the 'Importance of Change Management in Cyberjustice Projects' Chapter.

Changing environment was also well addressed in **Switzerland**. After the launch of the 'Justitia 4.0' Project[222] the project team organised a series of information days presenting the project and its progress to representatives of the judiciary and the executive branch, heads of judicial authorities, members of expert groups, and other interested professions. In 2021, the COVID-19 pandemic only made it possible to organise a hybrid event with about 100 people on site in Bern; yet another 600 people followed the event online. Being adaptable to the existing environment showed much bigger outreach for this event than it would have received if held solely on site.

Such hybrid forms of communication could also be very successful not only with regards to the communication framework within a project but also when the digital judicial ecosystem is concerned. One should not forget that communication efforts are to be invested not only with regards to primary and secondary project audiences but also when delivering on accountability and transparency to the public at large. **Portugal**[223], for example, not only publishes their very detailed and service-oriented action plan, indicating all projects' deadlines, resources, and responsible task managers, but also allows for a monthly follow-up monitoring of their implementation. This creates an over-the-top layer of transparency and openness towards their stakeholders. A local example from **Spain** can be given with regards to the operational plans on digitalisation published on a yearly basis. Each year, before designing and drafting their plan, the Murcia Superior Court of Justice[224] organises a regional public consultation among users and stakeholders. Once the year is over, the Court accounts for their actions by informing the public about results of their work. In addition, the results obtained or expected from the plan are annually audited by an independent entity.

[222] The project is presented in more detail in the 'Importance of Change Management in Cyberjustice Projects' Chapter.

[223] "Analytical Overview of the State of Play in Electronic Court Filing (e-Filing)" Report, prepared by Giulio Borsari, Alexandra Tsvetkova and Harold Epineuse for CEPEJ-GT-CYBERJUST Working Group, CEPEJ-GT-CYBERJUST(2021)4, p. 5.

[224] The 2022 plan is accessible at https://www.poderjudicial.es/cgpj/es/Poder-Judicial/Tribunales-Superiores-de-Justicia/TSJ-Region-de-Murcia/Actividad-del-TSJ-Region-de-Murcia/Otros-documentos/Otros-documentos-de-interes/Plan-Operativo-Anual-2022---TSJ-de-la-Region-de-Murcia

Chapter 10. Multi-level Support and Training

By Elena Alina Onţanu

In the implementation of cyberjustice projects, a crucial element that has to be achieved – given the costs and changes these projects usually involve – is related to reaching an adequate threshold of users' digital skills.[225] This is considered to be one of the biggest and most challenging aspects of a digitalisation strategy. This aspect should be carefully recognised as a starting point for the design of the cyberjustice project and has to be reflected in dedicated measures. Many court systems are relying on older employees who may not be at particular ease with new technology. In such situations, having training concerning basic computer skills for members of the court staff and judges has to be considered prior to rolling out more complex training related to cyberjustice developments.[226] This aspect may play an essential part in the successful implementation and use of the cyberjustice project.[227]

A cyberjustice project has to be built in consideration of the idea that no assistance should be needed for the user in relation to the functionalities of the system one is expected to use.[228] Nevertheless, a multi-level support, training, and technical assistance should be mandatory and provided on a daily basis in cyberjustice projects for internal and/or external users. Different approaches can be used for this purpose, namely: helpdesk services, (online) training, handguides, on-demand technical support and training. In addition to this, support by peers or shadow guidance could be encouraged in order to limit the need for dedicated training and further assistance, although these should always remain available.[229]

The presence of the skills and competencies needed to support the design, deployment, and use of the cyberjustice project is a prerequisite for its successful implementation. This has to be measured at the level of the organisations involved (e.g., court, professionals/professional organisation, ministry) and based on the nature and scope of the project. Skills and competencies should be intended as including both professional technological capabilities and general user capabilities. The former concerns the specific technology skills of the organisation or institution designing and

[225] See on this aspect also the 'Ecosystem Approach' Chapter.

[226] See also USAID (2019). Practical Guidance for DRG Officers on Designing and Implementing Court Automation Projects, p.19.

[227] See also European Commission for the Efficiency of Justice – CEPEJ (2016). Guidelines on how to drive change towards Cyberjustice, CEPEJ (2016)13, § 73.

[228] European Commission for the Efficiency of Justice – CEPEJ (2021). Guidelines on electronic court filing (e-filing) and digitalisation of courts, CEPEJ (2021) 15REV2, Item II.51.

[229] Ibid, Item II.52.

implementing the cyberjustice projects. The latter focuses on the competencies and skills of the judicial personnel using the system. The availability of skills and competencies can be measured by the number of technical personnel available in the organisation and their technical knowledge. The users' skills and competencies refer to individual users' acquaintance with digital technology in general and specific judicial systems in particular.[230]

Daily support, training, and technical assistance is considered by a number of countries as a good practice approach as revealed by the CEPEJ e-Filing Report. In **Austria,** the training is available online for professional users (not for citizens). Regarding piloting courts, the training is delivered by the same supplier that develops the digital system. New applications are built in such a way that no assistance is needed. A basic chatbot for support purposes has been developed and is to be further improved. In **Bulgaria,** the technical support is provided by the Supreme Judicial Council to all courts system administrators, while the latter are responsible for providing local support to magistrates and court officials. Technical support for the prosecutors' offices is more centralised and for lawyers or citizens this is provided only via email. In **Italy**, training is provided to internal users via e-learning. Onsite and on-the-job training is usually provided for cyberjustice projects during the start-up phases and concern specific needs. Technical assistance is provided onsite for internal users; however, helpdesk and remote assistance is expected to be soon available. In **Latvia**, the employees of the Court Administration provide multi-level support to the users. This is done by giving advice on system functionality, debugging and, if needed, system development. **Norway** strived to make all applications and digital services as user friendly as possible, using digital guidance and training together with shoulder-by-shoulder guidance by colleagues. Need for further support is minimised but ensured by both the courts and the central administration. **Slovenia** provides e-learning courses and underlines the importance to have judges (especially those involved in project implementation) overseeing and/or approving all e-learning materials and performing training(s) of their peers considering the first-hand experience of the former. The train-the-trainer strategy is designed around the concept of having advanced users (e.g., registrars), who provide support to other (peer) users (on site or via video materials). A helpdesk service is also offered to provide support on different procedures. In **Portugal,** a helpdesk service is available and soon it is expected that judges will be provided also with on-demand remote technical support. In **Turkey**, online training and a 24/7 call service are provided to judges, clerks, prosecutors, and lawyers. Additionally, if necessary, an operator can also connect remotely with the device of the user to provide further assistance.[231]

[230] Cordella, A., Contini, F. (2020). Digital Technologies for Better Justice: A toolkit for Action, p. 60-61. Inter-American Development Bank/World Bank, Washington D.C.

[231] "Analytical Overview of the State of Play in Electronic Court Filing (e-Filing)" Report, prepared by Giulio Borsari, Alexandra Tsvetkova and Harold Epineuse for CEPEJ-GT-CYBERJUST Working Group, CEPEJ-GT-CYBERJUST(2021)4, p. 8-9.

In certain instances, the importance of training and multi-level support can be recognised and planned as a step of the project implementation. This is the case in **Switzerland** within the Justitia 4.0 Project. As the implementation of mandatory electronic communication and mandatory electronic record keeping is planned for 2025, a concrete support to be provided to users is set to be defined at a certain point. The concrete user support, in particular with regard to processes and use of applications within the judicial authorities, is set to be provided by the cantonal and federal judicial authorities. This is the case also for the Digital Criminal Procedure Project in **France** where the need to develop (in future) both national 24/7 support and local support with a designated person within each court with regard to technical and functional skills is acknowledged.

As the acceptance of cyberjustice projects is dependent on the users' support, a comprehensive training and support arrangement is considered just as essential for the successful introduction of a project as is the integration of new content into the respective training courses. Based on the experience of the eJustice Programme in **Germany** (in the State of Rhineland-Palantinate), it should be taken into account that employees may be reluctant to reveal any existing deficits in dealing with technology. For this reason, it is recommended that considerations be given to offering low-threshold training with regard to general user skills, as early as possible into the stages of project implementation. Experience shows that training offers that are available at any time and without additional travel expenses (online training courses, training videos) are of great benefit. Professional IT support and application supervisors on site, who provide support to questions about the operation of the new software are also of particular importance for cyberjustice projects implementation. In addition, various materials and events could be developed to support users and their training such as flyers, intranet information, a blog, self-produced frequently asked questions videos, a newsletter published each quarter, and an experience day to try the new software and workspace equipment.

For the AIPA Project in **Finland**, every General Court and Prosecutor´s office has AIPA trainers. They also work as change agents for the project; thus, they plan and advance the digital working methods and train on the functions of the IT system in their offices. The project office is responsible for the planning of the implementation of the IT system and the timetable for the training. For this later part, the project office is also in charge of facilitating and organising the training, including for providing the tools and training for the trainers. It organises training and support via digital methods such as Skype or Teams meetings. A popular support method with end users has been the weekly "support clinics" via Skype meetings. During these meetings, the end users can ask questions about the use and functions of the IT system and receive support from the project personnel directly. If the IT system does not work properly or seems to have an error, the IT service office or various IT specialists are available for the end users. The national administrations are also involved in organising training that includes general IT skills needed for cyberjustice projects.

Other positive experiences in this regard have been indicated by **Spain**. The Spanish Ministry of Justice has deployed a wide range of initiatives related to training and support such as Field Support Trainers, On-site Support, Virtual Classroom (*Aula en Línea*),[232] and Desk Service & Call Centre (CAU). Further, the *NOJ Change Management Plan,* initiated in 2009 and implemented since 2010 in a number of regions, includes a component dedicated to training and users' motivation.[233] The DECIREG 2022 Project for a new Civil Registry case management system will rely on on-field outsourced technicians to support training and communication with legal practitioners.[234] In addition, the Justicia 2030 Programme in Spain aims to improve the training of certain legal professionals/operators.

[232] https://aulaenlinea.justicia.es/

[233] See more about this project in the 'Governance and Strategic Matters' Chapter.

[234] https://www.boe.es/buscar/act.php?id=BOE-A-2021-15391

Chapter 11. Sustainability and Long-Term Monitoring

by Elena Alina Onţanu

The monitoring of rolled out cyberjustice projects is an integral part of the implementation phase. Continuous evaluation of the projects also plays an important role in the long-term sustainability of the cyberjustice projects and in shaping national strategies in this area. This should concern as much as possible indicators related to the internal elements of the cyberjustice project, including institutional factors and costs related to its functioning, and compatibility with judicial values,[235] but also users' satisfaction be they internal or external users.

A continuous process of periodical evaluation helps monitoring the benefits of the projects and results achieved, but also keeps track of the weaknesses and the points that require further improvements and/or additional actions.[236] This type of information is not only relevant for the cyberjustice project concerned, but it can also be of particular use and importance for actions related to a gradual extension of the cyberjustice project to other authorities, courts, or public administrations than the ones initially involved in the project. Additionally, the monitoring results and the accumulated experience can contribute to the rollout and implementation of other cyberjustice projects that are part of the same national strategy or development plan. Often such projects represent first developments in their area of application and there are seldom any comparable national experiences that can provide prior knowledge and support in their rollout and implementation.

Through the evaluation and monitoring exercises as part of the implementation phase it will be possible to identify the factors that are capable and necessary to sustain the organisational changes required by the cyberjustice projects and the technological elements or developments that are compatible with judicial values and applicable legislation.

Good practices in this regard have been identified in Finland and Portugal. The AIPA Project in **Finland** has been putting users at the centre of the change and steps have been taken since an early stage to measure the usability of the IT solutions, their user-friendliness and receiving feedback from involved change agents as well as encouraging the sharing of good practices between participants. **Portugal** is also one of the countries that is putting in place a common framework to

[235] See on this Contini, F. and Mohr, R. (2008). *Judicial Evaluation. Traditions, Innovations and Proposals for Measuring the Quality of Court Performance*. Saarbrücken, Germany: VDM.

[236] On the usefulness of indicators to monitor performance see also the 'Results-based Project Management' Chapter.

monitor the progress and evaluate the implementation of all measures included in its Justiça + Próxima and Tribunal + projects. The assessment for Justiça + Próxima programme focuses mostly on measures leading to direct savings of operational costs (e.g., savings on the cost of post stamps) and human resources. For the Tribunal +, the monitored indicators concern the main categories of benefits identified as a result of the implementation of the project. For additional steps in the monitoring of the project and its performance it is considered important to integrate aspects that go beyond the organisational boundaries of the courts and look at the user satisfaction, trust in justice institutions and citizens' broader access to justice.[237]

In general, the monitoring and evaluation of users' experience with the implemented cyberjustice project and its features should be doubled by a better communication of reforms to stakeholders in order to maximise understanding and enhance familiarity with the introduced changes.[238] This contributes also to achieving and maintaining the critical number of users such projects require and need to rely on for their sustainability.

Further, a shared vision of justice transformation through cyberjustice projects along the possibility of bringing together or sharing resources (e.g., human, material and financial resources) can help avoid unnecessary costs and inefficiencies,[239] and contribute towards projects' sustainability by considering already developed solutions and their integrated use when relevant beyond the initial project. Being able to establish a management structure that would allow authorities working across different interested public institutions (e.g., courts/judiciary, Ministry of Justice, Council for the Judiciary, Finance Ministry, Government, etc.) to come together and share outcomes and know-how can facilitate a better understanding of project development. This can go beyond the authorities directly involved in the various stages of the project. Additionally, such exchanges related to a cyberjustice project functioning and management needs over time can contribute to improved actions towards achieving an effective and efficient running of the project and its long-term sustainability at optimum functioning parameters. The monitoring and evaluation data as well as the exchange of knowledge and experiences between authorities on already implemented projects will create valuable information that can be used in the future to compare results for various configurations of cyberjustice projects. Such outcomes can provide a better understanding of how different configurations are likely to perform and in which instances they may be the appropriate solution. This can provide a useful basis for future cyberjustice developments. New projects will be able to consider and choose particular configurations based on the organisational, technical and legislative needs related to what this aim to achieve.

[237] Justice Transformation in Portugal: Building on Successes and Challenges | OECD iLibrary (oecd-ilibrary.org); available at https://www.oecd-ilibrary.org/sites/184acf59-en/1/2/1/index.html?itemId=/content/publication/184acf59-en&_csp_=54b05e9f241772067d1094547836caad&itemIGO=oecd&itemContentType=book#section-d1e688

[238] See on this also the 'Effective Communication' Chapter.

[239] This will contribute to the long-term financial sustainability of the project and efficient use of resources.

The **English** experience with Her Majesty's Courts and Tribunal Services (HMCTS) revealed the need for project managers to consider certain objectives and elements of the project from a long-term perspective to achieve the sustainability of the cyberjustice project. These elements can regard the project design (e.g., features design not for the present moment in time but for the future – 'for 2050'[240]), putting people at the heart of the system, strengthening a strong, independent, and trusted justice heritage, and making sure its financing is secured over time. The importance of guaranteeing funding for the duration of the project and its continuation is singled out as a good practice also by the Justitia 4.0 Project in **Switzerland**.

A desirable approach towards long-term sustainability of cyberjustice developments is pursued in **Spain** in the framework of the Justicia 2030 Programme. It aims to achieve long-term sustainability, cohesion, and co-governance between the various components.[241] The program connects justice with the transformation of the country. It seeks to connect the individual access to the Public Justice Service with that of other administrations in an administrative ecosystem and to ensure the quality of the service. In this, the administration is not looking to develop new systems, but to create interoperability and use the systems and solutions that already work and adapt them where necessary for the new needs.[242] In line with this good practice approach of reusing existing solutions where appropriate, the Justitia 4.0 Project in **Switzerland** and the AIPA Project in **Finland** are also evaluating various existing applications that can be adjusted for the requirements of the following development stages of the projects.

Such national experiences and progressive developments to secure project sustainability, efficiency, and long-term use can be subsequently relevant for connecting national cyberjustice developments to European initiatives and to projects in other European countries.

[240] Justice Transformation in Portugal: Building on Successes and Challenges | OECD iLibrary (oecd-ilibrary.org); available at https://www.oecd-ilibrary.org/sites/184acf59-en/1/2/1/index.html?itemId=/content/publication/184acf59-en&_csp_=54b05e9f241772067d1094547836caad&itemIGO=oecd&itemContentType=book#section-d1e688

[241] Ministry of Justice of Spain. 'Justicia 2030' Strategic Document, Summary in English. Accessed via https://www.justicia2030.es/.

[242] Ibid, p. 6.

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