Horizontal Facility for Western Balkans and Turkey

Funded by the European Union and the Council of Europe

EUROPEAN UNION

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Implemented by the Council of Europe

Use of Information and Communication Technologies/ICT in judicial activity

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Purpose The objective of this course is to introduce Chancellors to the role, benefits and usage of Information and Communication Technologies (ICT) in everyday judicial activity. If properly used, ICT can be a powerful tool to increase transparency, court efficiency, and the quality of services delivered by the courts. In this way, ICT can help increasing public access and confidence. The course will offer chancellors the possibility to reflect on the possibilities provided by information technologies to support, track and manage the steps of everyday court operations. This course will also will provide examples of ICT implementation in different courts all over Europe and different aspects of court operations, including information on the implementation of e-justice and online proceedings.

Core materials provided for this course will be the studies and Guidelines of the Council of Europe's European Commission for the Efficiency of Justice (CEPEJ) with regards to ICT in the courts as presented herein under and in particular the CEPEJ *Guidelines on how to drive change towards Cyberjustice* [1], and the CEPEJ study on *Use of Information and Communication Technologies (ICT) in European Judicial Systems.*[2]

Introduction

In the last quarter of a century ICT began to play an increasing role in the life of our society. As a result of this phenomenon, courts and judiciaries, whose traditional activities, practices and work organization were (and in many cases still are) based on paper (legal texts, case files, court registers etc.), are increasingly asked to adopt new technologies and to change the way they operate. While this request has been seen in some cases as a burden, in others it has been greeted with enthusiasm, as ICT offers many opportunities to reconfigure court activities, automate repetitive tasks, and improve efficiency.

[1] https://www.coe.int/en/web/human-rights-rule-of-law/-/cepej-publishes-its-guidelines-on-how-to-drive-change-towards-cyberjustice

[2] https://www.coe.int/t/dghl/cooperation/cepej/series/Etudes7TIC_en.pdf

The Committee of Ministers of the Council of Europe affirmed in 2003 that 'an efficient justice system is essential to consolidate democracy and strengthen the rule of law, as it will increase public trust and confidence in the State authority, in particular its ability to fight against crime and solve legal conflicts[3]'. The Council of Europe (CoE) recognised in 2003, that ICT had become essential to the efficient functioning of a judicial system, especially given the growing workload of the courts and other organisations in the sector. Also, the Opinion of 9 November 2011, of the Consultative Council of European Judges (CCJE) pointed out, that 'IT should be a tool or means to improve the administration of justice, to facilitate the user's access to the courts and to reinforce the safeguards laid down in Article 6 ECHR: access to justice, impartiality, independence of the judge, fairness and reasonable duration of proceedings' and went on to stress that its introduction' in courts in Europe should not compromise the human and symbolic faces of justice[4]'.

The use of ICT is considered one of the key elements to significantly improve the administration of justice[5]. The availability of web services, the possibility of consulting online court registers, legislation and case-law, use of electronic filing, electronic exchange of legal documents, are few examples that are spurring judicial administration around the world of rethinking their current functions and activities. ICT can be used to enhance efficiency, access, timelines, transparency and accountability, thus helping judiciaries to provide adequate services. In addition, the use of Internet, can offer the chance to open the judiciary to the public providing both general and specific information on its activities, increasing also legitimacy.

In the 2016 CEPEJ thematic evaluation report on the "Use of information technology in European courts", the quantitative data collected on the diffusion of ICT in Europe lead "to a confirmation of the trend outlined in previous reports: most States have invested significantly in IT for the functioning of their courts". At the same time, the same report clearly states that the diffusion "of IT tools cannot be systematically linked to a good level of court performance"[6].

Empirical studies show that the results achieved do not often coincide with the anticipated ones and that large scale ICT projects even when successful are the result of many years of effort both at development but also at implementation level within the courts [7]. Delays and high failure rate are a result of the fact that the complexity of ICT solutions has grown rapidly as

[3] For more information see Council of Europe, Recommendation (2003)14 of the Committee of Ministers to Member States, 9 September 2003, on 'The interoperability of information systems in the justice sector'.

[4] For more information see https://www.coe.int/t/dghl/cooperation/cepej/series/Etudes7TIC_en.pdf

[5] For more information see 'Use of Information and Communication Technologies (ICT) in European Judicial Systems', Prepared by for CEPEJ by Marco Velicogna. Full Report could be accessed to the link https://www.coe.int/t/dghl/cooperation/cepej/series/Etudes7TIC_en.pdf

[6] https://www.coe.int/t/dghl/cooperation/Cepej/evaluation/2016/publication/CEPEJ%20Study%2024%20-%20IT%20report%20EN%20web.pdf

[7] See for example 'Justice Systems and ICT - What can be learned from Europe?', Marco Velicogna, published by Utrecht Law Review, http://www.utrechtlawreview.org/ Volume 3, Issue 1 (June) 2007; Contini, F. and Lanzara, G.F. (eds.) 2009. *ICT and innovation in the public sector: European studies in the making of e-government.* New York: Palgrave Macmillan; Velicogna, M., Errera, A., & Derlange, S. (2011). e-Justice in France: the e-Barreau experience. Utrecht L. Rev., 7, 163; Velicogna, M. (2017) e-Justice in Europe: From National Experiences to EU Cross-Border Service Provision. In L. Alcaide Muñoz and M.P.R. Bolívar (eds.) "International e-Government Development. Policy, Implementation and Best Practices", Palgrave Macmillan.

interdependencies between an increasing number of hardware components, software applications and human intervention are required for the system to work properly. Traditional Software Engineering and Information Systems Design and deploying methodologies are not capable of tackling this adequately. Business process modelling and requirements gathering are more and more only partial attempts to map the real complexity. Systems needs to be designed with the users, tested in real condition and after being implemented need to be capable to evolve and adapt to changing conditions. In Albania, all these activities can and should see an active participation of Court Chancellors, as, especially given the role attributed to them within the 2016 judicial reform, is in the key position to understand court administrative processes, requirements and needs, but also to support the proper adoption of applications used to support the administrative component of the court, and the reconfiguration of practices where needed.

I. Courts, Justice and ICT

ICT innovation in the justice sector is quite a complex phenomenon, which has evolved over time through different but sometimes interconnected paths, as experiences, standards and approaches have been shared. It is characterized by histories of tensions between different forces which have led to different results in different national contexts but with some frequent if not common elements: the struggle between the local and ad hoc solutions and low standardization, versus centralized, standardized systems for the electronic tracking and management of cases; the development of tools answering to specific needs versus systems that provide more general - and generic - answers; ownership and control over the process and the data versus sharing; security of the data versus allowing access to users and citizens who have the right to have it. Depending on national specificities such as the organization of the judiciary and on other context-related factors, also the institutional settings that emerged to manage ICT governance differed widely. The choice, for example, fell on the Ministry of Justice in Austria and France, on the Court Service in Ireland, Sweden and England and Wales, has been alternating between the Judicial Council and the Ministry of justice in the Netherlands, and is shared by the Ministry of Justice and the Judicial Council in Italy.[8] The role of the court is the e-justice innovation is always central but, once again, different institutional frameworks have resulted in much variation.

A key element that characterizes ICT innovation in the justice sector is that justice is the product of the combined effort of a plurality of actors. Some of these actors, such as administrative personnel and judges, operate within the court organization, while others, such as public prosecutors, policemen, lawyers, litigants and witnesses operate outside its organizational borders. Furthermore, the community and other public institutions constitute the environment within which the court traditionally operates. This allows distinguishing between different groups of ICT developments, capitalizing on common elements and allowing to identify shared problems and best practices between relatively homogeneous efforts.

[8] Velicogna, M. (2017) e-Justice in Europe: From National Experiences to EU Cross-Border Service Provision. In L. Alcaide Muñoz and M.P.R. Bolívar (eds.) "International e-Government Development. Policy, Implementation and Best Practices", Palgrave Macmillan.

From a Court and therefore a Chancellor perspective, a key distinction can be done between the ICT that operates within the court, and those that are open to the outside. This is therefore the distinction that is followed in this course. It should be noted that, given the complex nature of concrete experiences, a clear-cut division is not always possible with empirical examples.

II. ICT within the court

Within the Albanian discourse on court organization and management, a tri-partition between judicial, procedural and administrative activities is used. To ensure coherence and reduce misunderstandings, this tri-partition is also adopted here. In this context therefore, "Judicial activity" is the activity undertaken by the courts and judges while accomplishing the activities (tasks and duties) for the delivery of justice, assigned to them by the Constitution and the law. "Procedural activity" is the activity conducted by the court office in relation to civil, criminal or other cases handled by the court, in conformity with the judicial procedural legislation in force. It includes tasks like maintaining and updating the court registers, creating and keeping the open case files, recording and executing orders issued by the judges, notifications activities provided for by the procedural codes etc. "Administrative activity" is the judicial administration activity conducted by the administrative office in support of courts and judges, for the organization and management, including the support services of maintenance, transportation, cleaning and security guards.[9]

The technologies adopted within the court could be divided in three groups based on their 1) technological complexity, 2) actors and activities involved and 3) level of adoption[10].

For the purpose of this course, court technologies have been divided in four groups:

- The first group consists of **basic technologies** such as desktop computers, word processing, spreadsheets, and both internal and external e-mail for both judges and administrative personnel.

- The second group consists of **applications used to support procedural activities**, which include automated registers and basic automation and statistic functionalities.

- The third group consists of **technologies used to support the activities of the judges**, such as law and case law electronic libraries, and sentencing support systems.

- The fourth group consists of **electronic case allocation and management systems,** which combines the complexity of judicial, procedural and administrative activities with the need of organizational coordination.

II. 1. Basic technologies

[9] SEJ "Court Organisation and Court Administrators' capacities in Albania: A first exploratory study" Mar. 2016

[10] For more information see 'Justice Systems and ICT - What can be learned from Europe?', Marco Velicogna, published by Utrecht Law Review, http://www.utrechtlawreview.org/ Volume 3, Issue 1 (June) 2007.

Basic technologies can be seen as the infrastructural components and the standard products that do not require specific knowledge and training to operate. Nowadays everybody is expected to be able to switch on a PC, check his or her e-mail, write an electronic document or print it. In some cases, such as the Court Intranet, WiFi, or network printer, the end user may just need to know that they are there and available and use them, not configure them or other complex tasks. If they work properly their technical and organizational complexity is invisible. While potentially useful, the presence of such technologies, if not followed by other actions, such as redesign of working practices, has often resulted in a very limited impact on efficiency.

Furthermore, the Chancellor should not just be the user of such technologies but may have an organizational role in supporting the Chairman in the definition of the Court basic technology requirements, hardware and software updating needs and in the definition, in cooperation with the technical units, of the security procedures and shared resources management. Training of the personnel may be also required where more advanced capabilities or specific practices are required. As an example, while it may be given for granted that all personnel can draft an e-mail, it may be useful to discuss with the Chief Secretaries, Judicial Assistants and Judicial Secretaries a set of standard replies that can be used at court level to speed up standard electronic communication and provide a more uniform interaction with the court. Discussion on proper use of court resources, appropriate communication can also be supported.

It is important to note that basic technologies constitute also the 'installed base' on which other technological innovations may be implemented. For example, without a computer and an internet connection, a judge cannot access on-line legal information services or a Judicial Secretary enter the data on the court electronic register.

II. 2. Technologies support procedural activities

The procedural activity include a number of tasks that vary from case-tracking and keeping official records of all aspects of everyday court businesses, to official court notifications, communication with parties, coordination with other institutions, etc.

Court businesses include keeping original records and copies of written orders, original summons and complaint and subsequent pleadings, which includes answers, counterclaims, cross claims, replies and amended complaints, written motions, written notices, discovery requests and responses, appearances, demands, offers of judgment, designations of record or case, grounds or exceptions on appeal, and other similar information or papers, as well as data on the instigation of proceedings, services of process upon the other party, receipt of the response by the other party, making of procedural orders by the court, use and timing of preparatory actions or preliminary hearings, beginning of the trial stage (*first oral hearing on the merits*), existence and duration of technical expertise, duration and number of hearings on the merits of each case, conclusion of the trial stage, decision-making in the first-instance (*preliminary decisions, partial judgments, final judgments*), announcement and delivery of the first instance decision (judgment) to the parties, launching of legal remedies (*appeal etc.*) and their impact on the duration of the proceedings, appellate hearings and decisions, preliminary decisions and orders in higher courts (*e.g. announcement of the judgment or delivering reasons*), course and results of the appellate

and other proceedings (*e.g. reversal of a decision or sending the case for re-trial*), other (*extraordinary*) stages and remedies (*e.g. re-opening of a case or constitutional review*), enforcement of the decision, etc.

Furthermore, court personnel carry out an important role as an interface, and at the same time a buffer between the judge and the other actors that participate in the trial process. Trial proceeding starts long before a case reaches the courtroom. In this regard, administrative personnel of the courts file and keep registers and documents in compliance with codes of procedure, laws and regulations. For example, a civil action is commenced when a plaintiff (*or a plaintiff's attorney*) files a summons or a complaint with the court in the manner prescribed by law (*Civil Procedures Code*). A series of actions are linked to such procedures, such as the collection and formal control of the filed documents, the documentation at the time of collection, the registration on a court register of the event and the issuance of a receipt. All these actions require time and resources. In supporting administrative activities or preliminary actions prior to trial, technology can play an important role in saving much needed resources at the earliest stage of the trial.

Court docket books and other court registers have been for a long time one of the pillars of the court activities. They are generally large books that need to be kept not only to formally comply with procedural rules, but also for the functions that such tools perform. The case history recorded in the registers, for example, provides a quick reference on the status of the case and the documents that have been received by the court. It is double-checked against the case file to determine its completeness. It is a guarantee that the formal procedure has been respected, e.g. for computing any period of time prescribed or allowed by regulation. It also allows a quick review of the status of a case without having to physically access and read the case file. On the other hand, paper docket and other register books are cumbersome tools and present many limitations. For these reasons, one of the first applications that have been developed in the courts, is the automated register. The possibility of multiple synchronous data entries and the absence of a need to enter the same data again and again for each different register or when adjourning the file, are just some of the many advantages of automated registers. Some activities are now totally automated. In many cases there is a reduced need for manual data entry as the systems automatically populate some of the database records (*e.g. automatically recording the date of the registration or automatically assigning a case to a judge*).

With the use of ICT, data retrieval functionalities have also been improved. If automated registers are properly designed and well kept, a clerk can provide the information with a few taps of the keyboard, without having the need to go searching through the pages of the court docket books or consulting the case file. A well kept automated register databases contains 'virtually all the important information ... [concerning] every action, cause or matter filed in the court, including parties particulars, the nature and quantum of the claim, the document filed and the outcome of hearings' and more. Having all this data in electronic format opens up a number of options to further enhance the efficiency of the court. Office automation functionalities have been developed to allow the user to automatically fill standard documents, such as court notifications, extracting data directly from the database, such as the date of the event that is notified, name and addresses of lawyers and parties. This reduces not only the workload of

personnel but also the risk of mistakes. In most cases, after being generated, such documents are printed, signed and sent by mail or by other means of transmission[11].

> In some cases, applications have been developed to speed up the data entry in the automated registers databases. An example of this are the applications based on optical character recognition (OCR) of standardized paper based forms that have to be printed by the parties before being submitted to the court. In the case of the court of first instance in Milan, Italy, software to create a barcode was developed in 2006 and provided freely to the lawyers. When a lawyer wanted to file a claim, she could use the software to print a claim form (*nota di iscrizione a ruolo*). The claim form document comprised the usual data in a readable format but also stored the same information in a 2D barcode. The court staff used an optic scanner to read the barcode and upload the data in the case management system database. This tool helped improving the speed and accuracy of computer data entry. Incentives to use such software, were provided.[12] The system was replaced when the Civil Trial On Line, allowing electronic filing, was deployed. At the same time, the barcode experience allowed the court and lawyer to develop best practices which resulted useful also in the implementation of the new system.

In courts across Europe, a number of other applications have been developed that use automated register data. Some of these applications have a more strategic focus. For example, the provision of management information and statistical reporting can play an important role in the organization and administration of court offices. For this purpose court management systems, or at least statistic packages, that use the data of the automated registers and of the case management systems, have been developed in most of the countries considered. Also, operation of courts generates a significant volume of financial transactions including fines, bail, fees, etc. Courts acquire goods and services and in some cases also hire personnel; in several countries software applications have been developed or are under development to help process and account for such transactions[13].

> In other cases, several court offices have introduced procedures in order to scan both the documents filed to the court and the judgments. This allows the creation of an electronic docket in the first case and archives of digital judgments. Although these procedures

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[11] Different formal requirements in different States have resulted in different possibilities. In Finland for example, where no signature is required, the documents are sent electronically to the post office in the area where the addressee lives, which prints it and delivers it physically. For more information see K. Kujanen, E-services in the courts in Finland, Presentation at the Seminar on Law and Informatics, Bern, 26 October 2004, p. 4; see also http://www.oikeus.fi/15955.htm and http://www.oikeus.fi/15956.htm

[12] On the subject, Ministero della Giustizia – D.G.S.I.A., Implementazione evolutiva del sistema di iscrizione a ruolo con il codice a barre: Documento di analisi e progettazione del software applicativo, Ver. 1.1 2006, available at: http://www.ordineavvocatimilano.it/html/contenitore.asp?pagina=layout.asp&idlayout=124&idsezione=112&idsotto_sezione=233&bott=ok&idmacro=12

[13] In Ireland for example, the Courts Accounting System (CAS) has been piloted in a small number of District Court offices, and is now being extended to all the 44 District Courts. Irish Courts Service, ICT Strategy 2006-2010 for the Courts Service, 2006, p. 31. available at: http://www.courts.ie/Courts.ie/library3.nsf/(WebFiles)/75704E3E1D4B1E048025716800557865/$FILE/ICT%20Strategy%202006-2010.pdf

often generate a burden to the court, they may produce efficiencies in cases where frequent photocopying is required or when a scanned document can be stored in place of a paper one. Also, some dedicated applications have been developed only in countries that have specific institutional settings. Traditionally, in countries that use juries, the selection and management of jurors has been a time consuming manual process in the hands of the court clerk.

Today automated registers and related applications are often taken for granted and well integrated in the court practices but in many cases their introduction has been all but easy and plain. The development of these applications was often carried out locally, in many cases to meet specific and urgent business needs within specific offices, or within ad interim pilot projects. The purpose of this technology is to improve 'efficiency through the automation of human activities within work processes. Developed to substitute paper based registers, automated registers were often introduced in offices where people had worked all their life with paper, pens and stamps and where the 'modern technologies' were photocopy and faxes machines. In many cases and for a long time after their introduction, automated registers did not substitute the paper based ones as official documents, thus requiring clerks and administrative personnel to deal with parallel procedures and the duplication of work.

At present there are two systems deployed in Albanian Courts providing automated registers functionalities: ICMIS and ARK-IT. ICMIS, "has been introduced into most of the courts of Albania during the period of 2005 – 2014"[14], but seems to present a number of issues, in terms of missing functionalities, user friendliness. While most of the identified issues are being addressed, new ones keep being discovered.[15] The system has 6 core functionalities (Registration, Lottery, Statistics, Publications, Minutes, Planning). The level of adoption in the courts in which it has been introduced varies.[16] ARK-IT, presently in use in the First instance court of Tirana and in the Serious Crimes Court of First Instance (which uses also ICMIS only for random distribution of cases), provides additional features compared to ICMIS (extraction of statistics and on-line publication of the sentences were mentioned). While for a certain period the possibility of improving ICMIS to provide ARK-IT functionalities and replace it has been discussed, at present the idea is to move on to a new one. The SEJ report on Time Management in Albanian Courts (2015), recommended "that Albania scraps both existing case management systems and introduces a new one that can deliver precise, detailed and reliable statistics on the case load including the age of the cases both for the finished and the pending ones".[17] On March 2016, Euralius proposed "to move the focus from 'incorporating Tirana District Court and other courts into ICMIS' to 'planning and preparation for procurement of new Integrated Court Case Management System' " [18] stating that given the fact that fundamental changes are required in practically all aspects of functioning of the current system, that the current system is based on out-dated IT technologies, the current system is not documented, and practically all know-how is

[14] Ernst Jan van Nigtevecht, Report on the ICMIS Assessment, April 30th, 2015 (Version 6)
[15] Ernst Jan van Nigtevecht, Report on the ICMIS Assessment, April 30th, 2015 (Version 6)
[16] EURALIUS, Future of ICMIS, Stakeholder's Round-Table meeting 9th March, 2016
[17] Bushati (Gugu), Johnsen and Kokona SEJ report on Time Management in Albanian Courts, Major Findings of the EU/CoE Support to Efficiency of Justice Project (SEJ), 2015.
[18] EURALIUS, Future of ICMIS, Stakeholder's Round-Table meeting 9th March, 2016

with the maintenance company, moving to centralised architecture is a strong requirement, "The only feasible approach is to build a new system capitalising on the know-how and experience accumulated during 10 years of usage of both ARK-IT and ICMIS systems".[19] As a consequence, the Euralius team is now working for the definition of the requirements and functionalities for the new system.

At the same time, the development and implementation of the new system will take time, Euralius team foresees an interim period of at least two years before the new system will be ready. This implies that for the time being, Albanian Courts and Chancellors will have to make do with the existing systems. At the same time, this provides the chance to the Chancellor to work to prepare the courts for the challenges they will face. The adoption of case tracking systems requires just **limited procedural and organisational changes** for court staff. Indeed, the court personnel perform, with the computer, pretty much the same operations already done with the paper registers. This reduces the amount of changes to be implemented to make the new system work, making the change process more manageable. But at the same time, case-tracking systems can become the platform that **empowers a shift toward an active case management approach.** Indeed, the adoption of a case tracking system creates the pre-conditions, or the technological and organisational platform, needed to implement more ambitious organisational, procedural, organisational and technological innovations. As the new system will probably go in that direction, groundwork needs to be done in order for Albanian Courts to be ready.

This requires working on electronic data quality. At present, data collection in Albanian courts is carried out mainly for statistical analysis, is typically extremely labour intensive and shows several problems. The actual process of data collection is based on manual counting in the courts and inserting data in Excel file. This is a necessity because ICMIS does not include a statistical report functionality, which provides the data categories requested by to the Excel file requested by the Ministry of Justice. Each court then sends these Excel files to the Ministry of Justice for further statistical elaboration by the IT and Statistics Department, Ministry of Justice. Courts data is not sent only to the Ministry of Justice but also to the High Council of Justice, which focuses on the disciplinary information on judges received on monthly basis as well as information on the evaluation of judges. ARK-IT seems to provide better statistical support.

One of the biggest challenges related to the case tracking systems adoption is the data standardisation (or data normalisation). The level of data standardisation required to take full advantage of the potentialities of a case tracking system is much higher than the one required by court books. Unreliable and inconsistent data entered into the system make their use unproductive or even misleading. As many sources confirms, at present in Albania there is a problem of consistency in data collected and a lack of harmonization in the way statistics are handled at all levels. Data unreliability and inconsistency is the result of several factor such as the use of different methodologies and classifications of cases in courts; ICMIS tables of case definitions may differ from one court to another; organizational arrangements resulting in the majority of resolved cases are not being 'closed' in the electronic system as the closure must be

[19] EURALIUS, Future of ICMIS, Stakeholder's Round-Table meeting 9th March, 2016

done by the Judge. In addition, the organization of the work of judges and judicial assistants as independents units also increase the tendency to inconsistent use of case definitions.

Initiatives to improve this situation can be carried out. Some examples of court level activities that resulted in the improvement of the electronic records quality already exist in Albania. Information about such activities must be shared and best practices supported in the perspective eliminating paper registers. Data standardization initiatives need to be carried out within the courts and between the courts. Court Chancellors are in a key position to organize and support such activities. Considering the existing standardization problems identified within the Albanian context, a progressive work of convergence is suggested. Sharing of best practices between Court Chancellors may help support such initiatives. As definitions and personnel change over time, this work needs to be carried out periodically.

CEPEJ *Guidelines on how to drive change towards Cyberjustice* points out another critical issue related to the deployment of automated registers: the data management. Storage, ownership and security of the computer data generated or handled by the court are key issues pertaining to the integrity of the justice system. It is important not to underestimate the quantity of data that will be produced in the short, medium and long term by the ICT application. From a Chancellor perspective, particular attention will be paid to the issue of access to judicial data, which must be secure from outside intrusions but also from internal misuse. [20] From an organizational perspective, the Court Chancellor is in a key position to ensure that court's data is managed by the administrative staff with the appropriate levels of data security, that adequate procedures are in place and that the personnel is adequately trained.

Various forms of training initiatives can be set up or supported by the Court Chancellor to face these and other critical issues. CEPEJ *Guidelines on how to drive change towards Cyberjustice* suggests that, when assessing training needs, consideration must be given not only to the user profile but also to the person's natural abilities and any special aptitudes or difficulties they may have in getting to grips with the new system or procedure. [21]

II. 3. Technologies for supporting judges

Several applications have been designed to support and to automate judges' activities. While many of the tools described in the previous section are 'organizational tools', most of the technology for supporting the judges' activities are 'individual tools'. This is for a number of reasons, including the independence and nature of the task judges perform. Moves to introduce new technologies may radically affect the very nature not only of the organization of the justice administration, but, in some cases, also affect the exercise of the jurisdiction itself. For these reasons, the adoption of a new tool often depends on the choice of a single judge to do so. While this is adequate with individual tools, it often generates problems with technologies that require organizational adoption. Furthermore, due to their functional independence, judges often develop

[20] https://www.coe.int/en/web/human-rights-rule-of-law/-/cepej-publishes-its-guidelines-on-how-to-drive-change-towards-cyberjustice

[21] https://www.coe.int/en/web/human-rights-rule-of-law/-/cepej-publishes-its-guidelines-on-how-to-drive-change-towards-cyberjustice

very individual working practices. The plurality of working practices dramatically increases the complexity of the task of providing organizational tools that take them all into account.

ICT supports the work of the judges in several areas, including the organization of the activity, the information management and retrial, document production and the decision-making. One of the aspects of the judge's activity is that of legal research. Various technological support tools ranging from cd-s to local intranets, to the internet provide access to constitutional material, laws, appellate decisions, rules, statutes, local ordinances and much more. Conducting on-line legal research and surfing the growing number of websites has become more and more a part of a judge's daily activity. The use of search engines and text mining techniques has highly increased both quality and efficiency of legal research.

*In **Ireland**, for example, the 'Electronic Bench book is a Lotus Notes application, updated on an ongoing basis, with various rules, statutes and regulations.' Through this system 'Judges have on line access a number of sources of electronic legal information services, Butterworths, Lexis-Nexis and Justis.Com'.*

*In **USA**, there are various sources that provide tools for legal research, such as Lexis-Nexis (https://www.lexisnexis.com) and Westlaw (https://lawschool.westlaw.com). These are private companies that regularly update their sources with legal information of all types, starting from legislation in federal level, state level, case-law of all USA courts, Law Reviews, Scholarly articles, professional organizations legal opinions, ECtHR case-law, Inter-American Court of Human Rights case-law, and all other types of legal information in the world. Their search engines are robust and sharp, and could provide very detailed information for the most difficult and complex cases. These websites, besides courts and law-firms in USA, are also accessible also to law students, even though the fee for their usage is high.*

*In **England and Wales** 'eLIS (electronic Library and Information Services) provides legal information for the judiciary, the DCA and the Her Majesty's Courts Service. It also provides a portal service to key legal information on the Internet.' It provides information in the following areas of law: United Kingdom, Human Rights, European, International; subject areas: Current Awareness, Legislation and Treaties, Case Law, Commentary, Organizations.*

*In **Italy**, the Italian Centre of Documentation of the Supreme Court provides free on-line access to the database of the jurisprudence of the Supreme Court, of the Consiglio di Stato, of the Corte dei Conti and of the sentences of the Constitutional Court and the European Court of Justice to the judges.*

Some effort has been made also to produce applications to support the judges in drafting sentences. In many cases, standard decision models are pre-programmed in the computerized system. Data used in the course of litigation and stored in the automated registers or in CMS (*such as the name of parties, of attorneys, facts, procedure*) can be retrieved automatically.

*In **France** a tool to be use with tablets called Persée has been developed to provide assistance with preparing and holding criminal hearings, including a function for integrating case data and documents into the diary, as well as assistance with drafting decisions using templates shared with professionals, a complete legal and case law database and samples of reasoned arguments.*[22]

*In **Germany** a system called forumSTAR has been designed to facilitate the work of all judges and communication between judges on the basis of easy-to-use professional modules.*[23]

Given the organizations of Albanian Courts, Chancellors may have a role in granting the availability of such technologies to the judges but do not seems to have a specific role in relation to their actual adoption and use.

II. 4. Case allocation and management systems

An evolution of the automated registers is the case management system (CMS). Such applications are not limited to providing an electronic copy of the paper-based register, but introduce functionalities to help the management of the cases. It is clearly an important task since time is the court most critical resource and CMS helps manage time. 'Effective case-flow management makes justice possible both in individual cases and across judicial systems and courts, both trial and appellate[24]. It helps ensure that every litigant receives procedural due process and also equal protection. While some limited case management functionalities are

[22] CEPEJ *Guidelines on how to drive change towards Cyberjustice* https://www.coe.int/en/web/human-rights-rule-of-law/-/cepej-publishes-its-guidelines-on-how-to-drive-change-towards-cyberjustice
[23] CEPEJ *Guidelines on how to drive change towards Cyberjustice* https://www.coe.int/en/web/human-rights-rule-of-law/-/cepej-publishes-its-guidelines-on-how-to-drive-change-towards-cyberjustice
[24] See 'Case-flow Management', 2003 Court Manager 2, p. 16, or at the NACM website on the Internet, see: http://www.nacmnet.org/CCCG/cccg_3_corecompetency_cfm.html

present in Albanian ICMIS and ARK-IT such as the case allocation lottery, most of them are not present. This is not just a technical point but also depends on the present organization of the work on the case. According to the SEJ "Court Organisation and Court Administrators' capacities in Albania: A first exploratory study", after the allocation of the case and registration of a new case in the court registers, follows an independent management of the case and case tracking by the judge and its judicial secretary till sentence. The introduction of a fully developed electronic case management system will require a joint effort of administrative personnel and judges.

Case management involves the monitoring and managing of cases in the court files from the time the action is filed to the moment it is finally disposed of by way of trial, settlement or otherwise. It ensures that all cases progress swiftly without unnecessary delay. In other European experiences, the introduction of electronic case management systems (CMS) and practices has often coincided with the attempt to standardize ICT applications already in place and to integrate existing databases. A top-down approach has often been used for the development and diffusion of the newer and more advanced applications. In many cases, strong resistance to the use of these applications has come from the courts. Over time, Courts and individual judges and administrative personnel units dealing with judicial and procedural activities have developed skills and practices that the introduction of a standardized tool inevitably disrupts.

Some of the functions performed by the CMS are strictly related to the management of the single case. These functions include the support and automation of the back-office and the procedural work of court staff, case tracking, case planning, document management, scheduling of hearings and support of judicial activities. For example, after the receipt of a pleading the event needs to be registered, the case needs to be allocated to a judge, notices need to be sent, a hearing must to be set, as well as time allocated for the judge to review the pleading before the hearing. If a response is not received from the opposing party, a reminder may be sent by the clerk[25].

The CMS can embed such knowledge and automatically perform most of these tasks, providing support to others (e.g. tracking events and generating reminders of deadlines) and thus helping to improve the service. Other functions are more related to the case flow and court management. CMS may help to monitor the output and performance of the courts, helping the planning and organization of court activities and the allocation of resources. The more sophisticated CMS packages summarize the court workflow on a daily, weekly and monthly basis. They are able to display the aggregate information on the court activities in different graphical views. A monthly calendar can show the number of actions and the time allocated in the courtroom for each day. Alternatively, bar charts can be produced to show each day of the week and the number of matters, by type, scheduled for the court and help plan court activities. While the possibility to extract statistics has been discussed when discussing automated registers and ICMIS and ARK-IT functionalities, the perspective, and therefore the data elaboration requirements here are different.

[25] In the paper based system, the flow of cases is carried around in the heads of court personnel, or is ingrained in procedures and materials such as to-do lists.

Tracking of case typologies considering time to disposition can be used at court level by the Chairman or by the Chancellor to highlight critical situations and later the allocation of personnel and other resources accordingly. It may used also as a tool by the judge to better prioritize or differently organize the work. The analysis of court workload trends may also be used to foresee future trends and needs, hence improve planning and monitor more strategic actions. CMS can help court staff process many cases, which are not disposed of judicially. A number of systems have been designed to provide support to ancillary, but time-consuming functions that in different countries are assigned to the courts. In many cases, stand-alone low-cost applications have been developed and implemented to speed up such work.[26] Increasingly, the trend is towards the integration of such systems within the CMS, with the creation of applications that incorporate all these functions.

Electronic Case Management Systems, integrating the work of judges and administrative personnel, create stronger interdependencies and coordination needs. While as of now the judge not closing a case electronically has only an impact in the quality of the electronic case register data, in a more integrated and electronic based workflow may result in the impossibility to publish the sentence or to send the notifications to the parties. Chancellors should have this complexity clear in mind as they will have, sooner or later, to face it. At the same time, the activities suggested to improve the data quality of the electronic case register, especially when involving the participation of judges, may go in the direction of preparing to this challenge.

III. ICT and communication exchange between courts, parties and general public

ICT and communication exchange between courts, parties and general public deals with trial data interchange between courts and the network of actors with whom the courts interact in pursuing their institutional functions. All European countries have made some effort to improve smoothness and rapidity of services and communication between the courts and their users promoting the use of electronic data and documents transmission. There is a distinction between electronic information provision (*court to the world, general information provision and informal communications*) and official electronic communication (*E-filing, official communications and on-line proceedings, world to the court and two way official communications*).

III. 1. Electronic information provision

The more widespread method for provision of electronic information is the use of internet websites. Four core elements have been proven to be very useful in analyzing and comparing the electronic exchange of information between courts and other parties through the internet. These elements are:

- the organization of the web service provision,

[26] In Finland, for example, courts tasks include registration of titles and mortgages over real property. Such registrations are made on court automated systems. The data is then automatically forwarded to the other interested authorities.

- access to information (*graphics, structure etc.*),
- users (*people, parties, lawyers, experts and other frequent users*) and
- content (*service typology*)

The organization of web information provision by courts varies widely across Europe. In some cases, web information organization and provision is centralized, with the highest courts, ministries of justice, and judicial councils playing a prominent role. In other cases, information provision is delegated within common frameworks. In some few cases, complete freedom and local initiative are the rule.

> *As access to information is concerned, the European landscape is quite heterogeneous both between countries and within them.*
>
> *In* ***Austria****, for example, 'single court web sites are not allowed and information about the courts is made available only through the official web site of the Ministry of Justice*[27].
>
> *In* ***The Netherlands****, the Council for the Judiciary provides a single point of access to information on courts, judicial organization, functions and processes. Very limited initiative is granted to individual courts*[28].
>
> *In other countries, such as* ***Belgium*** *and* ***France****, each court can develop its own website, following the guidelines established by the Ministry of Justice*[29].
>
> *In some other countries (e.g.* ***Finland, Italy****), courts can create their own website without following any specific rules.*
>
> *The* ***Dutch*** *judiciary, for example, provides a single point of access to information on courts, the judicial organization, functions and processes.*

[27] For more information see M. Fabri et al. (eds.), Judicial Electronic Data Interchange in Europe: Applications, Policies and Trends, 2003, p. 7.

[28] M. Velicogna et al., 'Legitimacy and Internet in the Judiciary: A Lesson From the Italian Courts' Websites Experience', 2006 International Journal of Law and Information Technology 14, pp. 370-389.

[29] In Belgium, within this framework, 'the Ministry of Justice has always been very anxious to permit the decentralized development of websites by individual courts and tribunals. To keep things coordinated a central portal has [...] been created on the website of the Court of Cassation (http://www.cass.be/pyramide_fr.php) Under this portal the various courts and tribunals have the possibility to build and to maintain their own website following a common, but more or less open template. Courts and tribunals are starting to make use of this possibility and begin to develop their own websites.' J. Dumortier, 'Judicial Electronic Data Interchange in Belgium', in M. Fabri et al. (eds.), Judicial Electronic Data Interchange in Europe: Applications, Policies and Trends, 2003, p. 128.

The use of a template creates a standard graphic and content disposition, which allows minimal discrepancies between court websites in terms of content presentation. In other countries, the graphics of court websites vary from very simple ones, some even archaic, to good quality ones, relatively fresh and modern, thanks to ongoing work of restyling and renewal. The possibility for users to find the information they are looking for, as well as the reliability of such information can vary a great deal from case to case. In more than one of the observed cases, the lack of a linear logical structure of access to specific contents can mislead the user, thereby generating a consistent waste of time[30].

Judicial institutions and courts interact and exchange information in order to provide their services or because they are seen as their stakeholders (*lawyers, parties, the population in general etc.*). 'Different groups of users have different information exchange needs. Furthermore, different groups have different technical and legal competences. Specific phrasing and short hand conventions employed by specific groups of users to facilitate communication with the court, on the one hand allows easy exchange of information between those groups and the court, but on the other hand, creates a barrier to access to other groups who do not use these short hand conventions or specific jargon'[31].

Information provided by judicial websites can be divided into four groups with respect to their content: general information, information on court activities and organization, legal information, and case information.

> – ***General information*** *provides details on the mission, addresses, and opening hours, possibly some official documents of relevance to the public. Other services could include search capabilities, host forms and applications to download, and links to other sites, as well as e-mail addresses of offices, court administrative personnel and, more rarely, judges.*
>
> – ***Information on court activities and organization*** *provides data on statistics of the courts' productivity, different divisions, organization of the work, and publication of judgments.*
>
> – ***Legal information*** *can be divided into general, specific and case law. General legal information concerns general rules, procedures, practices, examples of forms or pleadings for the guidance of litigants, the explanation of terms and documents used in court process etc, which can be applied to each and every court. As an example of procedure information, several Italian courts' websites provide information on tariffs/fees due for copies of judgments and files and other court documents. Specific information pertains to an individual court's rules, procedures, practices, forms etc.*

[30] *Ibid.* pg. 370-389.
[31] *Ibid.* pg. 381.

Case law provides on-line access to decision-databases. While information related to legislation, court procedures and practices is generally free of charge, for case law it is not always the case.[32]

> *In **France**, a dynamic information portal for litigants called Justice.fr enables to identify the competent court and download the relevant referral forms.* [33]

*– **Case information** provides information contained in docket reports, case files, indexes, and other court documents. In the few cases in which this kind of service is provided, for security reasons access is usually allowed to mirror court databases to consult court registries and/or sentence archives. In several countries courts provide public access to their schedules in order to see when a particular case will be dealt with. Due to privacy issues, in general, the data is provided without mention of the names of the parties. Reference is often made to the enrolment number.*

> *In **Austria**, the public is able to get access to the Austrian Land Register, the Austrian Company Register, the Legal Information System, the Edicts Database and the Database for Auctions for Real Estates. Only lawyers are additionally able to do a query at the data base of enforcement cases.*
>
> *In **Italy**, before the introduction of the Civil Trial on Line, the service 'Sentenze on line' allows the lawyers of the Milan bar association, to receive communication of the judgment docketing by e-mail. The downloading of the .pdf files of the sentences was also allowed. Such sentences were not true copies, which still had to be provided on paper by the court.* [34]
>
> *In **France**, the Administrative courts have a system called Sagace which enables the litigant to consult summary information on his/her legal case.*
>
> *An interesting example is provided by **Lithuania** where an Justice information portal called TEISMAS –facilitates communication between*

[32] 'Justice Systems and ICT - What can be learned from Europe?', Marco Velicogna, published by Utrecht Law Review, http://www.utrechtlawreview.org/ Volume 3, Issue 1 (June) 2007
[33] CEPEJ *Guidelines on how to drive change towards Cyberjustice* https://www.coe.int/en/web/human-rights-rule-of-law/-/cepej-publishes-its-guidelines-on-how-to-drive-change-towards-cyberjustice
[34] 'Justice Systems and ICT - What can be learned from Europe?', Marco Velicogna, published by Utrecht Law Review, http://www.utrechtlawreview.org/ Volume 3, Issue 1 (June) 2007

courts and litigants via email alerts, and allows the litigant to sign on to a secure server. [35]

In cases in which normative restrictions and privacy issues do not allow the publication of sensitive information on the web, other alternatives have been adopted. In Finland, the electronic records of the courts cannot be made available on-line. On the other hand, the information of the case (docket) is regarded by law as a public document. The solution found was simple: any person can have an access to the public information in the case management systems in the courts using a dedicated workstation located in the courts. Although not as comfortable as consulting the data directly from home, this solution helps to save time both to the user and to the court personnel. In other cases the public is granted access to anonimised information providing specific inputs. As an example providing the register number of a case one can be informed of the next hearing date or of the status of the case.

More sophisticated systems are discussed in the next section.

III. 2. Official electronic communication and access to electronic court files

In judicial proceedings, the formal communication between the court and parties is generally paper based and rooted on a complex set of formal rules, work practices and local adaptation and it is strategically used by the parties in an attempt to gain some advantage in the trial. In the last decades, judicial administrations around Europe have examined the feasibility of providing court services electronically. Specific areas being considered include the electronic payment of fines, electronic filing, electronic means for notification and communication to attorneys and parties and full electronic trial. Many countries have launched pilot projects. The aim of these projects has been to:

- radically change the paper based infrastructure underlying the formal communication exchange within judicial proceedings
- to improve and enhance access to justice, and
- to reduce inconvenience and the cost (*in terms of time, resources, money*) of justice to parties and their legal representatives.

In theory, where e-justice is implemented, a party or a lawyer, using a computer from work, home or even from a vacation location, can electronically file a claim, get information on a case, receive court e-notices, download electronic documents concerning the case. He or she can search for the next court appearance in a case, of the occurrence of a number of relevant events

[35] CEPEJ *Guidelines on how to drive change towards Cyberjustice* https://www.coe.int/en/web/human-rights-rule-of-law/-/cepej-publishes-its-guidelines-on-how-to-drive-change-towards-cyberjustice

on the cases she is following, or be automatically remained by the court of any impending deadline. The court front office became open 24 hours a day, 7 days a week, both for the consultation and for submission of documents. The same can be true for a judge, who can have access to the case file, to the case management system and carry out several judicial activities while being physically outside of the court.

The focus of this section is on concrete e-justice cases, which allow to clarify some of the practical implications of different experiences and provide a general reference to the Chancellors concerning what to expect as future developments in Albania.

Three paths have been followed by these e-justice efforts:

a) selection of simple procedures,

b) procedure simplification, and

c) full on-line proceedings.

The first two approaches are aimed at reducing the complexity of the system before trying to develop and implement the technology. In the third approach, effort is centered on translating all the complexity of the paper based procedures in to the electronic ones.

A. Selection of simple procedures

The first approach for dealing with the complexity of designing and implementing the electronic exchange of formal electronic documents is to focus on simple tracks. The aim is to simplify the task focusing on tracks characterized by easy procedures and a large number of cases[36]. Furthermore, a number of conditions that reduce the complexity have to be met in order to start or proceed with a electronic claim[37]. The respondent is notified by post of the claim that has been made against him and may decide to respond to the claim using this on-line service or, alternatively, the response pack. At any point during the procedure, if the case fails to meet the simplification requirements, it moves from the electronic track to the traditional, paper-based one.

[36] This was the choice introduced in England and Wales with Money Claim Online (MCOL). Using this system, 'claims and responses to the court can be made electronically using the Internet'. Money claims are in general simple and homogeneous cases.

[37] In order to start a claim, the only remedy claimed must be a specified amount of money, of less than £100,000, the procedure under Part 7 of the Civil Procedure Rules (CPR) must be used; the claimant can not be a child or patient; or funded by the Legal Services Commission; the claim must be against a single defendant; or two defendants, if the claim is for a single amount against each of them; the defendant is not the Crown; or a person known to be a child or patient; and the defendant's address for service is within England and Wales.

This method, while providing a service to a large number of court users, selecting a relatively simplified functional environment, dramatically reduces the task complexity the technology has to deal with and, consequently, the difficulties of its development and establishment[38].

> *Money Claim On Line (MCOL), developed in* ***England and Wales****, provides a good example of how a dedicated e-justice service can be implemented by building on existing technologies and organizations and allowing for delocalization. The case shows how rapid development and uptake was achieved building on existing installed base (organizations, software components etc.) and leaving some space for incremental development. The choice of having a single national jurisdiction for this on-line procedure has reduced the complexity of organizational adoption (compared to cases in which the technology must be adopted in a plurality of courts). Limiting the scope of application of the procedure to county court claims of a limited monetary value and moving it off-line where complexity increased, has also reduced the complexity of the system.*[39]

B. Procedure simplification

The second path, somewhat related to the first one, is directed towards simplifying the complexity of the rules and procedures that concern the document exchange.

> *In* ***Finland***[40]*, for example, during the studies conducted for the planning of new civil procedure legislation, it was realized that the main obstacles to the official exchange of electronic documents came from the formal requirements for the submitted documents. Taking this into account, the law on civil procedure that came to force in 1993 was written to allow the use of electronic messages for the application for a summons and, at the same time, limit the need of using written original documents to the minimum. According to the Act on Electronic Service in Judicial Matters in Finland, 'an application for a summons, a*

[38] For more detailed information see N. Luhmann, The sociology of risk, 1993; N. Luhmann, Social system, 1995; J. Kallinikos, ICT in Justice: The case of Money Claim Online Service in England and Wales, Workshop on ICT and Justice, Bologna, 7-8 April 2006 and J. Kallinikos, ICT in Justice: The case of Money Claim Online Service in England and Wales, Workshop on ICT and Justice, Bologna, 7-8 April 2006, pg. 18-19 and pg. 43.

[39] Kallinikos, J. 2009. Institutional complexities and functional simplification. The case of Money Claims Online. In F. Contini and G.F. Lanzara (eds.), ICT and innovation in the public sector. New York, Palgrave Macmillan: 66-87.

[40] K. Kujanen, E-services in the courts in Finland, Presentation at the Seminar on Law and Informatics, Bern, 26 October 2004, pg. 4. and 'Taking of evidence and mode of proof – Finland', available at: http://ec.europa.eu/civiljustice/evidence/evidence_fin_en.htm

The reason this system is being fully elaborated above, is that Albania had not started yet designing the e-justice filing of petitions/lawsuits to the courts, therefore might instigate motivation and represent a good example to be implemented in the future.

response and another comparable document may be delivered to a court of law, or to a person designated by the court to receive documents, also by telefax, E-mail or electronic data interchange into the IT system of the recipient (electronic message)'. Therefore, an application for a summons may be filed by the plaintiff to the registry of the District Court also by e-mail or fax.

'The application for a summons must contain the name of the court, the names of the plaintiff and defendant, the attorneys and the witnesses, as well as their contact information. In the application for a summons, the plaintiff explains what he or she demands of the defendant and on what grounds'. Although the contract or other agreement the demand is based on must be appended to the application, according to the principle of free evaluation of evidence, 'an electronic "document" can in many cases be as valid as evidence as a paper document or the testimony of a witness'.

Furthermore, the Finnish Ministry of Justice could grant permission to deliver the information required of an application for a summons by way of the message exchange system, known as Santra, into Tuomas, the case management system used by the District Courts. 'A plaintiff, who has been granted this permission, sends the electronic applications for a summons as a file transfer from its own system to the mainframe, which distributes the applications to the Santra mailboxes of the various district courts. When cases have been filed through Santra, the district court may also send the decision data through Santra to the plaintiffs, so that they have it directly in their information systems. However, the official hard copies of the judgments by default are still sent by the district court to the plaintiffs as well'.

This system is used by professionals and organizations that file large numbers of applications for summonses, such as collection agencies, because the party must acquire or develop, at its own cost, software for the compilation of application records that meet the set format criteria. The file format descriptions are available at the Information Technology Bureau of the Ministry of Justice. As a consequence, this kind of electronic filing is normally used for simple (and undisputed) summary debt collection cases.

C. On-line proceedings

Development of information systems, adopted for the implementation of on-line proceedings 'is a complex and intricate task that requires the understanding and management of a large number of interdependent factors. Information infrastructures are characterized by being shared among different organizational units and organizations, grounded on other complex and networked IT hardware and software platforms, and evolving over time and space. Given the technical, organizational and normative complexity of the systems needed for full on-line proceedings, 'it

is essential that the systems are planned in co-operation with users and other public or private agencies[41].

> ***Austrian*** *implementation effort seems to have been concentrating in this direction, with the inclusion of the lawyers, notaries and other official authorities in the system as part of the organization for justice service provision. The experimentation of the possibility to electronically exchange structured data between courts, parties and their representatives began in Austria in 1989, with the development of a system called Elektronischer Rechtsverkehr (ERV). The system was initially introduced in 1990 to support filing requests for injunction (Mahnklagen), a simplified money claim procedure. After its introduction, the system was gradually extended both in terms of potential users, and in terms of available procedures. At the same time, also technological component has evolved. As users are concerned, ERV was initially open only to lawyers, notaries and the Federal Law Office of the Republic of Austria acting as representative for the regional authorities. Starting from 1994, the system was then gradually opened to other users including public law bodies and certain organizations subject to government supervision such as banks and insurance companies and in 2000 to the general public. At the same time, access is not simple for an external user. Apart from an Internet connection and a PC, an end user such as a lawyer or a party must have an Austrian bank account and an ERV client software provided an authorized software companies. Furthermore, each user needs a unique identification code. The code is provided by Bar Association to lawyers, by the Chamber of Notaries to Notaries and by the Ministry of Justice to the other users. As a result, only professional usually use the system. In 2015, through ERV took place a total of 15.4 million electronic transactions, including 4.7 million communications and 7.8 millions transmissions sent via the 'return traffic stream'. In the same year 94 per cent of all civil suits and 91 per cent of the applications for enforcement were filed electronically.*[42]

[41] For more detailed information see R.H. van den Hoogen E-Justice, beginselen van behoorlijke elektronische rechtspraak, 2007, pg. 152. Van den Hoogen, proposed sixteen principles a fair electronic trial should guarantee, by providing the idea of the complexity of the development that an online proceedings system must tackle. Such principles are: 'continuity, co-ordination for non-professionals, traceability, durability, reliability, press freedom and privacy protection, public accessibility, online publication, anonimization, the correct nature of the proceedings, chain control, responsibility, transparency, the automated judgment, well-reasoned decisions and equivalence'. The technical, organizational and normative challenge posed by dealing with all these principles (*and others which are not related to fairness but nevertheless quite relevant such as efficiency etc.*) is clearly high.

[42] https://www.justiz.gv.at/web2013/home/e-government/elektronischer_rechtsverkehr_erv~2c9484852308c2a60123708554d203e7.de.html Accessed on 10/10/2016

*On the other hand, the **Italian** initial struggle in the effort to develop the Civil Trial On-line (PCT) provides a representation of the difficulties that may be faced.* [43] *This system was initially intended as a reproduction of traditional paper-based civil procedures, as defined by law, in an electronic medium. The grand plan to introduce a system to support electronically all civil procedures was discovered to be too ambitious. Started in 1999, after a not very successful initial pilot phase in 7 first instance courts in 2005, in 2006 it was decided to limit the initial attempt to digitalize the entire set of civil proceedings to piloting to one simplified procedure. This resulted in the first limited success, with the introduction of the electronic Payment Order with legal validity in Milan. This allowed the experimentation of the system by court administrative personnel, judges and legal professionals. Working groups were organized to discuss emerging organizational and procedural problems linked to the introduction of the new system. Another key step for the diffusion of the system was the decision in 2011 to move away from a closed e-mail system dedicated to the PCT to the use of the standard national certified e-mail (law 44/2011). As in the Austrian case, the system was increasingly extended to include procedures (and in the Italia case courts). From February 2012 e-Communications from tribunals and Courts of Appeals in civil proceedings (from February 2016 for the Court of Cassation) can only be made electronically (19.290.586 of such communications were delivered in 2016). Furthermore, by mid-2014 it became compulsory for lawyers the e-filing of injunctions and pleadings in new cases in all first instance courts (by the end of 2014 for all pleadings) and by mid-2015 in all appeal courts. After the success of the Civil Trial On-line, also the Criminal procedure is going digital.*

[43] For more information see Carnevali D., & Resca, A. (2014). Pushing at the Edge of Maximum Manageable Complexity: The Case of 'Trial Online'in Italy, in Contini, F., & Lanzara, G. F. (eds.). The circulation of agency in e-justice. Interoperability and Infrastructures for European. Springer, pp. 161-183; S. Brescia, Dai Sistemi Informativi Giudiziari al Processo Telematico, Giustizia e Telematica, Rome, 8-9 September 2003; and F. Contini et al., 'Information System and Information Infrastructure Deployment: The Challenge of the Italian E-Justice Approach', draft, 2007, p. 8. 95 F. Contini et al., 'Information System and Information Infrastructure Deployment: The Challenge of the Italian E-Justice Approach', 2007, pg. 8.

SATURN Guidelines related to collection of information, in the view of Information and Communication Technology[44]

Guideline 6 - Collection of information

The court managers should collect information on the most important steps in the judicial process. They should keep records regarding the duration between these steps. In respect to the steps monitored, due regard should be given to the Time management Checklist, Indicator Four.

However the indicators seem primarily developed for courts in civil proceedings, although they also apply in proceedings before criminal courts. However most of them seem less relevant for the pretrial work of prosecutors. Some possible steps for pretrial work that might be recorded:

- start of investigation
- information to the suspect, defender and victim;
- receipt of the parties' response;
- collection of expert evidence;
- collection of testimonies;
- final indictment decision;
- delivery of the indictment to the parties (suspect and victim).

The list of stages should be compared to and supplemented with the stages listed under guideline 4.

Guideline 7

The information collected should be available, to inform the work of court administrators, judges and the central authorities responsible for the administration of justice. In appropriate form, the information should also be made available to the parties and the general public.

[44] For more information see SATURN Guidelines for Judicial Time Management - Comments and Implementation Examples, Marco Fabri and Nadia Carboni (IRSIG-CNR), Strasbourg, 22 June 2015, https://www.coe.int/t/dghl/cooperation/cepej/delais/2_2015_Saturn_Guidelines_commentsimplementation.pdf

CEPEJ Guidelines on how to drive change towards Cyberjustice Checklist for users of the information system[45]

Users' perception of the existing information system

- Overall, do you feel the IT system takes sufficient account of your business needs?
- Has the IT system made it easier to perform your everyday tasks? Has it reduced the time taken to perform redundant or repetitive tasks? Has it provided additional expertise (calculating periods of notice, links to case law, etc.)?
- In your view, is the ergonomic design geared to the tasks which have to be performed?
- Has the content of the IT system kept pace with legislative and/or regulatory developments?

- **Training**

  - How is training in the IT system organised? (mandatory/optional, organised by the court or an administrative department / provided by a colleague)
  - Do you feel you have been properly trained in how to use the IT system?
  - Whenever there is an upgrade in the IT system, what training are you given in how to use the new features?

- **Court administration**

  - Does the IT system produce scoreboards (statistics, counts) that are of use in managing the court?
  - In your view, are the scoreboards produced reliable? Do you have to carry out recounts using other methods?
  - Are the CEPEJ tools used in the scoreboards?
  - Do you send these statistics to other judicial departments or are the data retrieved directly from the system by the departments concerned?

- **Needs and wishes regarding changes to the existing IT system**

  - Does the team managing the IT system listen to your comments and/or requests for changes? Do you feel that your requests are dealt with in a satisfactory manner?
  - Which functionalities would you like to see improved in the existing IT system?

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[45] https://www.coe.int/t/dghl/cooperation/cepej/evaluation/2016/publication/REV1/2016_2%20-%20CEPEJ%20Study%2024%20-%20IT%20Report%20-%20EN.pdf

- In your opinion, which functionalities are vital and should be left unchanged?

Questions that CEPEJ had prepared to be answered on IT use - this information had been required (and will be on the future) from CoE member states, Albanian included, for providing information to CEPEJ on IT usage

Questions have been divided into four fields[46]:

- Direct assistance to judges, prosecutors and court clerks,

- Administration and Court management (including the case management),

- Communication between courts, professionals and/or court users,

- Other aspects such as organization and governance of court information systems, system security and personal data protection.

The answers to these fields have been distributed into five main areas:

- IT equipment, in line with previous years,

- Governance/strategy, new area of analysis,

- The legal framework for the use of IT,

- Country's level of investment in tools to improve efficiency,

- Country's level of investment in tools to improve quality.

[46] For more information see 'CEPEJ Studies No. 24 - Thematic report: Use of information technology in European courts' 2016.
https://www.coe.int/t/dghl/cooperation/cepej/evaluation/2016/publication/REV1/2016_2%20-%20CEPEJ%20Study%2024%20-%20IT%20Report%20-%20EN.pdf