



**STRENGTHENING THE EFFICIENCY AND QUALITY OF JUSTICE SYSTEM IN ALBANIA (SEJ II)
(A joint project between the European Union and the Council of Europe)**

Court Coaching Project Nr. 2:
Improvement of Electronic Case Management System: Non-updated Data in ICMIS

**On some problematics of the ICCMS system
in the District Court of Lezhë and Appeal Court of Tirana concerning the insertion of the final
judgments and closing of cases**

by Gentian Jahjolli, SEJ II Local Consultant

I. Background

In the framework of the EU/CoE Strengthening the Efficiency and Quality of Justice in Albania (SEJ II), the SEJ II Action since March 2017, has been assisting 10 pilot courts with targeted individual court coaching projects to improve their efficiency on judicial statistics and judicial time management as well as projects on quality related issues, with a particular focus on satisfaction surveys and court security.

The use of ICMIS system, audio recording and the software program for the management of calendars of the courtrooms have brought significant improvement of the legal proceedings. Currently, the ICMIS system is implemented in most of the courts of Albania with the exception of Tirana Court of 1st Instance and Serious Crimes Court of 1st Instance which use ARK-IT. It is a well-known fact that ICMIS does not function to its full capacity and the issues of the system have been subject of discussion with pilot courts during court coaching and in the letters of concerns sent by several court presidents to the MoJ. Currently, the system is undergoing changes with the support of Euralius technical team until a new system is developed in a few years.

II. Brief history of the implementation of the case management software

In 2005, the Albanian judicial system started the implementation of the court case management CCMIS: Civil Case Management Information System. Several pilot implementations were performed, notably in Durrësi Court of 1st Instance, in the Appeal Court of Tirana and the Supreme Court which started with civil cases. During 2008 - 2010 the system added the criminal cases to the implementation phase and was renamed to Integrated Case Management System, ICMIS. Since then, the ICMIS database technology is not updated on key components. The need for a new system has arisen in the last couple of years and it should be a unified system for all courts and data shared with the systems used by the Police and Prosecution.

The use of information technology in the judicial process already constitutes an important step in terms due process and a fair trial for parties. Using ICMIS system, audio recording and management software at courtrooms, have brought significant improvement in the legal proceedings. Specifically these

systems have had a positive impact in terms of good administration of judicial affairs: increasing solemnity of judgment, professionalism and ethics of communication between the parties involved in litigation and increase of public access to the services provided by courts.

The SEJ II local team gathered information from pilot courts regarding the number of non-updated data in ICMIS and it stood as follows until Autumn 2017 (Tirana Court is excluded considering it uses ICMIS and Administrative Court of Tirana of 1st Instance did not provide data):

- 1) Supreme Court: 50 cases
- 2) Appeal Court Tirana: about 10'000 cases
- 3) Administrative Appeal Court Tirana: 250 cases
- 4) District Court of Berat: 54 cases
- 5) District Court of Fier: 400 cases
- 6) District Court of Korça: no pending cases
- 7) District Court of Lezha: 9000 cases
- 8) District Court of Vlora: 280 cases

III. Current situation in Lezha Court of 1st Instance and Appeal Court of Tirana

a) Lezha Court

The District Court of Lezha is composed by 5 judges, including the President of the court, Ms. Ornela Naqellari. The task of closing the case in the ICMIS pertains to the judge and to the legal secretaries. As of September 2016, this court had a total of 16,000 unclosed cases (including the non-publication of final decisions). From 2016 to 2017, the court managed to close almost half of it and by autumn 2017 the number of non-closed cases was at 9,000. Nevertheless, the cases that were closed were not fully analysed in each step of the litigation and publishing of final decisions was not done in each of them. Rather, the closure in the system was done only to show as "closed" for the purpose of reporting of judicial statistics. However, this closure does not support generating of full accurate statistics especially in terms of calculating all the specific times required for each hearing taken place and also the closure did not include the uploading of final decisions in the system.

As of December 2017, about 7.000 cases need to be closed. The average number of closed cases for a judge per month is about 100 cases (this includes the old cases that were not closed and the current ones adjudicated for which a final decision is rendered). In addition, there are now cases that must be closed pursuant to the new approved penal and civil codes of procedures, but which are not possible to be inserted into the system due to some technical limitations of ICMIS. For instance, the system cannot close decisions concerning the issuance of writ of executions, and in general cases that are handled in advisory rooms. These cases are not adjudicated via hearings and the system requires to enter "hearing transcripts" before you can put a final decision. This means, that even if the case is practically closed, the system does not allow the judges to insert the final decision in the system and at the same time does not allow the judge to perform another activity with that particular case. This is an urgent technical issue of ICMIS that must be improved.

The number of unclosed cases is high due to several factors: Some judges have transferred to other courts and their cases were either not closed or their final decision was not loaded onto ICMIS. The average workload of judges in this court is between 700-800 cases a year. As a result, the court is unable to close all the old and new cases with its current workforce, lack of infrastructure and logistics to perform the tasks required. The court maintained that IKUB, the company that has maintained the website until now has not been willing to update the system accordingly.

The president noted that the courts needs at least 2 full time staff to work on closing current cases and needs a working room to put a printer/scanner for completion of this task. Also, the president stated that not all 7000 unclosed cases need to be closed on ICMIS because of their legal nature.

She also noted that there are 7 316 civil files and 5 186 penal files which must be sent to archives and they occupy a lot of space at the court. If these files go to archives (in Tirana) then the court will be able to have a working room for the staff to work on closing cases in ICMIS. The court noted also that there is a possibility of using the state bailiff's office within the court for this project. This can be done with an order issued by the MoJ.

b) Appeal Court of Tirana

The average number of new cases per year in the Tirana Appeal Court is 5 000 civil, 3 000 criminal and 1 500 criminal precautionary measures. The Tirana Appeal Court is composed currently of 29 judges.

Most of the unclosed cases in this court belong to 2006-2008 years. The main concern for this Court was the technical issue of the ICMIS concerning the limitation of space for the proper operation of the servers and the speed. Specifically, even if the final decisions were loaded onto the system, the time to load the decisions was excessive which resulted in a few decisions loaded onto the system on daily basis. Besides this, the search feature and the generation of reports from the system do not work properly.

The issue of the advisory chamber as noted above for court of Lezha applies to the Appeal Court of Tirana. However, the IT head of the court has technically considered the advisory chamber as a hearing, thus allowing the judge to insert the final decision afterwards. However, this option it is not appropriate for the purpose of reporting of judicial statistics for cases that are held with audio RDA versus the cases that are held without. Another identified problem is the impossibility of annual migration of files of pending cases from a previous year to the following year. This is done manually as it is done in all courts in Albania.

The court has not improved the situation of closing the cases since Autumn 2017. As in the court of Lezha, the court lacks the needed staff to perform this job.

It is worthy to note, that for the purpose of reporting of judicial statistics, all cases appear closed in the manual registers after a final decision is rendered. This stands for all courts in Albania.

IV. Analysis

The causes of cases being unclosed can be divided in these categories:

- a) Lack of the scanned final decision to be loaded on the system. Without the digital copy of the final decision, the case cannot be closed in ICMIS. As noted above the courts lack staff to do this work.
- b) Several amendments of the relevant procedural legislation have not been reflected in the main structure of the ICMIS. As previously noted, the recent amendments of the civil and penal procedure codes, which have made possible the issuance of final decisions in advisory chamber (*in camera*) without the presence of the legal secretary. However, the final decision cannot be inserted in the ICMIS, since the system has been programmed that a hearing session is recorded before the final decision is loaded onto the system and the case is finally closed. The option of loading of final decisions without a previous judicial record registered in

the system is not possible with the current ICMIS software architecture. Therefore, this key technical issue should be considered as urgent for improvement.

V. Conclusions

Statistics are part of the daily activity of the courts in all the activities performed by them. In order to have as accurate and easily accessible statistics it is necessary to enter data in special registers/modules. In order to generate statistics as easily as possible and without losing time or additional human resources, it is recommended that statistics be kept in electronic format or that an effective unified electronic management systems be used by all the courts.

The way of keeping and processing data does not only increase the guarantees for their veracity, but also there is no need to record each internal procedural step, because the electronic system generate the data automatically, thus avoiding the need for recording each data manually. This process facilitates the generation of data, requires less human resources, which in turn increases the efficiency and quality of services rendered by courts.

The failure to upload the final decisions in the electronic system and the failure to reflect the real status of these cases have affected the processing of the statistical data by the court staff according to the set standards for collection of judicial statistics.

VI. Recommendations

Recommendation 1: Regarding the situation in the court of Lezha, in order to insert the information data for the 9.000 cases which are closed but no information can be generated, it is necessary that the final decisions should be scanned, digitalized and transformed in digital files. The court lacks an appropriate infrastructure, appropriate human resources, and appropriate equipment. Therefore, appropriate funds for infrastructure, human resources, and equipment should be given to this court by the Office of Administration of Judicial Budget (OAJB). Until these funds are made available, the MoJ can assist the court's personnel to enter the necessary data into the ICMIS by establishing a mobile unit, equipped with all the appropriate infrastructure, human resources, and equipment. This practice should be extended to all the courts having similar issue by setting up a working day calendar.

If the MoJ cannot exercise this task based on its current competencies, then this service can be procured to third private parties. A special budget can be issued by the OAJB for this task for all courts starting with the courts where the situation is critical.

This recommendation can be applied to the Appeal Court of Tirana regarding the measures to be taken by the MoJ and OAJB.

Recommendation 2: The ICMIS should be adopted as soon as possible to include the new amendments of the relevant procedural legislation (a new typology/categorisation of cases is defined)¹, in all the courts and all the levels of Albanian judiciary. Proper instructions/guidelines should be given to the courts that use ICMIS how to implement this change.

Recommendation 2a: Until the creation of the High Judicial Council, the existing High Council of Justice, should create a working group with AKSHI and all other stakeholders, especially courts, in

¹ The SEJ II Action has already undertaken this project as part of its mandate. Local consultants under the guidance of CEPEJ experts and in collaboration with EURALIUS IV are in the process of establishing a new typology of cases based on the recent amendments to civil and penal procedures codes.

order to elaborate a transmigration strategy instructing the courts of all levels on how and what data should be kept electronically. This process will facilitate the migration of data from the actual to the *new generation court case management system*. It will be of outmost interest to determine *ex ante*, whether data should be kept for old cases (for some cases may not be a need of transfer) and what kind of existing data will be kept for the new court case management system.

Recommendation 2b: Before the adoption of the next generation court case management system an extended analysis on the hardware capacities should be conducted.

Recommendation 3: The current High Council of Justice and/or the court presidents should issue an instruction order specifying the obligation of any judge that leaves the court to preserve in digital form all the final decisions that have been issued by them

Recommendation 4: In order to attenuate the need for space at the Lezha District Court, all the archived files of this Court, above-noted, should be transferred and conserved to the Central Judicial Archive of Lundër, Tirane, until an alternative solution for this Court is adopted. Also, the MoJ who oversees the function and organization of bailiffs as a profession, should take into consideration the possibility of moving the Bailiffs' Offices in other premises for a few months, until the court has finalized the process of scanning and loading of final decisions onto ICMIS.