

Strasbourg, 10 February 2023

CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)

**Questionnaire for the preparation of the CCJE Opinion No. 26 (2023)
on the advantages of modern technologies
in the judiciary and their use**

*Please in your answers do not send extracts of your legislation
but describe the situation in brief and concise manner.*

1. Introduction and definitions

The questionnaire is aiming to collect the relevant information as regards the modern technology used within the judiciary in your country.

In this regard, for the purposes of the present questionnaire, the following definitions apply:

Electronic files/electronic proceedings

Definition: the whole or part of process/commencement/issue of process/correspondence of the process with all parties, including court internal administration and/or case management generally is electronic (no paper files or paperwork at all).

Videoconference

Definition: all kind of hearings which are held via videoconference (including online platforms).

Data tools (on facts and on law and precedents/legislation)

Definition: courts/ministry provide data tools (organised by private or state provider) used by judges to facilitate the judgment of the case.

Forms of automatic proceedings

For example, automatic proceedings for 1) fact finding, 2) for law and precedent finding; 3) for decisions.

2. Use of electronic files/electronic proceedings

- 2.1 Do electronic files/electronic proceedings exist and are there any specific requirements? Please describe.
- 2.2 Are all documents and the entire judicial proceeding in electronic files? If not all, please describe the most important use(s) of electronic files.
- 2.3 Does the process include digital signatures? Do electronic proceedings differ in substance from paper files and proceedings?
- 2.4 Do all judges and courts work with electronic files? If not, which courts use them and which courts do not use them? What is the rationale for the difference in use?
- 2.5 Do judges have computers at home and work at home with the same electronic files as in the office? To what extent are electronic files accessible by the court and/or parties via cloud-based systems?
- 2.6 Where electronic files are used, are paper-based files also used? If so, to what extent are paper-based files used and what is the rationale for their continued use? Is there a continuous process of change in the judiciary from paper files to electronic files? How long will this process of change take?
- 2.7 Are there any laws, regulations or procedural rules that govern the use of electronic files and proceedings: 1) in the constitution; 2) in procedural law; 3) in other forms of law, including soft law instruments? What do any such laws, regulations or rules govern? Please describe their application.
- 2.8 Is the use of electronic files/proceedings optional or binding for judges/for lawyers or, where permissible, litigants acting without the assistance of a lawyer?
- 2.9 Are different approaches to the use of electronic files/proceedings taken depending on the substance of the legal proceeding, e.g., are different approaches taken to civil, criminal, administrative, family proceedings or proceedings concerning social matters?
- 2.10 What views have been expressed by judges concerning the use of electronic files and proceedings?
- 2.11 Are there any polls/soundings among judges concerning their views on the use and/or utility of electronic files and proceedings?
- 2.12 Are there any official reports concerning judicial views on the use and/or utility of electronic files and proceedings? If so, what do they say?
- 2.13 In your experience, what are the advantages and disadvantages of electronic files/electronic proceedings. Please describe them.

3. Use of videoconference facilities, including online platforms

- 3.1 Which kinds of court proceedings can be held via videoconferencing facilities and/or online platforms? Where such facilities are used, in which courts are they used?

- 3.2 Can evidence be taken via videoconferencing facilities and/or online platforms? If so, can it be taken in all courts or just some? If the latter, in which courts can it be taken?
- 3.3 What are the requirements for the use of videoconferencing or online platforms in proceedings? Where they differ across different proceedings, please describe the differences?
- 3.4 Is it permissible for the participants (judges, lawyers, parties, witnesses) in proceedings held via a videoconference or online platform to be outside a court? If so, can all or only some participants take part from outside a court? If only some, which ones? Are there any places outside a court from which a participant may not take part in proceedings held by videoconference or via an online platform? If so, which ones?
- 3.5 Are there any laws, regulations or rules governing the use of videoconferences and online platforms: 1) in the constitution; 2) in procedural law; 3) in other forms of law, including soft law? What do any such laws, regulations or rules govern? Please describe their application.
- 3.6 Is the use of videoconference optional or binding? If optional, can its use be mandated by the court without party consent?
- 3.7 What views have been expressed by judges concerning the use of electronic files and proceedings? Are there any polls/soundings among judges concerning their views on the use and/or utility of electronic files and proceedings?
- 3.8 Are there any official reports concerning judicial views on the use and/or utility of electronic files and proceedings? If so, what do they say?
- 3.9 In your experience, what are the advantages and disadvantages of using videoconferencing and/or online platforms. Please describe them.

4. Use of data tools

- 4.1 Are there any data tools used by your judiciary: 1) on facts, 2) on law and precedents? If so, please describe them.
- 4.2 What kind of tools may judges use? Are there official tools provided by the judiciary/ministry? If so, what are they? Is the use of data tools optional or binding? If optional, how and by whom is their use determined?
- 4.3 Are there any laws, regulations or rules governing the use of data tools in your system: 1) in the constitution; 2) in procedural law; 3) in other forms of law, including soft law? What do any such laws, regulations or rules govern? Please describe their application.
- 4.4 Do data tools facilitate fact-finding and preparing the judicial judgment?
- 4.5 Are there any polls/soundings among judges concerning their views on the use and/or utility of data tools? Are there any official reports concerning judicial views on the use and/or utility of data tools? If so, what do they say?
- 4.6 In your experience, what are the advantages and disadvantages of using data tools? Please describe them.

5. Forms of automatic proceedings

- 5.1 Are there any automatic proceedings in use in your judiciary? If so, please describe them.
- 5.2 Are there automatic proceedings for fact finding? Are automatically generated facts accepted as evidence?

- 5.3 Are there automatic proceedings for ascertaining the applicable law and/or precedent?
- 5.4 Are there automatic proceedings for decision-making or to assist decision-making?
- 5.5 What kind of requirements, from a technical and legal point of view, are necessary for the use of any automatic proceedings? Please describe them and set out their advantages and disadvantages.
- 5.6 Are there any initiatives to implement automatic proceedings on fact/law/decisions? If so, please describe them.
- 5.7 Are there any laws, regulations or rules about the use of forms of artificial intelligence, like automatic proceedings: 1) in the constitution; 2) in procedural law; 3) in other forms of law, including soft law? What do any such laws, regulations or rules govern? Please describe their application.
- 5.8 If there is no implementation yet of such measures, are there any projects concerning the implementation of forms of artificial intelligence?
- 5.9 Is there an ethic code governing the use of automatic proceedings in legal proceedings? If automatic proceedings are used, how is the independence of judicial decision-making safeguarded and preserved?
- 5.10 Are there any special regulations and safeguards with respect to automatic proceedings? Does a judge have the final saying/control on the outcome and quality of an automatic proceeding?
- 5.11 Is data security implemented for the use of automatic proceedings or in the making? If so, please describe the factual and legal situation?
- 5.12 What role, if any, does a Data Protection Commissioner (or equivalent) have in overseeing the use artificial intelligence in legal proceedings?

6. Responsibilities for operating modern technologies

- 6.1 Who determines the implementation, and on the system, of electronic files /proceedings and the use of data tools in your court/jurisdiction?
- 6.2 Are judges involved in the process of devising and/or implementing the use of electronic files/proceedings, video conferences and data tools?
- 6.3 Are judges involved in the process of creating forms of artificial intelligence within legal proceedings, such as automatic proceedings?

7. Criticisms and proposals for use and development of modern technology

- 7.1 Describe the main arguments discussed by your judiciary concerning the use and development of modern technology in legal proceedings.