

Quality of Public Administration A Toolbox for Practitioners



Theme 7: Quality justice systems

An effective justice system is a fundamental right of citizens, as well as underpinning business confidence, job creation and economic growth. Enabling entrepreneurs to protect their rights, settle their contracts, and recover their debts is vital for enterprise, investment, innovation and fair competition. Across the EU, mutual understanding and trust in justice systems - their quality, independence and efficiency - is essential to the functioning of the internal market. This theme looks at how judiciaries assess their functioning, quantitatively and qualitatively, to inform ongoing improvements and innovations. In that respect, it is important to underline that any justice reform should uphold the rule of law and comply with European standards on judicial independence. This theme also looks at ways in which access to justice is being enhanced throughout the 'chain of justice': at the point of entry, during the judicial process, and at its conclusion. It explores the modernisation of judicial administrations, including the role of Information and Communication Technologies in courts, better communication and consultation, user-centric processes, judicial training and continuing professional development.

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An effective justice system that interprets and applies the law fairly, impartially and without undue delay is fundamental to citizens' rights and a well-functioning economy. Every EU member has its own unique structures and traditions in civil, commercial and administrative justice, but also a common interest to ensure the highest quality and mutual trust among each other's systems, to incentivise businesses to develop and invest at national and cross-border levels.

This chapter:

- ✓ Sets out the societal and economic case for quality, independence and efficiency of justice systems;
- ✓ Describes how quantitative techniques are being used to measure, monitor and manage the functioning of justice systems;
- ✓ Examines how judiciaries are increasingly engaging with citizens and other users to gain more qualitative insights, and to communicate better both before and after cases;
- ✓ Summarises the alternative dispute resolution methods that broaden the possibilities for citizens and businesses to have disputes solved;
- ✓ Highlights the modernisation of court systems and procedures through ICT and e-Justice;
- ✓ Identifies the implications for raising the competences of judges, prosecutors, court staff and others, through training and continuing professional development.

Introduction

"Access to an effective justice system is an essential right which is at the foundation of European democracies, recognised by the constitutional traditions common to the Member States. For this reason, the right to an effective remedy before a tribunal is enshrined in the [Charter of Fundamental Rights of the European Union](#) (Article 47). Whenever a national court applies EU legislation, it acts as a 'Union court' and must provide effective judicial protection to everyone, citizens and businesses, whose rights guaranteed in EU law were violated. The effectiveness of justice systems is therefore crucial for the implementation of EU law and for the strengthening of mutual trust".¹

Quality, independence and efficiency are the key components for an effective justice system, as a **fundamental right of citizens** enshrined in Article 6 of the [European Convention on Human Rights \(ECHR\)](#): *In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.*

A well-functioning judicial system also underpins **economic development**. A 2017 study by the [Joint Research Centre](#) identifies correlations between improvement of court efficiency and the growth rate of the economy and between businesses' perception of judicial independence and the growth in productivity.² Where judicial systems guarantee the enforcement of rights, creditors are more likely to lend, firms are dissuaded from opportunistic behaviour, transaction costs are reduced and innovative businesses are more likely to invest. Confidence in justice creates a climate of certainty and reliability that enables forward business planning and hence a thriving private sector (see [theme 6](#)). It encourages the innovation, investment, business creation and fair competition that are the ingredients of a high productivity economy, and hence long-term growth in line with [Europe 2020](#) priorities. The positive impact of national justice systems on the economy is underlined in literature

¹ 2014 EU Justice Scoreboard, COM (2014) 155 final

² 'The judicial system and economic development across EU Member States', JRC, available at: <https://ec.europa.eu/jrc/en/publication/judicial-system-and-economic-development-across-eu-member-states>

and research³, including from the International Monetary Fund,⁴ the [European Central Bank](#), the OECD,⁵ the [World Economic Forum](#), and the [World Bank](#), and [the European Commission's September 2014 paper on "The Economic Impact of Civil Justice Reforms"](#).

The [EU Justice Agenda for Europe 2020 – Strengthening Trust, Mobility and Growth within the Union](#) highlights the contribution of EU justice policy to supporting economic recovery, growth and structural reforms. *"The EU has taken action to progressively build the trust necessary for businesses and consumers to enjoy a single market that truly works like a domestic market. Red tape and costs have been cut: a judgement given in one Member State can now be recognised and enforced in another Member State without intermediary procedures (the formality of 'exequatur'⁶ has been progressively removed in both civil and commercial proceedings)"*.

Whatever the model of the national justice system or the legal tradition in which it is anchored, independence, quality and efficiency are the essential parameters of an effective justice system and need to be ensured.

Each EU Member State has its own legal tradition and unique judicial system to administer civil, criminal and administrative law. While these specificities will always remain, there is a shared interest across the **EU-28** that each justice system is of quality, independent and efficient. Businesses and citizens need to be assured that, as a final resort, they can seek redress from the courts in a reasonable timescale, to a consistent standard, and without outside interference in the process of judgement at home and throughout the EU. Actual recourse to the law is less important than potential recourse: the knowledge that these safeguards exist. Effective justice contributes to strengthening Member States' **mutual understanding and trust** in each other's judicial systems, which is also the aim of the [European Commission's Justice Programme for 2014-2020](#).

Justice Programme 2014-2020

This programme shall contribute to the further development of a European area of justice based on mutual recognition and mutual trust. It promotes:

- ✚ Judicial cooperation in civil matters, including civil and commercial matters, insolvencies, family matters and successions, etc.;
- ✚ Judicial cooperation in criminal matters;
- ✚ Judicial training, including language training on legal terminology, with a view to fostering a common legal and judicial culture;
- ✚ Effective access to justice in Europe, including rights of victims of crime and procedural rights in criminal proceedings;
- ✚ Initiatives in the field of drugs policy (judicial cooperation and crime prevention aspects)

³ Alves Ribeiro Correia/Antas Videira, "Troika's Portuguese Ministry of Justice Experiment: An Empirical Study on the Success Story of the Civil Enforcement Actions", in *International Journal for Court Administration*, Vol. 7, No. 1, July 2015 attest the success of reforms drawn in Portugal.

⁴ IMF, "Fostering Growth in Europe Now" 18 June 2012.

⁵ See e.g. "What makes civil justice effective?", OECD Economics Department Policy Notes, No. 18 June 2013 and "The Economics of Civil Justice: New Cross-Country Data and Empirics", OECD Economics Department Working Papers, No. 1060.

⁶ Exequatur, a concept specific to the private international law, refers to the requirement of a court decision authorising the enforcement in that country of a judgment or court settlement given abroad.

The Justice Programme can fund the following types of actions:

- ✚ Training activities (staff exchanges, workshops, development of training modules, etc.);
- ✚ Mutual learning, cooperation activities, exchange of good practices, peer reviews, development of ICT tools etc.;
- ✚ Awareness-raising activities, dissemination, conferences, etc.;
- ✚ Support for main actors (key European NGOs and networks, Member States' authorities implementing Union law, etc.);
- ✚ Analytical activities (studies, data collection, development of common methodologies, indicators, surveys, preparation of guides, etc.).

All actions to be funded by the programme must produce results whose benefits go beyond one single Member State. In particular, the following elements should be looked at:

- ✚ Does the project contribute to the effective, comprehensive and consistent implementation of Union law instruments and policies?
- ✚ Will it improve public awareness and knowledge about the rights, values and principles deriving from Union law?
- ✚ Will it improve the understanding of potential issues affecting these rights?
- ✚ Is it likely to develop mutual trust among Member States and to improve cross-border cooperation?
- ✚ What is its transnational impact?
- ✚ Does it contribute to the elaboration and dissemination of best practices?
- ✚ Will it create practical tools and solutions that address cross-border or Union-wide challenges?

The budget for 2014-2020 is €378 million. All Member States are eligible except for Denmark and the United Kingdom.

Measuring the effectiveness of justice systems is not an easy exercise. Justice cannot just be measured in, for example, the number of court cases or judgments. Timeliness of outcome is a fundamental right for all parties which demands efficiency ('justice delayed is justice denied'), but too great an emphasis on the speed of the process can lead to miscarriages of justice ('justice hurried is justice buried'). An effective justice system thus requires taking into account three essential aspects, namely: the quality of the justice system, its independence, and the efficiency with which it operates. In recognition that these three factors are inseparable, and to provide an overarching perspective, the [EU Justice Scoreboard](#) was first launched in 2013 as an information tool to achieve more effective justice by providing objective, reliable and comparable data on justice systems in all Member States on an annual basis. The EU Justice Scoreboard contains information on all three main elements of an effective justice system: quality, independence and efficiency. The EU Justice Scoreboard feeds the [European Semester](#), the EU's annual cycle of economic and structural policy coordination.

The EU Justice Scoreboard

The Scoreboard contributes to identifying potential shortcomings, improvements and good practice, and aims to present trends on the functioning of the national justice systems over time, with a focus on litigious civil and commercial cases, as well as administrative cases. The metrics presented fall under the following headings:

- ✚ **Quality:** Effective justice systems do not only require timely but also high quality decisions. Quality is a driver for citizens' and businesses' trust in the justice system. Although there is no single agreed way of measuring the quality of justice systems, the EU Justice Scoreboard focuses on certain factors that are generally accepted as relevant to improve the quality of justice. They are grouped into four categories:

- 1) accessibility of justice for citizens and businesses;
- 2) adequate material and human resources;
- 3) putting in place assessment tools; and
- 4) using quality standards.

Specific indicators include income threshold for legal aid applicants, level of court fees, availability of electronic means to parties and lawyers for submitting and following a claim online, access to and arrangements for publication of judgments online, promotion of and incentives for using alternative dispute resolution methods, existence of monitoring and evaluation of court activities (including surveys), the compulsory and continuous training of judges, available financial and human resources in the justice system, criteria for determining financial resources for the judiciary, proportion of female judges at different court instances, and existence of standards on timing and on providing information about case progress to parties.

- ✚ **Independence:** perceived judicial independence among the general public and companies, including the main reasons for the perceived lack of independence, plus indicators on structural independence covering the composition and powers of the Council for the Judiciary, on bodies proposing and deciding on appointment of judges and their powers in the appointment process, safeguards on transfer of judges without their consent, dismissal of judges, individual evaluation of judges, allocation of incoming cases, withdrawal and recusal of judges, and procedures in case of threats to a judge's independence; and
- ✚ **Efficiency:** length of proceedings (disposition time), clearance rates, number of pending cases and average length of court proceedings calculated from actual cases in specific areas of EU law.

The preparation of the EU Justice Scoreboard drew on a range of sources, including: [The European Commission for the Efficiency of Justice \(CEPEJ\)](#), [Eurostat](#), [Eurobarometer](#), [European Network of Councils for the Judiciary \(ENCJ\)](#), [Network of the Presidents of the Supreme Judicial Courts of the EU \(NPSJC\)](#), [Association of the Councils of State and Supreme Administrative Jurisdictions of the EU \(ACA-Europe\)](#), [Council of Bars and Law Societies of Europe \(CCBE\)](#), [Consumer Protection Cooperation Network \(CPC\)](#), [European Observatory on Infringements of Intellectual Property Rights](#), [Communications Committee \(COCOM\)](#), [European Competition Network \(ECN\)](#), [Consumer Protection Cooperation Network \(CPC\)](#), [Expert Group on Money Laundering and Terrorist Financing \(EGMLTF\)](#), [World Bank](#), and [World Economic Forum](#).

The context for the Scoreboard is the process of ongoing reform in many Member States to render their justice systems more effective for citizens and businesses, which has also been an integral part of Economic Adjustment Programmes since 2011. The improvement of the quality, independence and efficiency of judicial systems has also been a priority since 2012 for the [European Semester](#), the EU's annual cycle of economic policy coordination, as signalled in the Annual Growth Surveys⁷. The Scoreboard feeds the European Semester process by providing objective data concerning the functioning of the national judicial systems. This contributes to identifying issues that deserve particular attention to ensure implementation of reforms. The Commission publishes a series of [thematic factsheets](#) on public administration under the European Semester, including a [factsheet on effective justice systems](#).

This chapter explores four aspects of stronger judicial systems - quality assessment & assurance; access to justice; modernisation; and judicial training & professional development. It focuses on the following questions, and sets out ways and tools to address them.

⁷ Communication from the Commission, Annual Growth Survey 2015, COM (2014) 902 final.

| Key questions | Ways and tools to strengthen capacity |
|---|--|
| 7.1 How can the functioning of the judicial system be assessed and its quality and efficiency enhanced, drawing on intelligence from inside and outside the judiciary, to meet the expectations of citizens and other users? | <ul style="list-style-type: none"> ✚ Performance monitoring & reporting ✚ Performance evaluation ✚ Quality groups ✚ Satisfaction surveys & other consultation techniques ✚ Quality management systems |
| 7.2 How are judiciaries maximising access to justice under civil and commercial law, including Europe-wide case law? | <ul style="list-style-type: none"> ✚ Information for court users ✚ Media relations ✚ Court coordinators & case law databases ✚ Alternative dispute resolution methods (arbitration & mediation) |
| 7.3 How are justice systems being modernised , so that the judicial process is better, faster and more cost-effective, especially across the European judicial space? | <ul style="list-style-type: none"> ✚ Process re-design ✚ e-Justice ✚ e-CODEX ✚ e-SENS |
| 7.4 How can judges, prosecutors, court administrators and other legal professionals keep up-to-date with the latest legislative developments and changes in the operating environment through training and continuing professional development ? | <ul style="list-style-type: none"> ✚ Training needs analysis ✚ Curricula and training plans ✚ Training methodologies ✚ Training tools to apply EU law ✚ Training assessment |

7.1 Assessing and enhancing functioning

Before you can strengthen the quality of any system, you need to understand its functioning - its strengths, stress points and bottlenecks. In seeking to drive up standards, the starting point is to find out the current position and the factors behind it, to feed this information into forward planning, and to follow changes over time (see also [topic 1.3](#)).



All Member States are now engaged in some form of performance measurement and monitoring, using indicators - and increasingly ICT - to gather and analyse information on the effectiveness of the justice system. Increasingly, this assessment is going from the quantitative into the qualitative, based on internal and external dialogue with court users to answer the questions:

- ✚ Is the justice system performing to expectations, demonstrating efficiency and delivering quality outcomes?
- ✚ If not, what needs to change?

Raw data is important, but it needs interpretation. This has led judiciaries to employ techniques such as establishing quality groups from within the system (judges, prosecutors and court staff), to consult citizens and other court users (lawyers, notaries, expert witnesses, etc.) and to introduce quality management systems found elsewhere in the public and private sectors, which emphasise an ongoing process of feedback, reflection and improvement.

7.1.1 Monitoring and evaluation

Member States are increasingly using performance data to assess and improve the efficiency of their justice systems. Regular **monitoring of daily court activity** is commonplace in all EU Member States, according to the 2016 EU Justice Scoreboard:



- ✚ All but three Member States gather data on the number of incoming civil, commercial and administrative cases.
- ✚ All but four track the length of proceedings.
- ✚ 27 Member States have a variety of tools in place aiming to monitor and evaluate court activities, including annual activity reports, monitoring the number of postponed cases or specialised court staff for quality.
- ✚ 19 of the 28 Member States have standards in place related to active monitoring of case progress.

For most EU Member States, this data and other information is used specifically for management purposes, by identifying **efficiency indicators**⁸ to assess the proper functioning of their courts, including some or all of the following:

- ✚ Number of incoming cases;
- ✚ Length of proceedings;
- ✚ Number of closed cases;
- ✚ Pending cases and backlogs; and
- ✚ Productivity of judges and court staff.

The efficiency of the court system can be assessed by calculating two **composite metrics** from the number of incoming, resolved and unresolved cases, namely clearance rates and disposition times.

To manage performance in real-time relies on ready access to reliable information. **Information and communication technologies (ICT)** are revolutionising data collection, interrogation and dissemination (see [topic 5.4](#)). Instead of the old paper-based systems, completed by hand and posted to a central location for manual entry into a database, ICT allows each court to submit information directly and automatically, subject to statistical quality control. Data processing can be highly dynamic and flexible online, mined and manipulated to deliver analytical reports on demand (see also [topic 7.3](#) on moving to e-Justice).

“It is not only about statistical data analysis. It is also about a change of habits, work methods, and mentality of judges and other employees at the courts.” Alenka Jelenc Puklavac, former Head of the Registry Department of the Supreme Court of Slovenia⁹

For example, the court system in **Slovenia** is collecting and capturing performance information in its data warehouse, to improve planning, decision-making at all levels (including potential interventions by the Supreme Court), and human resources management. Apart from the instantaneous access to the latest data, the visualisation of key performance indicators (KPIs) through the Judicial Data Warehouse and Performance Dashboard project, part-financed by EU funds, increased transparency and secured the project a place as a finalist in the CEPEJ and European Commission [“Crystal Scales of Justice Competition”](#) in 2012. By monitoring the efficiency of court operations, the system has helped to raise productivity, and helped to drive down the number of pending cases and disposition times.

Inspiring example: Judicial Data Warehouse and Presidents’ Dashboards Project (Slovenia)

The number of new cases submitted to Slovenian courts each year has almost tripled in the last 20 years. In the early 1990s, there were approximately 400 000 new cases per year. By 2011, there were more than 1.1 million. In 1994, the executive and legislative branch instituted a reform of the judiciary, which has considerably slowed down the performance of the courts. The reform significantly contributed to obstacles in judicial proceedings and to creation of judicial backlogs. Slovenia received multiple convictions at the European Court of Human Rights (ECtHR) for systemic reasons that lead to violations of the right to a trial in reasonable time under Article 6 of the European Convention. In response, Slovenia launched the so-called

⁸ CEPEJ website is an authoritative expert source on performance indicators (www.coe.int/cepej).

⁹ http://www.coe.int/t/dghl/cooperation/cepej/events/EDCJ/Cristal/2012/CSJ_presentation_GST_2210.pdf

'Lukenda Project' in 2005 (named after the ECtHR case that prompted it) with the goal of eliminating backlogs in the courts and Prosecutor's Offices by 31 December 2010 on a national level. The Lukenda Project entailed a comprehensive package of 19 measures to improve efficiency, featuring *inter alia* simplifying legislation, standardising judicial proceedings, increasing staff levels, improving workplace conditions & remuneration, additional training of judges and prosecutors and introducing specialisation of judges, reorganisation and better management of courts. It also required:

- ✚ Complete computerisation of the courts;
- ✚ The establishment of a single statistical database for statistical monitoring of the courts' work based on uniform criteria;
- ✚ The establishment of a coordinating body in charge of statistical monitoring of the courts' work by the Ministry of Justice, the Judicial Council and the Supreme Court; and
- ✚ Data from the single statistical database should be made available to all users: the Ministry of Justice, the Judicial Council, the Supreme Court and all other courts, taking into account the legislation on protection of personal data.¹⁰

The Courts' Act prescribes a number of reports and documents, which are to be prepared by court presidents and directors as part of their court management duties. They also carry the responsibility for the performance of their courts. Before 2008, court registers in Slovenia were managed for individual types of procedures, and not on the level of the whole court, and were filled manually every quarter (three months), with only basic data - new, solved and unresolved cases, and the start and end of the procedure. Data was submitted in the static form of statistical spreadsheets. Some data was collected only once a year, and delayed for even 5-6 months, making it less usable and transparent. The work of the courts was measured, but it did not determine causes, reasons for the situation, or improve operations.

To generate better quality and more reliable information, the Supreme Court of Slovenia developed and implemented a new approach to court management by combining business-intelligence technology with managerial know-how. Processes, technologies and tools needed to turn data into information, information into knowledge, and knowledge into plans that drive appropriate business actions. The result would be a paradigm shift from statistical reporting to strategic management

After first implementing electronic case management systems for individual judicial procedures, a data warehouse project and reporting system was initiated to allow information to be collected electronically, centrally and automatically (and hence up-to-date), to permit enquires against a range of metrics (such as disposition time, clearance rates, age of pending caseload), and to enable reports to be produced on demand and facts to be presented in a user-friendly format.

Data warehousing is a process which turns raw data into potentially valuable information assets by: applying standards and consistency to the data; integrating the data; enforcing data consistency over time to provide meaningful history; organising the data into subject areas crossing business functional lines; acting as a stable and reliable source (not changing like operational systems databases); and providing easy accessibility.

The main goal of the Data Warehouse Project was to improve decision-making and productivity by: shortening the decision-making time and eliminating backlogs; gaining a better overview of the work of courts and allowing benchmarking between courts; enabling a more efficient resolution of old cases; allowing effective planning and equalisation of human resources in different courts; rationalising the costs; and removing the burdening from judges of preparing statistical analysis. Data was captured from a range of sources relating to civil, criminal, administrative and labour law, subject to ETL (extract-transform-load) and made available through the data warehouse and marts for analysis by end-users: the courts, the Supreme Court, the Judicial Council, and the Ministry of Justice.

In terms of sequencing, the Registry Department produced a prototype in 2008, started to build the data warehouse in 2009, and the business reporting system in 2010, as the logical succession. The first challenge was integration, how to get everything in one place, and get rid of unnecessary manual work. The second challenge was how to build a system that satisfies very different needs. The business reporting project must

¹⁰ For more information on the Lukenda project, see [CEPEJ Studies No. 13](#), pp 92-110.

have a limited scope at the start, but meticulously specified, focused on management. Many data warehouses got stuck in ordinary reporting, limited by terribly long, prescribed lists of requirements which, at the end, had no added value. If the data warehouse and business reporting does not have the support of top leadership, it is doomed to fail, because it actually shows how the courts are operating and some might not necessarily like what they see. It ensures that legislative commitments to accountability and competence of court presidents are not only letters on a paper.

The main challenge was how to create a president-friendly, graphically-effective way to present the balance of a specific court, and at the same time, how to use this presentation to enable comparison of one court to other similar courts. In 2011, five dashboards were developed with the most important information as a data visualisation tool - the example (right) is 'judicial backlogs'. This President's Performance Dashboard Project was one of the four finalists of the CEPEJ and European Commission "Crystal Scales of Justice Competition" in 2012.

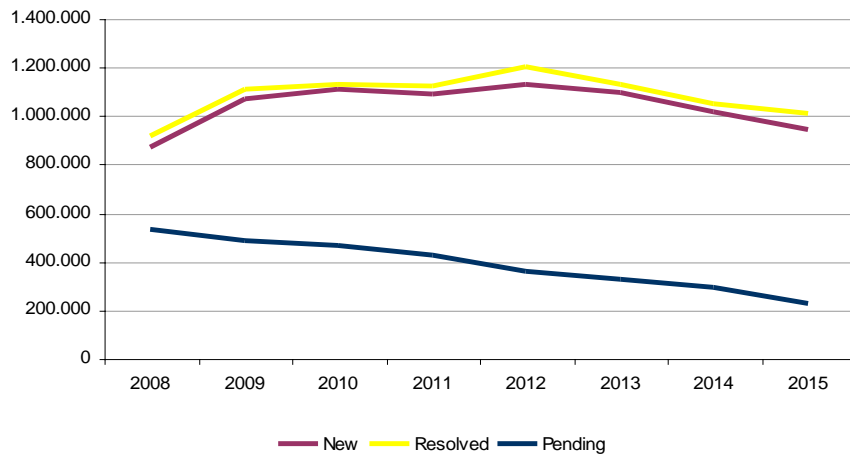


As the charts below show, the number of pending cases has been on a downward trend since 2002, despite the growing caseload, due to a range of reforms introduced since the early 2000s, including the following factors:

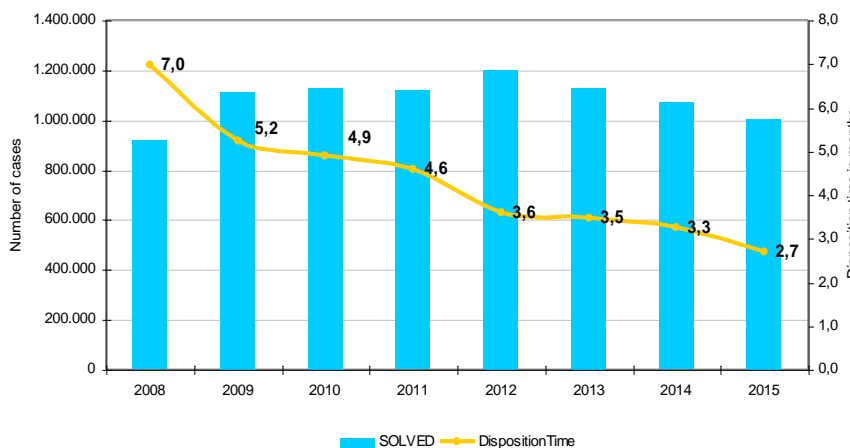
- ✚ The land registry, which falls under the competence of local courts, has been subject to a complete computerisation project since 2001, and has been very successful in reducing the number of unresolved cases and disposition times; the average time for solving land register cases has dropped from almost 18 months in 2001 to approximately one week in 2015.
- ✚ After the adoption of the Lukenda project in 2005, the number of judges has grown considerably which has contributed to the rise in the number of solved cases.
- ✚ The Registry Department of the Supreme Court introduced a new electronic way of solving enforcement cases, with the creation in 2008 of a centralised department for enforcement based on authentic documents (COVL), such as bills, cheques and financial statements, which constituted the majority of unresolved cases and represented a real impediment to business operations and investments. COVL is based in the local court in Ljubljana and has succeeded in relieving other Slovenian courts of this responsibility, and accelerating the process by moving from paper to electronic formats and implementing an automated postal system. The COVL project was one of the three finalists of the CEPEJ and EU Commission Crystal Scales of Justice Competition in 2010.

Since 2000, all judicial case management systems in Slovenia have been completely centralised and have followed the ICT Strategy regarding standard system architecture. This laid the foundation for the Data Warehouse Project, which could be described as the "strawberry on the top of the cake" – unification of data from all case management systems to achieve efficient judicial and court management. In turn, the quality of data from the "source" case management systems also improved as a result of being used for judicial management and statistical reporting: a positive side effect.

Between 2008 and 2015, the number of pending cases in Slovenia was reduced by 57.4%.

Movement in the number of court cases - all courts 2008-2015

Similarly, over the same period, the average disposition time fell overall by over four months - from 7.0 to 2.7 months.

Correlation of the average time for solving cases and the number of solved cases - all cases

The increase in transparency allows more accurate information to the public and helps to improve public confidence in the judicial system.

“The results of this project are also a solid and a welcome basis for functional independence of the judiciary”,
Alenka Jelenc Puklavec former Head of the Registry Department of the Supreme Court

Regarding key success factors, the leadership from the Supreme Court and some lower courts clearly articulated their needs for all levels of management. Communication and cooperation between the top leadership (regarding demands and expectations) and the technical team (regarding possible opportunities and challenges) was provided daily through different communication modes, including formal and informal meetings, meetings with core users, and brainstorming. Training is provided regularly for court management by core users.

Some very concrete strategic and management deliverables are now drawn from the system, including: “Slovene Judiciary in Europe 2020 – Strategy for the Sustainable Independent Judicial Branch of Power”, which defined a set of projects based on data warehouse information; management reports; annual plans and annual reports for individual courts. Comprehensive analyses are drafted with specific priorities and measures at the opening of the judicial year.

The President of the Supreme Court makes regular visits to get an overview of the courts' work, and to review the distribution of human resources, levels of efficiency, the structure of unresolved cases, and the type of case solution. Since the data warehouse was established, the Supreme Court in 2013 prepared five priority areas for the Slovenian judiciary: clearing cases within prescribed timeframes; solving the oldest unresolved cases; monitoring judicial procedures; reducing the burden on judges; and levelling human resources (using information tools to assess the burden and productivity of judges and other personnel within different courts, and assign resources to avoid imbalances in relation to caseload). As the priorities were successfully addressed and the burden of unresolved cases has been diminished substantially, the Slovenian judiciary can now focus more substantially on other areas, dealing with quality. For 2016, the priority areas are the following: quality of judges and judicial decisions (including new judges and supervision); quality of procedure and timeliness (including education and training of court staff and timeframes); quality of court users (including procedural fairness and satisfaction surveys); and raising trust in the judiciary among the public and employees.

The Data Warehouse and President's Dashboards Projects have relieved judges and managers from complex administrative tasks and enabled them to focus on decision making in all 66 Slovenian courts of general and specialised competence.

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The key phrase in the Slovenian case study is 'from statistical reporting to strategic management'. The value of performance indicators comes from their **interpretation**. Performance indicators can be used for snapshot comparisons (cross-sectional), or tracked over time to examine trends and the effects of changes (time series). Comparisons should be made with care and treated with caution, however. Headline metrics need evaluation to add meaning as they do not take account of the variety or complexity of individual cases, the legal instruments available (including simplified procedures) or wider contextual factors such as increases in criminality or a tendency to litigate, the introduction of new laws, etc. The success of the Slovenian data warehousing is part of a package of reforms (such as modernising the court system through computerisation and the introduction of COVL), which addressed the analysed shortcomings in the justice system, revealed in the early-mid 2000s as judicial backlogs.

Similarly, the introduction of the Statis-ECRIS project in **Romania** to improve judicial efficiency falls within a wider transformation process. The performance data generated enables **analysis** of what works in management practices and measures, and for examples of effective practice to be shared across the court network.

Inspiring example: Managing efficiency in the judicial system - the Statis-ECRIS project (Romania)

At the threshold of Romania's entry into the European Union, the Romanian justice system underwent large transformations and reforms. This process continued until 2014, when the four codes were replaced.¹¹ As a consequence of these changes and in the light of exchanges of ideas and experiences with EU Member States, effective justice, including the defence of human rights and fundamental freedoms of citizens, has become the main mission of the Romanian justice system. Alongside the quality and independence of justice, efficiency in carrying out the act of justice is a primary means to this aim.

The Superior Council of Magistracy (SCM) in Romania set up a working group to elaborate qualitative indicators for the assessment of efficiency of courts.

¹¹ Civil Code, Civil Procedure Code, Criminal Code and Criminal Procedure Code

The objectives were:

- ✚ Monitoring the functioning of courts with regards to the reasonable length of proceedings;
- ✚ Establishing uniform standards for the whole system;
- ✚ Enabling regular analysis at the level of the judicial system and of the courts, at different jurisdictions;
- ✚ Identifying the causes of delays in handling the complaints;

Establishing efficiency indicators

Due to the working group's activities, the following indicators for efficiency and effectiveness¹² of court activity were established:

1. **Clearance rate (calculated exclusively in relation to new incoming cases)** – it is calculated as the ratio between resolved cases and new incoming cases during a one-year timeframe, shown as a percentage.¹³
2. **Pending cases (exceeding one year/1 year and 6 months)** – the pending caseload is calculated as the sum of all pending and unresolved cases at the end of the time frame, exceeding 1 year for the courts of appeal and High Court of Cassation of Justice and exceeding than 1 year and 6 months for the other courts.¹⁴
3. **Rate of cases resolved in one year** – it is the sum of all cases resolved in less than 1 year from the registration in relation to the sum of all cases resolved in the time frame of a certain court, shown as a percentage.¹⁵
4. **Average length of proceedings, according to the legal matters and subjects on the level of each court and on national level (only for the proceedings on the merits)** – it is the average time elapsed between the date of the case registration date (“file date” in the ECRIS application) and the issue date of the final document - drafting of the decision (the last document, if there are several). This indicator takes account of the average value of all matters shown below (non-criminal/criminal) and it results from the arithmetic mean of all values of the respective legal matters.¹⁶
5. **Drafting the reasoning of judgments within the legal time limit** – it is the rate of judgments drafted within a period exceeding the legal limit (30 days) pursuant to Romanian legislation. The legal time limit for drawing up judgments is the one set in the ECRIS application.¹⁷

Analysis of efficiency indicators

The application Statis-ECRIS is software developed by the SCM in cooperation with Arges Tribunal - software which uses statistical information from every court, without any additional efforts of court clerks. In 2014, the SCM Section for Judges decided that the software should be implemented at the national level and would centralise the data from the courts.

¹² For the purposes of the project, efficiency is defined as the ratio between the achieved results and the efforts made on institutional level; effectiveness is the institutional efforts made which provide a positive outcome and may be brought up in the institutional assessment of performance.

¹³ The efficiency scores are: more than 105% = very efficient; between 100% and 105% = efficient; between 90% and 100% = satisfactory; less than 90% = inefficient.

¹⁴ The efficiency scores are: less than 5% = very efficient; between 5% and 10% = efficient; between 10% and 15% = satisfactory; more than 15% = inefficient

¹⁵ The efficiency scores are: more than 80% = very efficient; between 70% and 80% = efficient; between 65% and 70% = satisfactory; less than 65% = inefficient

¹⁶ The efficiency scores non-criminal/criminal: less than 11 months/5 months = very efficient; between 11 months – 1 year/5 months – 6 months = efficient; between 1 year – 1 year and 6 months/ 6 months – 1 year = satisfactory; more than 1 year and 6 months/1 year = inefficient.

¹⁷ The efficiency scores are: less than 5% = very efficient; between 5% and 10% = efficient; between 10% and 20% = satisfactory; more than 20% = inefficient.

The purpose of developing the application is to generate statistical reports for each performance indicator as well as the internal ranges of these indicators. For example, the software generates structured information on sections, stages of the proceedings, legal matters, items, judges concerning new incoming cases, resolved cases, caseload, suspended cases, average length of proceedings. The courts report monthly, at half-year and yearly and more often if needed. The software can also provide dynamic information on a particular sector of interest, e.g. developments for each month in a year, quarterly or half-yearly and comparisons between several years. Identifying reasons for delays enables those involved in the management of the judicial system and courts to take actions to improve efficiency.

Monitoring and **analysis of the data can be performed at different levels** within the judicial system:

- ✚ At the level of individual courts: the management structures (Presidents/Vice-presidents, courts' management councils, courts' general assemblies) can use the tool to gain insight into the court's activity. As the performance of the court for each indicator can be compared over time, concrete measures for improvement can be taken where necessary.
- ✚ The Superior Council of Magistracy: The SCM Section for Judges, together with the Judicial Inspection based on their respective competencies, proceed to the analysis of courts which have a degree of efficiency and effectiveness classified as "satisfactory" or "inefficient" at the end of each statistical year. The analysis should provide a perspective on the deficiencies/issues which a certain court, several courts or even the judiciary faces. The results of the analysis are discussed with the management of the courts and that of the hierarchically-superior courts to remedy the dysfunctions. Court management shall apply the improvement measures. In addition, the courts that have had the assessment "very efficient" for a long period of time are analysed, to highlight the advantages of the type of management and the measures put in place at these courts, and which of these may be used as examples by other courts. The SCM publishes half-yearly and yearly the results of the aggregated indicators, highlighting the strong points, the weak points and the measures to be implemented by certain courts.
- ✚ The Judicial Inspection may also use the analysis tool for a court's management performance, taking account of the verification competencies which the Inspection has.
- ✚ The result of adding/aggregating these indicators may become a guide or an instrument for the Ministry of Justice and the National Institute of Magistracy in developing human resource policies and professional areas (where, for instance, issues show up on system level in managing certain cases, especially in new fields of expertise etc.).

Following the Decision 1316 / 25 October 2016 of the SCM Section for Judges, performance indicators for **individual judges** were established and will be implemented as of the first half of 2017.

The efficiency indicators and the Statis-ECRIS application ensure that the analysis of efficiency in courts is based on objective indicators. Moreover, the **objectiveness of the analysis** is reinforced by the underlying methodology. It enables: a comparison with other courts of the same rank concerning the result shown by the indicators (workload, organisational charts etc.); a temporal comparison at the same court on each individual indicator and on their aggregation (the indicator analysis on their multiannual development); identifying the cases on which the result based on the indicators were obtained (both aggregated and individually); and a debate together with the court's staff, the hierarchically superior court's management, SCM, Ministry of Justice, National Institute of Magistracy etc. of the results and finding the measures for their improvement.

The implementation and use of Statis-ECRIS¹⁸ could facilitate an **accurate calibration and promotion of human resource policies**, as well as other policies depending on SCM management decisions. Moreover, it may become a guide for finding means, together with the courts' management, to act where concrete efficiency

¹⁸ Besides the efficiency module (for courts and for judges), the Statis IT tool encompasses a statistical component, designed to issue over 200 types of reports, each of them with a graphical representation. Furthermore, each court has a "semi-central Statis" that may be updated on a weekly basis, but there is also a "central Statis" that may be updated on a quarterly basis used mainly by the SCM, the MoJ and other central institutions.

and effectiveness issues arise. The horizontal comparison between courts with the same activity dynamics will be a useful analysis instrument for the SCM, comparison followed by analysis, being able to reveal management, staff, financial resources or materials, and massive increases or decreases in the overall number or specific types of cases at the courts. It could provide the basis for developing measures for courts or for the entire system in cooperation with the courts' management, the Judicial Inspection, and the Ministry of Justice. The SCM may develop concrete proposals for legal amendments based on such an analysis.

Uniform reporting and **communication of the results** and analysis will be another useful tool that is to be put into practice by the courts and the SCM Section for Judges. Reporting will be made both for the respective courts' staff, but also for the SCM (to centralise all these analyses), and last, but not least, a reference to the public, given the specificity of public service of the Justice and reflection of the activity of this public service.

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The performance of the justice system goes beyond efficiency, of course. As highlighted in the introduction, justice is not just a case of timely judgements, but also robust ones. The experience of the Rovaniemi courts in **Finland** is illustrative in establishing a set of quality criteria as benchmarks for the court system, of which 'promptness' was only one aspect. The Quality Project set up **quality groups** to facilitate a discussion over critical performance issues within the judicial system - which can involve judges, court administrators, prosecutors and their staff - in a process of evaluation and improvement. The Quality Project won the "Crystal Scales of Justice" Award in 2005.

Inspiring example: 'Quality Project' in Rovaniemi courts (Finland)

In 1999, the Court of Appeal of Rovaniemi and the eight district courts within its jurisdiction launched a project for improving quality in adjudication, so that court proceedings meet the requirements of a fair trial, the decisions are well reasoned and correct, and the services of the courts are accessible, including with regard to cost. A major element of the Quality Project is the annual quality development targets, which are selected by the judges themselves and whose achievement is monitored.

Four Working Groups for Quality (WGQs) are set up each year, each of which is given the task of dealing with one of the development themes selected by the judges themselves. The WGQ maps out the problems relevant to the theme, looks into the practices adopted in the different district courts and makes proposals for the harmonisation of court practices, which are followed up by another working group, usually the following year. The membership consists of judges from each of the district courts, and members and clerks of the Court of Appeal, and may also include prosecutors, advocates, public legal aid attorneys and members of the police. The reports of the working groups are presented and discussed at the annual Quality Conference, and used to set quality objectives for the following year.

The Report on Quality, containing the reports in their final form, is distributed every year to the participants of the Quality Project, to all courts in Finland, and to the various stakeholder groups. Some of the quality objectives relating to civil matters concern the clarity of the application for a summons (the action) and the response, the substantive management of the case by the judge, the management of evidence, technical case management, and the drafting of reasons for the court's findings on evidence. Progress towards the objectives is monitored in follow-up reports. The Development Committee of the Quality Project plays a steering role, with membership comprising the President of the Court of Appeal, four District Judges, two advocates and one prosecutor, and terms of three years, chaired by the Chief Judge of the largest district court in Rovaniemi. A Co-ordinator for Quality, selected from among the district judges for one year at a time, is given the task of supporting the WGQs, to implement the training, to maintain contacts with the various constituencies, and to edit the Report on Quality.

In 2003, a working group was established to look at designing a set of quality benchmarks. These were not intended as a monitoring system for individual judges, nor for the purposes of sanction, but as a tool for the constant improvement of court operations, and maintaining and developing the skills and competences

through training and development, as a common frame of reference for the judiciary and the broader sphere of legal professionals. They also bring out the best practices of the judges in various situations and propagate their broader adaptation among the judiciary. The collection of benchmarking data was never intended to reveal any 'absolute truths' about the prevailing standard of quality in adjudication, but as an impulse for development work, internal discussions and education.

The guiding concept has been to evaluate quality primarily from the perspective of participants in court proceedings and their expectations, where justified, as well as the internal workings and workflow of the court from the viewpoint of court personnel. All benchmarking results are made anonymous and pertain to a court and not to a judge. There are many factors that shape the quality of adjudication, such as the scale and suitability of the resources available to the court (staff, premises, technical equipment), the skills and knowledge of the judges and the other court personnel, the question whether procedural rules are up to speed, the work of the attorneys and prosecutors, the organisation of adjudication in the different courts, and the management of the court. In the quality benchmarks, it has been a conscious choice to omit the adequacy of resources, the currency of the procedural rules and the work of the prosecutors and attorneys from the topics that are evaluated. Instead, the quality benchmarks consist of six aspects, which contain a total of 40 quality criteria: the process (9 criteria); the decision (7 criteria); treatment of the parties and the public (6 criteria); promptness of the proceedings (4 criteria); competence and professional skills of the judge (6 criteria); organisation and management of adjudication (8 criteria).

In the main, the quality criteria are analysed by means of a six-point scale (0-5) and a corresponding verbal assessment. There are five types of evaluation method depending on the quality benchmarks: self-evaluation; surveys; evaluation by a group of expert evaluators; statistics; and a statement by the court itself. In view of the nature of the work of the courts, it is necessary to employ a number of these methods to gain a realistic and comprehensive view of the quality of the operations of the court. Self-evaluation, although largely subjective, is one of the most important methods proposed in these quality benchmarks. The other important evaluation methods are surveys, either extensive (attorneys, prosecutors and parties), restricted (excluding parties as opinions may be coloured to a large extent by the outcome of the case) or designated (specific expert group comprising a judge, an attorney and a prosecutor, or in its fuller form, also a University professor and a communications and PR professional). The quality benchmarks can be applied in the evaluation of the adjudication of the courts, either in their entirety or by selecting an aspect for a separate evaluation exercise. The purpose is not to carry out any systematic annual evaluations of all courts in an appellate jurisdiction, but rather to do so at intervals of three to five years. That said, the promptness of proceedings is a criterion that is monitored all the time in any event, which means that the relevant parts of the benchmarks should be applied every year.

The proposed benchmarks were circulated for comments to all courts, attorneys and prosecutors in Rovaniemi, as well as other Court of Appeal jurisdictions and the Ministry of Justice, prior to a pilot project in 2006-2007, in which all the courts participated, leading to the final form and ratification of the benchmarks. Most of the measurements required in the quality benchmarks were carried out with an Internet-based application, Webropol. In practice, everyone responding to a self-evaluation and quality survey was able to do so at their own workstation. Results were officially presented in the Quality Conference in November 2007. In the self-evaluation, 80% of judges assessed their own operations and court performance and found on average that the quality criteria were met well and that the overall level of achievement was good, without any major shortcomings in quality. Participation in the surveys of attorneys and prosecutors was surprisingly low at 15%, and only a few percent among parties in court proceedings who all received a questionnaire within a two-week period, with the option of completing the survey on the internet, which led to the conclusion that face-to-face interviews might be better, as had happened successfully in Sweden, for example. A full designated expert group assessed 32 judgements from all the courts within the Rovaniemi jurisdiction, and noted that the task was burdensome and it was difficult to apply a point scale (0 - 5) analysis.

The final reports of the Quality Project, which are published, promote greater consistency, as indicated by the follow-up reports, and make decision-making easier. There are also indications that the work on quality has reduced parties' propensity to appeal. The applications for a summons and the responses have improved in quality, the preparation of civil cases has also improved in other respects, the practical procedures relating to the trial have become more uniform and the management of evidence has improved. Self-evaluation by judges, and discussions among the judges and with other court staff and stakeholders, provide an impetus for

them to reassess their own work and achieve personal development, without compromising the independence of the courts or the judiciary. The benefits of education and development are indeed more important than the benchmarking itself and the findings resulting from it. The Quality Project won the “Crystal Scales of Justice” Award in 2005. The quality benchmarks are set out below:

| Aspect | Quality criteria |
|---|---|
| The process | <ul style="list-style-type: none"> a) The proceedings have been open and transparent vis-à-vis the parties. b) The judge has acted independently and impartially. c) The proceedings have been organised in an expedient manner. d) Active measures have been taken to encourage parties to settle. e) The process has been managed effectively and actively (both procedurally and substantively). f) The proceedings have been arranged and carried out so that a minimum of expenses is incurred by the parties and others involved in the proceedings. g) The proceedings have been organised in a flexible manner; h) The proceedings are as open to the public as possible. i) The proceedings have been interactive. |
| The decision | <ul style="list-style-type: none"> a) The decision is just and lawful. b) The reasons for the decisions should convince the parties, legal professionals and legal scholars of the justness and lawfulness of the decision. c) The reasons are transparent. d) The reasons are detailed and systematic. e) The reasons of the decision are comprehensible. f) The decision should have a clear structure and be linguistically and typographically correct. g) Oral decision should be pronounced so that it can be, and is, understood. |
| Treatment of the parties and the public | <ul style="list-style-type: none"> a) The participants in the proceedings and the public must at all times be treated with respect to their human dignity. b) Appropriate advice is provided to the participants in the proceedings, while still maintaining the impartiality and equitability of the court. c) The advisory and other services to those coming to court begins as soon as they arrive at the venue; d) The participants in the proceedings are provided with all necessary information about the proceedings. e) The communications and public relations of the court are in order, where necessary. f) The lobby arrangements at the Court are in accordance with the particular needs of various customer groups. |
| Promptness of the proceedings | <ul style="list-style-type: none"> a) Cases should be dealt with within the optimum processing times established for the organisation of judicial work. b) The importance of the case to the parties and the duration of the proceedings at earlier stages have been taken into account when setting the case schedule. c) The parties also feel that the proceedings have been prompt; d) time limits that have been set or agreed are also adhered to. |
| Competence and professional skills of the judge | <ul style="list-style-type: none"> a) The judges take care of the maintenance of their skills and competence. b) The judges attend continued training sessions. c) The judges’ participation in training is subject to agreement in the annual personal development talks. d) The court has specialised judges. e) The parties and the attorneys should get the impression that the judge has prepared for the case with care and understands it well. f) The judges participate regularly and actively in judges’ meetings, in quality improvement conferences and also in other work of the Quality Working Groups. |
| Organisation and management of adjudication | <ul style="list-style-type: none"> a) The organisation and management of adjudication are taken care of with professionalism and they support the discharge of the judicial duties of the court. b) The assignment of new cases to the judges is methodical and carried out in a credible manner. c) The specialised competence of the judges is also utilised in the processing of cases. d) Adjudication has been organised so that the use of reinforced compositions is de facto possible. e) Personal development talks are held with every judge, every year. f) The court should have a methodical system for the active monitoring of case progress and for taking measures to speed up delayed cases. g) The security of the participants in the proceedings and of the court personnel is guaranteed. h) The responsibility of the management of the court for the judges and other staff not being overloaded with work. |

Note: Each criterion lists some of their most salient characteristics. This listing is not exhaustive

In recent years, the focus has been on criminal proceedings (2012) and civil proceedings (2013). Each court has held monthly meetings over a one-year period in which judges, prosecutors and advocates have been going through the whole area. For each review, every court produced a report, which were then put together in one consolidated report to harmonise our proceedings in the appellate jurisdiction. In addition, the courts implemented a full-scale Quality Benchmark evaluation in autumn 2013. A report of the evaluation was on the agenda of the Quality Conference on November 2014.

Source: J. Määttä (2008), “Quality Work and Quality Benchmarks in Finnish Courts”, taken from “Quality Development in the Field of Justice”, EIPA. For further, more detailed information (in Finnish): http://www.oikeus.fi/hovioikeudet/rovaniemenhovioikeus/fi/index/laatuhankkeet-qualityproject_0/laatumittaristo.html

7.1.2 Consulting with court users

As a public service, the judiciary is ultimately **accountable to the citizenry**. In the words of the European Court of Human Rights (ECtHR), “*public confidence in the judicial system ... is clearly one of the essential components of a State based on the rule of law*”. Among the factors identified by ECtHR that might undermine this crucial confidence are “*the persistence of conflicting judgments [which] can create a state of legal uncertainty*”, “*the administration of justice in secret with no public scrutiny*”, “*actual bias [or] any appearance of partiality*” and failure to incorporate safeguards of the independence and impartiality of the judiciary “*into everyday administrative attitudes and practices*”.¹⁹



Once the public loses faith in the judicial system, due to inconsistent decision-making (whether actual or perceived) or perceived lack of independence, it is hard to rebuild that trust. Increasingly, European judiciaries recognise the value of dialogue in maintaining a consensus that justice is being delivered and is seen to be done. If legitimate concerns materialise, then remedial action can be taken in time. This requires courts to become outward-looking and to view the carriage of justice as a service to the public. This raises three questions:

- ✚ What do users expect from the justice system?
- ✚ What standards of service delivery should courts be setting?
- ✚ Does the service match those expectations and standards?

Across the EU and beyond, **satisfaction surveys** are increasingly commonplace - not with the outcome of judgements, of course, but with the system and the process (before, during and after). The 2017 EU Justice Scoreboard finds that, in 2015, 13 Member States conducted surveys among court users or legal professionals and 14 of them undertook a follow-up to the surveys undertaken. It included a broad range of activities such as using survey results as input for an annual/specific report, or for an evaluation of the justice system or for modifying/improving the functioning of certain courts etc. CEPEJ has produced a [model survey and methodological guidance](#).

¹⁹ ECHR (2013), [Guide on Article 6 – right to a fair trial \(civil limb\)](#), www.echr.coe.int

Such surveys can cover a wide range of court users, either directly or indirectly involved in the court proceedings often on a **targeted** basis: judges, court staff, public prosecutors, lawyers, parties, witnesses, jury members, relatives, interpreters, experts, representatives of government agencies, etc.

Usually starting with anonymised information to establish the respondent's role in the proceedings (including if plaintiff or defendant, whether the judgment found in their favour), examples of questions for **direct court users** might include:

Potential survey questions for direct court users

- ✚ How accessible was the court (access, signage, waiting conditions)?
- ✚ Were the proceedings clear?
- ✚ How satisfied were you with information on the court system and/or your rights?
- ✚ How quickly was the case dealt with (time lapse between summons and hearings, punctuality of proceedings, delivery of decision, etc.)?
- ✚ What was your experience of the judge, prosecutors and non-judicial court staff (attitudes, politeness, competence)?
- ✚ Whatever the outcome, was the court process impartial?
- ✚ Was the judgment and reasoning well-communicated?
- ✚ To what extent do you trust the justice system?
- ✚ Were you informed about how the judgment rendered will be enforced?

Some judiciaries are selecting from the much **wider menu of measures** employed by public administrations to assess the effectiveness, efficiency and user-centricity of their service delivery (see [topic 5.1](#)):

- ✚ User groups and panels;
- ✚ Mystery shopping;
- ✚ Comments and complaints procedures.

This is well illustrated by the Courts Service of **Ireland** (below), which has devised a Customer Service Strategy that combines complementary techniques to get a rounded picture of the user experience within the overall framework of guiding principles and transparent service standards.

Inspiring example: Implementing and evaluating service delivery in the courts (Ireland)

In 1998, the responsibility for court administration in Ireland was transferred from the Ministry of Justice to an independent agency, the Courts Service, with a statutory mandate to: manage the courts; provide support services for the judges; provide information on the courts system to the public; provide, manage and maintain court buildings; and provide facilities for users of the courts.

This represented: *“a fundamental shift in the ‘philosophy’ of the courts system, requiring it to take account of the concepts of quality, service and competitiveness more associated heretofore with the private sector... there can be no doubt of a move from ‘court system’ to ‘court service’”* - Byrne and McCutcheon, “The Irish Legal System” (4th Ed., Butterworths, page 156).

As part of its Quality Customer Service (QCS) initiative, in 2000 the Irish Government established the **12 Guiding Principles for Quality Customer Service** to inform the customer service strategies of all public service organisations. These cover: quality service standards; equality/diversity; physical access; information; timeliness and courtesy; appeals; consultation and evaluation; choice; equality of access to services through both official languages (Irish and English); better co-ordination; recognition of the internal customer and

comments/complaints procedures.

The **Courts Service’s Customer Service Strategy** rests on four main elements: the Customer Charter; the Customer Action Plan; court user groups; and feedback on service delivery using various techniques, viz. information from comment cards, court user and “internal customer” surveys, mystery shopping, and individual customer comments / formal complaints to the Quality Customer Service Officer.

The **Customer Charter** is a statement of the standards of service court users can expect from us, displayed in all court buildings and on our website, and covers:

- + Ethics and professionalism;
- + Courtesy;
- + Equality and diversity;
- + Standards for visits to our offices;
- + Responses to correspondence;
- + Responses to telephone calls and messaging;
- + Access to information;
- + Service through the Irish language;
- + Physical access;
- + Complaints

Public service organisations are required to formulate **Customer Service Action Plans** to achieve progressive improvement in standards of service delivery and address development of improved customer service standards in their Strategy Statements and annual Business Plans. The Courts Service’s most recent Customer Action Plan contained a range of commitments, e.g. on providing consultation rooms for litigants in all court venues, increasing the number of court forms available on-line, and extending the range of information available in languages other than English.

Court user groups are a formal channel for feedback on customer service from regular court users, and a forum to obtain views of court user community on proposed changes e.g. new methods of service delivery and rationalisation of services. Membership of these groups comprises practitioners and other court/court office users, namely: legal practitioner professional bodies (solicitors, barristers, Family Lawyers’ Association etc.), prosecution, police, Prison Service, Probation and Welfare Service, Legal Aid Board, law agencies, victim support organisations, and advocacy groups (e.g. Women’s Aid). National user groups are based in Dublin and meet at least 3 times annually, namely: Criminal and Civil Cross-jurisdiction User Groups; Circuit Criminal Court and Central Criminal Court User Groups; Family Law Court User Group for the Circuit & High Courts; Dublin District Court User Groups (Children, Family, Criminal and Traffic Courts); Insolvency User Group; and Probate Office Group. Regional and local users’ groups have been formed in the 25 counties outside Dublin, and generally meet at least once annually and for specific local projects. The feedback from these user groups has been used to support specific improvements in customer service, e.g. in: formulating the business case to develop online access to High Court case tracking system; promoting the introduction of postal and drop-box document filing; advising on comprehensive application forms for grants of probate; and obtaining staff agreement to increasing public office opening times for Supreme and High Court Offices.

Feedback on service delivery was initially sought through ‘**comments cards**’, made available at all court offices and juror assembly areas, and which have been most useful in identifying *individual* service failure incidents. For this reason, however, they don’t provide a representative picture of the *total* customer service experience.

Hence, a series of periodic **surveys** of court users and “internal customers” (staff, judges) has been conducted by the Courts Service since 2004. The first on-line survey was conducted in 2010, including free-text input. The most recent On-line Customer Service Satisfaction Survey 2012 was directed at the legal profession, visitors to court offices, court user group members and court staff. The survey was made available through a link on the Courts Service’s website for one month and publicised in advance by posters in offices, canvassing of legal professional bodies and user groups, article in Courts Service Newsletter etc. For court users, it sought ratings of service and facilities on a scale from 5 (highest level of satisfaction) to 1 (lowest) on:

- + Court office opening hours;
- + Facilities for paying court fees;

- ✚ Standards of service using different service channels;
- ✚ Time taken to obtain court orders after court decision;
- ✚ Whether published court calendar, website and on-line court forms met customer needs;
- ✚ Standards of facilities in courts and court buildings

The response rate in 2012 was much lower than the previous on-line survey (151 responses compared to 569 in 2010) but more than 80% were from external users. The findings were as follows:

- ✚ 82.7% of practitioners and 50% of other visitors responding to survey were satisfied with service on visit to court offices.
- ✚ 96% of practitioners and 85% of other court users were satisfied with service by post /document exchange.
- ✚ Most respondents were satisfied with: speed of issue of courts orders; the Courts Service’s “on-line” information (court calendar, forms, judgments database, and case search facility); facilities in court buildings; and the court user groups.
- ✚ Suggestions for improvement included: improved search facilities for material on the website; use of credit/debit card for payment of court fees; and reduction of the number of court forms prescribed by court rules.

As a result, several actions were instigated: staff rosters were revised; resourcing of public counters was prioritised; and in 2014 the number of civil court forms was significantly reduced.

“**Mystery shopping**” involves independent researchers pretending to be customers and visiting offices to experience and evaluate the quality of service delivered to them against pre-set criteria. In the exercise conducted for the Courts Service, mystery shopping visits were conducted among a range of court offices and buildings selected by researchers without advance notice. The purpose of the research was to evaluate both the environmental surroundings of the offices and the actual interaction that took place between the mystery shoppers and staff members. 100 “shops” were conducted in all, with 70 face-to face (that is, actually dealing with staff at offices), 15 by telephone and 15 by email. The sample was constructed so as to allow the Courts Service to examine both larger and smaller offices, and provincial and Dublin-based offices. Researchers reported back on 26 items/questions covering:

- ✚ Ease of finding the building and the office;
- ✚ Information available on entering the office;
- ✚ Cleanliness of the facility;
- ✚ Information, notices and leaflets available in office;
- ✚ Number of staff available and personal service provided by staff;
- ✚ Listening ability of the staff member providing the service;
- ✚ Knowledge of the staff member providing the service;
- ✚ Speed of answering of telephone/email inquiry;
- ✚ Accuracy of information provided in telephone/email response.

The next Courts Service Mystery Shopping survey is scheduled for late 2016 and will provide an opportunity for the Courts Service to test the effectiveness of the Courts Service’s combined court office model, which introduced combined public counter service - a “one-stop shop” – and administrative support for the District and Circuit Courts. In addition, persons wishing to make a **comment or formal complaint** regarding the service provided may write to / email the Quality Customer Service (QCS) Officer. Persons with writing/literacy difficulties may make an oral complaint. The number and admissibility of complaints is reported annually by Courts Service in its Annual Report (45 formal complaints were received in 2015, of which 6 were deemed inadmissible and 39 were dealt with under the Customer Complaints procedure). A dissatisfied complainant may have his or her complaint referred to the Chief Executive Officer of the Courts Service. Complaints regarding judicial / quasi-judicial decisions can only be addressed through the appropriate legal channels (i.e. by seeking formal review /appeal of the decision in the courts). Some conclusions may be drawn from the Courts Service’s experience in implementing customer service strategy.

Customer opinion research is only effective if it is part of a comprehensive customer service strategy and framework. When engaging with the court user, use should be made of the full range of “listening strategies”,

of which customer satisfaction surveys (CSSs) are just one element.

When choosing which customer feedback measure to use, it is important to be aware of the advantages and drawbacks of individual techniques. Self-administered CSSs are relatively inexpensive and less intrusive for respondents. However, the response rate they generate tends to be low and they may therefore not accurately reflect the average customer experience. Interviewer-assisted CSSs usually will generate a higher response rate and are therefore likely to be more representative. However, they are more expensive to administer and may be viewed by some customers as intrusive. “Mystery Shopping” enables a targeted and consistent evaluation of service between court offices, but its objectivity and effectiveness will depend on careful choice of the customer service measures used, and as it relies on external specialists it can be expensive to conduct.

Customer opinion research should be continuous, be reviewed and actioned as soon as practicable after results evaluated, and should inform the organisation’s policies, business plans, and business process design.

In October 2014, the Minister for Public Expenditure and Reform and the Taoiseach (Prime Minister) launched the Civil Service Renewal Plan, incorporating a vision and a three-year action plan to renew the Irish Civil Service (see also [topic 4.3 on managing, motivating and developing staff](#)). Action 23 of the Renewal Plan included commitments to conduct regular surveys of civil service customers to more fully understand user experiences, expectations and requirements.

The Irish Civil Service Customer Satisfaction Survey 2015 was published in May of that year. The main objectives of the Survey were to: analyse the experience and satisfaction levels of the general public in their interaction with the civil service; assess attitudes to and perceptions of the civil service among the general public; identify possible reasons for any dissatisfaction with the service and areas for improvement; and assess progress since the five previous general surveys.²⁰ The 2015 Survey contained an increased focus on the use of, and appetite of, customers for technology and electronic delivery. Key findings included the following:

- ✚ Half of all adults made contact in the previous year: although contact by phone is still the most common channel, contact via online and email has increased, particularly among younger customers, resulting in a decline in both written and in-person contact.
- ✚ Overall satisfaction has maintained its good performance: over three in four customers remain satisfied with the service received and the outcome of their contact, whereby service levels are mostly meeting or exceeding expectations. Direct interactions with civil service staff continue to rate favourably.
- ✚ Some dissatisfaction with the experience is evident: for customers interacting over the phone, automation, voicemail and being left on hold can frustrate. At an overall level, dissatisfaction is caused by a perception that the process is slow, or being passed around for the same enquiry, with a lack of communication between staff / departments.
- ✚ The proportion of customers and non-customers who would recommend the civil service to others has increased, while perceptions of overall efficiency remain stable. Roughly half of all adults believe the civil service is fair, equitable, independent and trustworthy – however, one in five does not agree.
- ✚ General perceptions of the civil service remain broadly positive: although familiarity with the civil service has fallen marginally, favourability remains consistent. Satisfaction with Irish language services has increased, as has satisfaction with perceived access to services among all non-native speakers.

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²⁰ Carried out in 1997, 2002, 2005, 2008 and 2009.

As the example of Ireland demonstrates, there is also scope for judiciaries to sign up to pre-defined standards through ‘customer service charters’ (see [topic 5.5](#) for further information).

7.1.3 Moving to total quality management

Quality criteria, internal dialogue through quality groups, and external consultation on service performance are all building blocks for total quality management (TQM) within organisations (see [topic 4.2](#)). In common with many public administrations throughout Europe, EU judiciaries are turning to quality management systems (QMSs) to strengthen their service delivery and resource management.



As an example, the courts system of **Lithuania** (below) has drawn on several QMS models, including ISO 9001 (the international standard popular in both the private and public sectors), the Common Assessment Framework and the Customer Service Standard. The goal is not just to improve the quality of the work and services provided by the judicial system and the National Courts Administration, but also to enhance public trust in these institutions (except judicial activity while administering justice, which is solely in accordance with the law).

Inspiring example: Implementing and evaluating quality service delivery in courts (Lithuania)

The Lithuanian Government adopted its methodology for strategic planning on 6 June 2002 (No 827), according to which every budgetary institution must have its strategic plan, including the courts, which was also approved by the Judicial Council. The goal is to execute justice and ensure the protection of constitutional values, as demonstrated by the increase of public trust in courts (measured annually on a percentage basis). The objective is to ensure the quality and effectiveness of the judicial activity, measured by service quality indicators on an annual basis.

Good practice was drawn from a range of sources: CEPEJ’s reports, questionnaire on customer services, ENCJ’s reports, practices and models; and *ad hoc* examples from special projects and private experience.

The implementation and maintenance of quality management models in Lithuanian courts and the National Courts Administration (NCA) was derived from the interaction of Quality Management Systems (QMS) which are certificated in accordance with international standard ISO 9001:2008, the application of the Common Assessment Framework (CAF) and the Customer Service Standard (CSS). Both the *ex-ante* assessment and the *ex-post* evaluation under the quality management methodologies were conducted through a combination of surveys (QMS, CAF, CSS, national, institutional) and monitoring (QMS, CAF, CSS).

The QMS is based on five interlocking factors:

- ✚ There is a clear organisational structure.
- ✚ The rights and duties of the employees are clearly determined.
- ✚ The described activity processes of the organisation are manageable.
- ✚ The resources are used rationally.
- ✚ The means to analyse and manage problems and discrepancies that occur are determined in the organisation.

The CAF progresses through 4 stages: identify current status; determine, clarify and structure the processes within the organisation; increase the quality of process; and increase the quality of service. CSS defines clear customer service policy in courts and NCA. Evaluation is necessary to ensure the quality of the judiciary,

customer service, and trust in the courts.

In 2010, the process of implementation of quality management systems, according standard ISO 9001:2008, commenced in 5 courts of different size and competence (Kaunas and Panevezys regional courts, Kaunas regional administrative court, and Panevezys and Pasvalys district courts) and was completed in 2011. After the international audits of the certification body in 2012, all five courts achieved certificates which demonstrated that the QMS satisfies requirements of international standard ISO 9001:2008 it means: the service for customer provided and organisational activity were managed and improved, training of courts personnel on quality was performed. In 2014, three more courts joined the group (the Supreme Court of Lithuania, the Supreme administrative court and Klaipeda city district court). QMS implementation is done and certification was achieved in October 2014. There is also an internal quality audit group, members of which are trained to perform the internal audits, with representatives of courts & the NCA. The methodology of internal quality audit was developed and not less than 10 audits have been performed every year.

In 2013, CAF began to be implemented in the Supreme Court of Lithuania and NCA, to be completed at the end of 2014. At the same time, CSS is implemented in the 8 courts and NCA. Below one may find an example of situation in courts before the implementation of CSS. The 8 courts and the NCA performed a 'mystery customer' survey – it was the first step of CSS implementation. Based on the average scores out of 5, the general level of customer service in courts was found to be high, whether provided directly or by telephone, and whether the criteria were objective or subjective.



For face-to-face services, the average score was consistently above 4 against all criteria: environment of service, place of service, working hours, employee's appearance, attention and respect, ensuring confidentiality, greeting / start of conversation, clearing up a requirement, satisfaction of a requirement, farewell / end of a conversation, and subjective evaluation of the service. For telephone services, the average score was above 4 for waiting time and attention & respect, and above 3 for greeting / start of conversation, clearing up a requirement, satisfaction of a requirement, farewell / end of a conversation, and subjective evaluation of the service. The recommendations fall into three categories.

- ✚ Continue enhancing service quality: present the survey to courts and discuss the results; implement the CSS in courts; implement the customer service monitoring system in courts and periodically carry out the external (mystery customer survey) and internal customer service monitoring;
- ✚ Training programme: draft the special training programme "providing service directly and via phone"; and train court personnel paying attention to clarifying inquiry and information providing skills;
- ✚ After CSS implementation: constantly remind all personnel to act according to the standard requirements.

After the CSS is implemented, the quality of service in court shall be measured periodically.

In 2015, the CSS was implemented in 10 more courts of Lithuania. The new and revised edition of the CSS was released and the 'mystery customer' survey was performed, as well as sociological research before and after the implementation of the CSS. After the survey and research, it was observed that the customer satisfaction in the courts has increased. In pursuance of unification of the customer service quality in all courts of Lithuania, training was performed in all courts for all the employees.

It should be noted that the newly assigned chairpersons of the courts (who usually do not have any management education or management experience) have a ready-to-use tool for the management of the institution which provides quality for court services. Under the QMS, CAF institutional surveys by courts themselves are conducted every year and cover service quality in courts, while such surveys on the CSS are carried out every half year after its implementation, the first being in 2013 (presented before).

It should be noticed that surveys on the trust in courts and evidencing their quality are performed not only by the courts or NCA. National surveys ("Vilmorus", "Baltijos tyrimai") are carried out periodically (annually or monthly), and courts are evaluated among other institutions, e.g. parliament, prosecutors, police, church, etc. Institutional surveys (courts and the NCA) are also performed periodically (e.g. annually), due to projects or on an *ad hoc* basis. Surveys have also been performed by Vilnius University (2012), and the Ministry of Interior.

The national Vilmorus survey found that trust in the courts among the general public has improved from 12% (2012) to 20% (2013), 25% (2014) and currently stands at 25.8% (2015). A survey by "Baltijos tyrimai" showed that the trust in courts improved from 37% (2013) and 43% (2014) to 50% (2015). The results of institutional surveys, which test the views of citizens who come into direct contact with the court system, show a better starting point in the annual survey by the Ministry of Interior and NCA, and a more dramatic recent rise in trust levels from 25% (2011) to 27% (2012) to 48% (2015). The discrepancies between different surveys can be explained in part by the nature of the questions asked (general v. detailed, short v. long list), the questioning itself (fast v. comprehensive, personal v. phone-based), and the persons interviewed (mass surveys v. more selective, court user v. never been)

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7.2 Improving access to justice

Access to an effective justice system is a fundamental right under the EU Charter of Fundamental Rights and the ECHR, as well as the foundation of a functioning democracy and prospering economy. This accessibility is put at risk when court proceedings are too intimidating, too hard to understand, too

expensive, or too time-consuming. It is undermined when the legal representatives of citizens and businesses are not able to get full and easy access to case law which allows them to perform as advocates. Good practice dictates that judiciaries search for ways to explain court processes and judgments in plain language, to inform the general public and lawyers on legal precedents, and to promote voluntary alternatives to court which are potentially faster, cheaper and more conciliatory in the service of justice.

Explaining court processes & decisions

Ensuring access to case law

Increasing access to ADR

7.2.1 Explaining court processes and decisions

Courts are looking to move beyond just listening to the concerns of parties to the justice system (see [topic 7.1](#)), and are becoming more pro-active in developing and delivering communication policies with a mission to inform, explain and educate. Such policies concern relations with the public, the media

and those involved directly in court proceedings, which was the subject of an [Opinion on Justice and Society](#), published by the Consultative Council of European Judges in 2005. The **Latvian** Council of Justice illustrates the principle of putting a communication policy into practice with a strategy and guidelines.

Explaining court processes & decisions

Ensuring access to case law

Increasing access to ADR

Inspiring example: Communication strategy of the court system (Latvia)

The Latvian court system comprises the Supreme and Constitutional Court, two administrative courts, 5 regional courts, 31 district courts, and 27 land registry offices. In total, there are 560 judges and 1,700 employees.



To increase public confidence, the Latvian Council of Justice approved two documents in May 2015 to raise public understanding of the judiciary and judicial processes:

- ✚ **Guidelines on communication of the court system:** covering all the institutions and sectors of the justice system, represented within the Justice Council, the objectives are to: promote awareness of judicial institutions, the judicial system and its operating principles, the distribution of competences, personal rights, and opportunities to protect their legitimate interests; ensure visibility of justice and the fairness in which the institutions operate; strengthen the judicial system's reputation and authority; and create a positive and open image of the judicial system.
- ✚ **Strategy on communications of courts:** focused specifically on courts themselves, this strategy aims to promote the effective functioning of the judiciary and promote public confidence in the judiciary, creating a positive image of each court and enhance its authority in society.

The Supreme Court of Latvia has also elaborated and implemented its own Communication Strategy, which determines the communication goals and tasks of the Supreme Court.

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The quality of judgements is affected by a range of factors, not least the willing participation of citizens, who can find the judicial process to be a daunting prospect. An example of reaching out to the public to make justice more accessible is the User Services Office (USO) in **Warsaw**, which is also accompanied by a files reading room.

Inspiring example: User Services Office (Poland)

The User Services Office (USO) in the Regional Court of Warsaw was established by ordinance of the Court President. A files reading room was also created. The reading room is dedicated to parties to the trial and any other authorised persons or entities (it is possible to order case files in person, via telephone or email). USO employees give extensive and appropriate information concerning court ongoing trials and other tasks and activities of the court. USO staff have broad professional knowledge concerning the particular characteristics of each court section, and know well the computer programmes at use. There is a standard reception service, which has rules on minimum time for answering phone calls and response time for email and letters, and information on persons waiting. USO employees are identified and have uniforms to indicate their professional duty. Given the court environment can be intimidating, the staff is trained in stress management and assertiveness, communication and cooperation skills.

Satisfaction surveys, as well as the national audit exercise concerning USO, were conducted in the first half of 2014. Up to this time, USO has provided services for nearly 55,000 people (exact number is 54,682), 98% of which expressed that they are satisfied with the service. Experiences from the Regional Court of Warsaw, and other courts in Poland in which the USO is functional, have led to developing standards for the USO service in Poland. The Minister of Justice accepted the document and implemented it in 2015. Moreover, on the basis of satisfaction surveys conducted in more than 80% of all courts in 2014, the Ministry of Justice prepared a standard survey which allows the opportunity to benchmark the perception of USOs nationwide.

Source: Ministry of Justice, Poland

Increasingly, countries are finding ways to provide information to citizens on judicial proceedings in advance, with respect to relevant laws, the court process and legal procedures, including expected timeframes. The first step is to provide ready access to laws, procedures, forms and documents. As the 2016 Justice Scoreboard reports, all Member States have [websites](#) as reference points, setting out information about the judicial system for the general public, and all but two publish judgments

online. All but four Member States report that they have an official in charge of explaining judicial decisions to the press/media or that the judiciary has established guidelines on communication with the press/media. For example, the justice portal of **Estonia** supports the communication strategy of Estonian courts of being open, personal, and helping people to defend their rights.

Inspiring example: Justice portal (Estonia)

www.kohus.ee is the website for Estonian first and second instance courts, comprising the primary information about Estonia's court system, how to have recourse to the court, court proceedings and links to the different databases. The main target groups are people who want to have recourse to the court or are parties to a proceeding, lawyers, court officers, students, law-students and people who are searching for information about courts. After renewal in 2013, the portal has a new design complying with the brand design of Estonian courts, a more logical structure and more information about different court proceedings. Users can find all needed electronic standard formats of documents and a calculator for the state fee in civil proceedings. The information is in logical order helping the user through the process. For example: having recourse to the court > state fees > legal assistance > formalisation of documents > judicial proceedings > court decision. Users can easily find the information they search (including searching for court officers). The website has many links to different databases and other sites, where users can find more relevant information. The website also has also a link to the youtube teaching video about civil proceedings. The website has one main administrator, but web administrators are in every court. Web administrators develop the website further and change the information with the main administrator. User feedback is crucial in this process.

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The experience of the Court of Appeal in Western **Sweden** shows the value of internal and external dialogue to improve information to court users, to help them to navigate the courts and understand better the court proceedings and the roles of its main actors.

Inspiring example: Dialogue to improve court performance in Western Sweden

The experience of the Court of Appeal of Western Sweden is that a critical factor in improving the functioning of the court is to have a broad dialogue between professionals on questions such as "what is working well" and "what needs to be improved". Employing 110 staff and handling around 4000 cases a year, the Court embarked on an internal dialogue in autumn 2003 between the court leader and judges and other staff, leading to the first quality measures being implemented in early 2004.

More than half of the 36 **judges and other court staff** were interviewed individually by one of the junior judges, who had been briefly trained in interviewing technique. The result of the interviews was overwhelming: a wide range of proposals were given for goals to strive for, as well as practical ideas to reach them. After the interviews, the president (court leader) decided that all judges and other staff should work in mixed groups of 6-8 people (both judges and other staff) to discuss the results and agree on proposals for measures to try out to increase the courts' performance. The president decided quickly to implement as many of the measures as possible, to encourage the court staff to engage in their delivery and to come up with further proposals. An action plan was put on the internet. Examples of actions taken included:

- ✚ Delegating tasks concerning the preparation of cases to secretaries of the court, who received education in these matters, setting up routines for handling these tasks and appointing a judge in each department responsible for answering questions from secretaries;
- ✚ Regular meetings every week for all staff within each department to discuss problems encountered in the work during the previous week and plans for the coming week;
- ✚ Better introduction for new judges and staff at the court;

- ✚ Systematic feedback from older judges to judges in training;
- ✚ Producing written examples of how sentences in criminal cases can be formulated for new judges.

At the end of the year, all judges and other court staff took part in an evaluation of the implemented measures and a discussion, which led to proposals for the following year. The weekly departmental meetings were considered the most successful, as an opportunity for judges and staff to learn more about each other's work and generate new ideas on how to make the work more efficient. The task delegation to secretaries was estimated to save as much as an hour and a half each week for judges. The systematic feedback to younger judges was not as successful, as the older judges found it hard to give specific and constructive feedback.

During 2005, the dialogue was extended to external interested parties. Representatives of **lawyers and prosecutors** were invited to give their view of the functioning of the court of appeal and staff where there to listen to them. Mixed working groups were then formed to discuss the external views and to propose measures for improvement for the president to decide. For example, the lawyers believed that civil cases took too long to conclude and that the routines for handling these cases could become more efficient, which was agreed by a group of judges from the five departments of the court, proposed to the president, and implemented in all departments. Other examples were better service through the switchboard of the court, and better information and treatment of people called to court. At the end of the second year, prosecutors and lawyers were invited to a new meeting to evaluate measures taken. They gave very positive feedback regarding the improvements and the dialogue itself.

In 2006, this external dialogue went a step further to **users of the court**, based on suggestions from the administrative staff that users should be interviewed as to whether they had received enough information before coming to court proceedings, and on how they felt they were treated by judges and other staff at the court. It was decided to interview parties and witnesses, rather than sending out questionnaires, as experience has shown that the response rates for the latter tended to be very low. The interviews were held by two employees of the court (an administrative staff member and a judge), which gave them a direct insight, compared with using external contractors. Over a period of two weeks, 67 people were interviewed using a qualitative method where follow up questions could be asked and new ideas to improve information and treatment could be tested. The results of the interviews were reported back to all judges and other staff of the court, who were invited to discuss them in mixed working groups and come up with proposal for improvement. Examples of measures that was implemented to give the users better information are:

- ✚ Production of a paper with answers to **frequently asked questions** to be sent out together with a summons, such as: how to get to the Court of Appeal (a map showing the location of the court and how to get there), why they must come to court and a direct telephone number to call if they want special care or protection by the court staff while waiting for the trial;
- ✚ Production of an **information leaflet** that tells them what happens during a court proceeding in both civil and criminal cases, handed out in the waiting room of the court;
- ✚ Photographs of **the interior of court rooms** outside the courtrooms for parties not used to coming to court to prepare for where they and others are going to sit during the trial;
- ✚ **Signs** in the courtroom in front of judges, laymen and court secretaries, pointing out who is who;
- ✚ Better and quicker information about **delays in court proceedings** for people waiting outside the courtrooms.

To improve the treatment of parties and witnesses, discussions were held among judges on how to treat people during court proceedings. Other employees discussed the treatment and service to people who call the court prior to the proceedings or come to the reception of the court. The president decided to check the results of the measures taken by new interviews with users at the end of 2008. Further measures were then taken to improve the quality of information to users, for them to better understand court proceedings and thus get a better possibility to voice their opinion during the proceedings.

During the first year of the work of improving the handling of civil cases, the time for handling and passing sentences in civil cases was cut from an average of 9.0 months in 2005 to an average of 7.7 months in 2006. The Court of Appeal of Western Sweden thus took the lead among the six courts of appeals in Sweden when it came to short turn-around times for civil cases. An even clearer improvement was seen in the measuring of job satisfaction. Judges and staff found that the possibility to influence their work had doubled during the first two years of internal dialogue. Answers from lawyers and prosecutors as well as parties and witnesses in qualitative interviews showed a significantly improved satisfaction with information and treatment during the first years after new measures had been implemented.

Since the start of the work in the Court of Appeal of Western Sweden in 2003, other Swedish courts have been inspired to use dialogue to improve their courts. Ten courts have followed and developed the method of internal and external dialogue to improve their courts locally in different areas from increased efficiency to increased professional quality and treatment of parties and witnesses. Two district courts have reached especially good results, both in increased efficiency and in achieving good information and treatment of court users. Those are the district court of Vänersborg and the district court of Varberg.

Even more courts have used the external dialogue as a method to find measures to improve information to and treatment of court users. A survey showed that, at the end of 2013, over two-thirds of the local courts had had meetings with lawyers and prosecutors to listen to them and their views of treatment and information of parties and witnesses. They had also interviewed users directly about how they perceived information and treatment from the courts. The external views have been discussed by judges and staff and they have suggested and implemented measures to improve information and treatment of parties and witnesses locally.

Lawyers and prosecutors who have evaluated this work have noticed a big change. One lawyer commented during an in-depth interview in 2016 that a change that has taken place in Swedish courts: *“There is a world of difference compared to 10-15 years ago. For instance, the presentation the judge starts with: “There are three of us who will rule on this and this is the clerk”. There are photographs outside the court rooms, to show what it looks like inside. There is an openness and accessibility that was not there before. You have free coffee and there is a TV in the waiting room. There is a huge difference.”* Regarding the effect that this has had on the parties: *“It is much more down to earth and practical. You enter into a context. It is not like before when parties felt that they were like a dot on the wall ... They felt like they were not part of what happened. I think that is really important, that they feel involved. Because then I think that as a party you feel that you have a responsibility of your own for the trial and for it to be as good as possible”.*

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One aspect of better communication is the court’s relationship with the media as the conduit for connecting with the public, which is illustrated by the media relations in the courts of **Baden-Württemberg**, which see the rights of the press and other media to access information as a cornerstone of the judiciary’s democratic accountability.

Inspiring example: Communication from the courts of Baden-Württemberg (Germany)

As early as 1975, the Government of Baden-Württemberg decided to introduce press spokespersons into all administrative bodies. In the case of the courts, the spokespersons are judges who have been provided with additional training. In 1988, directions were published on their role across the administration, stating that the spokespersons should not confine themselves to the position of contact person for the media, but also play an active role in the public relations. The decisions of the court are pronounced in the name of the people, and hence communicating with the press and public is important for democracy and strengthening to confidence in the functioning of the judiciary. In the case of individual cases, authority to deal with the media rests with the president of a court or the spokesperson, not the judge in charge of the trial.

The Basic Law (German Constitution), article 5, paragraph 1 guarantees the existence of a free and independent press and broadcast media, and reporting without censorship, but also the obligation of the

authorities to give information to the media. This freedom is put in concrete terms by several other provisions, for example in the press and broadcast codes of the Länder and by the judiciary. The **freedom of the press and broadcast media** also includes the assessment of the importance to inform the public, meaning discretion as to whether information is worth publishing resides with the press and broadcast media, not with the authorities. Every interference with this right has to be justified, which would include:

- ✚ Negative effects on pending judicial inquiries;
- ✚ Opposing secrecy requirements e.g. state secrets;
- ✚ Opposing private interests that should be protected; or
- ✚ If the inquiry leads to unacceptable effort for the court (only to be used in exceptional circumstances).

It is no justification for any public authority to withhold information from the media just because it has been criticised in former publications.

‘Opposing private interests’ is the most frequent reason to withhold information. Naturally there is no conflict between the freedom of the media and **the interests of an individual person** (whether defendant, relative, witness, etc.), if the person concerned has consented to the disclosure of the information. Another way of avoiding the potential conflict is to disclose the information without any reference to the person concerned, meaning that it is not possible to identify the individual from the press release. In this context, it may not be sufficient to exclude only the name. Difficulties arise if the disclosure of information cannot be made without any reference to the concerned person and is therefore interfering with his or her rights. The conflicting interests must be balanced.

The press spokesman must **decide if and how information has to be given**. It is up to the spokesperson’s discretion whether information is given in writing or orally. There is no enforceable right to get a direct quote from the press spokesman for a broadcast. It is important that the person that it is concerned by the disclosed information is informed in advance, and that the principles of genuine truth and objectiveness are applied. If the person concerned belongs to a minority, this is not referenced to avoid abetting to stereotypes.

Entitlement to information does not generally include an entitlement to gain complete access to judicial files or specific documents. There is however a **right of access to the decisions of a court** without personal data. The Federal Administrative Court has held that all court decisions must be made accessible to the public, if there is or may be a public interest in the publication. The court derived this from the principles of the rule of law (including the right to have recourse to a court) and of democracy. It stated that court decisions put the law in concrete terms and therefore the publication of decisions is of comparable practical importance to citizens, as the publications of the law. In this respect, the media must be treated equally, meaning that the information is sent to the various publishing houses at the same time. It is not allowed to distinguish between the different medias, meaning for example that all newspapers have the same rights.

In addition, **journalists can attend court hearings**. Court hearings basically are open to the public (with a few exceptions), and as such, open to the journalists as well. There are restrictions for television cameras and taping devices, which are allowed only until the hearing begins, but also an ongoing debate regarding whether these restrictions should be relaxed. The only exception to this rule is the Federal Constitutional Court; television cameras are allowed in the courtroom until the court has taken the names of the parties and counsels present and later when the judgment is pronounced. In case of insufficient space in the courtroom, a “pool solution” is applied. This involves a certain number of journalists and two TV camera teams being admitted to the court room, with the obligation to share their documentary material with all the other televisions broadcasters and papers afterwards free of charge.

For further information: http://www.coe.int/t/dghl/cooperation/ccje/textes/Travaux7_en.asp

The experience of Baden-Württemberg is by no means unique. In **Poland**, the District Court in Białystok established a Press Office back in 2009, and has found that the benefits for the judges and journalists work in both directions: communicating more effectively with the media and at the same, facilitating a better understanding of court functions.

Inspiring example: Court communication with the media and public (Poland)

To ensure full access to media and information for the public including journalist reporting court trials, the District Court in Białystok established a Press Office in April 2009, led by a Press Office Coordinator. Initially the Press Office activity was limited to elaborating the best methods of communicating with the media through electronic sharing of information about ongoing trials, including those of special public and media interest, as well as dealing with information requests needed for court trials press coverage. Later actions included training sessions given by local journalists to the judges and administrative staff on basic media communication skills. Thanks to these meetings, the journalists also received additional knowledge on the functioning of the courts. To build up the court's image, it is important to stress that all persons in key positions, such as the court president and judges, must be motivated and dedicated to deliver the information required by the media.

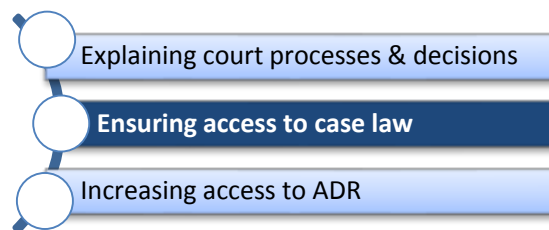
The project started in the Białystok District Court was an inspiration to start a nationwide debate on the various aspects of building public trust in courts. The Ministry of Justice conducted a series of workshops in the Appellate Courts, where Court Presidents and Spokespersons (in Poland only a Judge can be a spokesperson) agreed that there is a certain lack of knowledge in communication between courts and media. This led to establishing a working group (consisting of journalist, judges and management experts), which prepared the *Standards for Court Communication with Media*. The document became operational in 2015.

Source: Ministry of Justice, Poland.

Similarly, there should be a drive to explain judgements in more user-friendly language, to ensure that judicial decisions are well understood by all parties.

7.2.2 Ensuring access to case law

Justice is better served when legal representatives have all necessary information to present their cases fully and represent their clients' interests fairly, and judges are fully informed on relevant case law at the European level before making pronouncements. The 2017 EU Justice Scoreboard



shows that 26 Member States have put in place a non-restricted open access of judgements free of charge. In all of these countries, the online information is updated at least once a month. EU case law is transforming national law in the fields of administrative, labour, civil and commercial law, as noted by the [Spanish Judicial Network](#) in 2012.

Several Member States have introduced systems to collect and disseminate EU case law around their national court systems. The pioneer in this regard was the **Netherlands'** Eurinfra model, which was launched in the early 2000s. Others have followed the Dutch lead by establishing their own network of court coordinators to act as key reference points on EU Law (Belgium, Bulgaria, Czech Republic, Denmark, Italy, Romania and Spain). In many cases, like the Dutch example, this network is complemented by European judicial training (see [topic 7.4](#)) and/or underpinned by databases and dissemination of information.

Inspiring example: Eurinfra (The Netherlands)

It was in 1999 that Judge A.W.H. Meij at the Court of first instance at the European Court of Justice (ECJ) voiced his concern to a journalist about the Dutch judiciary's limited knowledge of European law, which led to questions in the House of Representatives of the Netherlands, and the Minister of Justice was asked to respond. The steps the Minister subsequently formulated and the resources made available ultimately led to the launch of the Eurinfra project in late 2000. After the establishment of the Council for the Judiciary on 1 January 2002, the latter then took over, set up and executed the Eurinfra project, working closely with the Administrative High Court for Trade and Industry, given its extensive experience with the application of European law and its willingness to assume a pioneering role in this connection.

The Eurinfra Advisory Council was set up to advise on the structure and progress of the project and to give specific advice on the solutions chosen to achieve the objectives. The project was executed by the Administrative High Court for Trade and Industry, the Dutch judiciary's bureau for internet systems and applications (known as 'Bistro') and the Dutch training and study centre for the judiciary ('SSR'). After the strategy document had been adopted in 2001, a long-term budget was drafted to 2004. The activities proposed in the document to achieve the project's objectives placed extra demands on the organisations concerned, so that additional finance was necessary.

The Action Plan which the Council drew up for this purpose identified three sub-projects, with the following objectives:

1. Improving the accessibility of European law information resources using web technology
2. Improving the knowledge of European law amongst the Dutch judiciary;
3. Setting up and maintaining a network of court co-ordinators for European law (CCEs).

The realisation of these objectives is interdependent: a better access to legal resources can be better utilised if the judiciary has a broader and more in-depth knowledge of European law. At the same time, an organisational basis is necessary. The network of CCEs is designed to put the knowledge of European law within the judiciary to better use by improving the co-operation between the members of the judiciary. To achieve this, the CCEs have been given the task of improving the information and internal co-ordination within their own courts, and maintaining contacts with other courts on the subject of European law.

Objective 1: Improving the accessibility of European law using web technology

Bistro, as part of the Council for the Judiciary, worked hard to create access to sources for judges and legal staff on the workplace and to create digital resources to disseminate the knowledge of European law. These developments were part of the attempt to broaden the digital accessibility of the information for legal professionals, the Porta Iuris portal²¹ and a judiciary-wide intranet system (Intro). This focused on providing access to European legislation and the case law rendered by the ECJ. At the end of 2012, another part of the Council for the Judiciary was designated to fulfil these European tasks of Bistro: LOVS. LOVS has developed the European Knowledge Portal (Kennisportaal Europees recht) to replace Porta Iuris and Intro. In 2016, the name of LOVS has been changed to LBVr. Judges and staff lawyers now have automatic online access to sources of EU law in a user-friendly and integrated format, covering:

Legislation and regulations (in force and consolidated)

- + European conventions and treaties;
- + European legislation;
- + Netherlands implementation regulations;

Case law

- + Decisions of the ECJ, of the General Court, and of the ECtHR;

²¹ Porta Iuris is an intranet site providing the judiciary with integrated access to sources, legal news and documents. Its object is to offer as many information resources as possible via this central Intranet facility, not only saving on operational costs, but also creating the opportunity to monitor good version management. Porta Iuris was developed and is operated by the Dutch judiciary's bureau for internet systems and applications (Bistro). It provides information on legislation, rules, regulations, case law, professional news, documentation and literature.

- ✚ Cases pending before the ECJ (including references as for preliminary rulings);
- ✚ Texts and commentaries from the most well-known judicial Dutch magazines *inter alia*;
- ✚ Decisions of Netherlands Courts and Tribunals in cases in which Community Law has been applied or explained;
- ✚ A toolkit with checklists (e.g. concerning the reference for preliminary rulings, EC checklist), manuals and tutorials on the basis of handbooks and training material.

Objective 2: Improving the knowledge of European law within the Dutch judiciary

SSR has traditionally organised courses on various aspects of European law and on human rights conventions. Eurinfra has greatly increased the scope of – and given a strong impulse to – the SSR courses on European law. In close consultation with the courts and the Public Prosecutors' offices, SSR has thoroughly reviewed the courses in this field. A project plan providing for the following targets/ results was drafted:

- ✚ Organising introductory meetings and basic courses on European law;
- ✚ Developing and organising advanced courses on European law (e.g. aliens law, European law and social security (more specifically, medical tourism), European criminal law, civil law, sub-District courts and the procedure for preliminary rulings);
- ✚ Reviewing and adapting the existing SSR courses in terms of their European law content;
- ✚ To the extent that this supports the above targets, organising meetings with experts to develop courses (and web lectures) on European law and keeping these up-to-date.

Objective 3: Setting up and maintaining a network of court co-ordinators for European law (CCEs)

Each court board appointed one or two court co-ordinators for European law, with the Dutch Supreme Court and the Administrative Jurisdiction Division of the Council of State also participating. Approximately 30 court co-ordinators in total constitute the CCE-network. The president of the Administrative High Court for Trade and Industry acts as chair, and it also hosts the network's secretariat. Activities of the CCE-network are organised in close cooperation with SSR. The court co-ordinators meet twice a year, not only to attend presentations on new European law themes, but also to discuss the functioning of the network itself. They also have their own internal team site (GCE-team site) to inform each other about matters of European law. The court co-ordinators act as an internal focal point for European law issues for their court colleagues. Furthermore, they identify interesting European law developments and take the initiative for refresher courses. The court co-ordinators are being approached more and more frequently. This is also partly due to the increased awareness of their availability, of course, which in its turn is a result of the European law activities which have been developed due to the Eurinfra project. The advantages of a network of court co-ordinators over a European law help desk (which had been the original idea) are lower staff costs, the low threshold – a judge is after all more likely to pop in to see a colleague from within his own court than to call an anonymous help desk with a European law problem – and the fact that the court itself has become responsible for meeting the need for a European law orientation within its own organisation. The network has, furthermore, created a framework for a judiciary-wide co-ordination which the Minister of Justice had in mind for the long-term when the Eurinfra project was launched.

The Eurinfra project was completed in December 2004, but this does not mean that the activities undertaken within the framework of this project were also terminated as of that date. On the contrary, the three pillars of the project achieved a permanent status and have since been reinforced with new activities, including: opening up the judicial networks; setting up European exchange programmes with foreign courts; and secondments to European and international organisations. The Council for the Judiciary supports activities actively by providing financial means and by realising coordinating activities with the help of its contacts with European judiciaries via the European Network of Councils for the Judiciary.

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More recently, **Romania** established EuRoQuod in 2012 with a similar philosophy.²² The 49 members of the network are judges appointed on a voluntary basis, from all levels of jurisdiction (mostly from county courts and courts of appeal). EuRoQuod is an example of cooperation between judges in

²² Source: European Commission (2014), [Lot 1 – Study on best practices in training judges and prosecutors](#)

Romania, judges that manifest a special interest for the application of EU law and are willing to share their experience and knowledge with their colleagues. The main pillars of EuRoQuod are the network of judges, the website including a data base of preliminary references sent by the Romanian courts, and the training activities and meetings of the members of the network.

Inspiring example: EuRoQuod (Romania)

Only two weeks after Romania's accession to the EU in 2007, a county court was already referring to the Court of Justice a preliminary question on the regime of restrictions on the right to free movement of an EU citizen (Jipa). During the next five years, courts in Romania were to send almost 40 preliminary references, demonstrating their willingness to join the constant stream of dialogue carried out between the supranational courts of the EU and the national courts of its Member States by means of the preliminary references procedure. However, in a number of cases, preliminary references sent by Romanian courts – no different than courts from more experienced Member States – were dismissed completely or in part as manifestly inadmissible or were suspended due to identical content. These occurrences drew attention to the necessity of making available to judges specific instruments able to assist them in their individual study of EU law. Such instruments had to be provided to help them distinguish purely internal cases from cases with EU law elements, learn to evaluate and interpret previous relevant judgments of the Court of Justice and, therefore, use the mechanism of preliminary references only when appropriate.

Judges cannot rely solely on information gathered from online forums and other informal media for a good administration of justice. More specifically, they need reliable information to find out if another court in the country has been or is being confronted with a similar problem of EU law in the process of deciding whether to act on the request of a party to send a preliminary reference.

The network

The network was created in 2012 by decision of the Superior Council of the Magistracy. It currently includes 58 judges countrywide, appointed on a voluntary basis, who express a particular interest in this domain. They do not benefit from supplementary financial advantages or relief from their duties in court. The four-tiered system of courts in Romania (local courts, county courts, courts of appeal and the High Court of Cassation and Justice) and their relatively high number makes it impractical to involve one judge per court in the project. In general, the aim is to have members from the higher courts (county and courts of appeal), who can keep in contact with colleagues from lower courts as well. No specialisations are required, because membership is based on personal interest and/or expertise in EU law of sitting judges, therefore all areas where EU law is applied in courts are naturally covered. Judges acting as court coordinators have, in principle, the following duties:

- ✚ To offer assistance to their colleagues within their own courts or in the jurisdiction of a court of appeal, on request, to distinguish the cases where EU law is applicable from those that are purely internal;
- ✚ To assist their colleagues with bibliographical references on specific problems in EU law;
- ✚ To guide their colleagues on the rules of drafting a request for a preliminary ruling;
- ✚ To keep in contact with the other court coordinators members of the National Network, and similar networks from other Member States of the EU;
- ✚ To keep in contact with the central coordinator of the Network, who is a full-time trainer at NIM, specialised in EU law, and whose role is to assist the court coordinators in all their activities;
- ✚ To be updated on the case law of the EU Court of Justice and the relevant literature, to participate in training sessions, conferences and other similar events;

- ✚ To evaluate the actual training needs of their colleagues and to work with NIM with the objective of drafting efficient training programmes in the fields covered by EU law.

The website

Drawing on the experience of the Dutch 'Porta Iuris' EU Law Menu, the National Institute of Magistracy (NIM) had the initiative to begin a programme of on-line publication of all orders for reference sent by Romanian courts, as well as of other materials that are deemed useful for the study and application of EU law. It is important to underline that the success of this programme is not possible without the active participation of all courts that address questions to the Court of Justice, which consists of simply sending to NIM a copy of the orders for reference in electronic format. Access to a database of the orders for reference is essential to keep the judges updated in a prompt and uniform manner about the existence, the content and the stage of proceedings. Only so informed, judges are able to make a decision regarding the necessity of a new reference on the same subject and to follow the development of a case of interest and, last but not least, to be up-to-date with the jurisprudence of the Court of Justice in cases originating from Romania.

The first page displays a table in chronological order which offers basic information for a quick update, as follows:

- ✚ Case number;
- ✚ Name of the parties in the national dispute;
- ✚ Useful keywords;
- ✚ Case status - pending, removed from the register after withdrawal by the referring court, stay of proceedings, dismissed as manifestly inadmissible, closed by order, or closed by judgment.

From this table, one can access a case file for each reference, which contains, as information becomes available:

- ✚ Details about the order for reference: referring court, national and European provisions under discussion, date of referral, date of registration at the Court, and most importantly, the full text of the order for reference;
- ✚ Stage of proceedings before the Court, including whether PPA or PPU has been requested, the date of delivery of the Advocate General's Opinion or View, and other relevant data;
- ✚ The questions as they were addressed to the Court and as they were reformulated by the Court, the comparison being useful for improving the drafting style for the future;
- ✚ A link to the official text of the ruling of the Court (posted on curia) and a summary of the ruling;
- ✚ Commentaries and articles on the case and/or references to articles in legal journals and other relevant resources.

The fact that the database is public helps raising awareness across the legal professions and for the benefit of the public. Since 2013, the database was integrated in the newly created website of the Network, which is not so much a news platform as a public online library organised around the most relevant EU law fields/issues in courts (e.g. consumers' protection, labour law, judicial cooperation etc.) The maintenance of the database is the responsibility of the central coordinator of the network (a full-time trainer in EU law at the NIM) and it is carried out with few resources. To make it more dynamic and facilitate the upload of material by all members of the Network, the software behind the website has been changed to dokuwiki since September 2014.

In 2015, two theme files (matrimonial issues and insolvency) developed in the framework of project “Practical exercises in implementing judicial cooperation in civil and commercial matters” (JUST/2013/JCUV/AG/4634)²³ were uploaded on the EuRoQuod website, in Romanian, with a short description in English.²⁴ Their central feature is a step-by-step guide for the management of a case in the two fields, and is supported by national and European legislation of relevance, EU case law in these fields, the training materials used in the seminars and references to other relevant materials. From the autumn of 2016, a new section concerning national cases where preliminary references have been requested by the parties but denied was created.

Training activities and meetings

Apart from participating in various training activities according to their own interest, the members of the Network meet on a regular basis, twice a year. The meetings represent an opportunity for the members of the Network to share their perspectives and raise issues from the various courts they belong to, and to have debates on the current issues where EU law is applicable. In the beginning, the conferences took place at the premises of the NIM in Bucharest, but since 2015 various courts of appeal host these events. Decentralisation of the EuRoQuod conferences means that they could be opened to all judges and the coverage and visibility of the Network improved. Since the beginning, the Network has been benefitting from the constant support of the Romanian judge at the CJEU and of the Agent of the Romanian Government for the CJEU, who are both a constant presence at the conferences of the Network.

For further information: Ms. Gabriela Florescu, Central Coordinator of EuRoQuod, gabriela.florescu@inm-lex.ro; Beatrice Andreşan-Grigoriu, Head of the EU Law Department at NIM, beatrice.andresan@gmail.com, www.euroquod.ro

The Romanian judicial system has also facilitated free public access to all case law, using the ECRIS system which is also at the centre of the management of court efficiency (see [topic 7.1](#)) and a public portal especially established for the purposes of openness.

Inspiring example: Open access to case law (Romania)

The Ministry of Justice and the courts used to publish only a brief description of pending court cases, with parties and session dates. The data was fed from the central database application of the judiciary called ECRIS, administered by the Ministry of Justice. The courts could also decide to publish relevant case law. On the one hand, the High Court of Cassation and Justice decided to publish on its own website, free of charge, its entire case law. On the other hand, the decisions of the lower courts were available online in the ECRIS database, which was only accessible to judges and court clerks. Taking the open access to court cases a step further, the members of the Romanian Legal Information Institute Foundation (RoLII Foundation) decided to set up a new portal to enable the public to freely access the outcome of every court case: the full text of final court decisions, in all instances.

The RoLII Foundation members include the Superior Council of Magistracy (*Consiliul Superior al Magistraturii*)²⁵ and representatives of legal professions, such as the National Institute of Magistrates, the National Bar Association or the National Union of Public Notaries. Because of the limited resources of the RoLII Foundation, a call for donations and voluntary work was announced in 2014. The project was consequently awarded to Wolters Kluwer Romania, the local branch of the worldwide professional publisher and compliance software maker Wolters Kluwer. In 2015, the RoLII portal was launched.

²³ A project supported by the European Commission (the Specific Programme Civil Justice of the European Union) which took place between 1 February 2014 and 31 January 2016 and was coordinated by the Romanian Superior Council of Magistracy.

²⁴ http://www.euroquod.ro/dokuwiki/doku.php?id=en:practical_exercises_2014

²⁵ The SCM is the body that guarantees the independence of the Judiciary in Romania. Its members are Romanian judges, public prosecutors, representatives of the civil society and 3 members by law – President of the High Court, Prosecutor General and the Minister of Justice.

The published data - privacy aspects

The RoLII portal is a database which provides public access to judgments from all stages of the procedure, including those still open to appeal. The judicial system produces more than 2.5 million decisions per year. However, limitations based on the right to privacy apply. That is why the Content Management System (CMS) imposed two sets of limitations to what is shown through the RoLII portal. The first consists of the data that can reveal the identity of the persons involved in a case. The second consists of cases deemed too sensitive for general online access.

The existing approach in Romania is that access to identification of persons involved in a case – except for the judges and prosecutors, who represent the State – must be limited to the parties and their lawyers. For the democratic control function by the public, it is sufficient to know how the facts and the evidence presented in each case led to a certain judgment, without identifying parties, witnesses, consulting experts or counsels.

To protect people's identities, not only their names must be left out of the text, but also other identifying elements such as addresses, license plate numbers, phone numbers or bank account numbers. This process must be automated because there are millions of documents to process. The software to eliminate the identifying elements is both rule-based and dictionary-based. An example of rule-based data elimination is the software command *"replace all instances of 6 digits followed by a comma or space with ABC"* to remove post codes. An example of dictionary-based elimination is *"replace all instances of words that appear in [the dictionary of diseases] with XYZ"*. Application of these rules will inevitably lead to elimination of other words that are similar to, for example, a city name. This is considered acceptable, to realise the higher objective of privacy protection. The automatic anonymisation of the private data depends on the quality of input data. Therefore, the public will be able to ask for elimination of private data using a special form in the pages of the web portal.

Some cases may by their nature reveal information about national security. These cases are relatively few, and however important they are cannot be allowed on the portal. For example, cases involving a conspiracy to overthrow the government are not accessible. However, organisations and individuals who can prove an interest may still request access to this information based on the Public Information Act (Law 544/2001).

Other cases are considered too sensitive for public access out of consideration for the people involved. This refers to persons who are especially vulnerable such as minors, mentally handicapped persons, or victims of rape. Instead of just eliminating the identifying elements these cases are left out altogether. The trials in these matters are also not open to the public. The elimination of these cases is automated as well. The software selects the forbidden types of cases from a predefined list, so that these cases are prevented from being imported out of the ECRIS system. The list is defined by the CMS and revised periodically.

System architecture

All documents are created and edited in the ECRIS system, which is only accessible to court officials (clerks and judges) and a few IT professionals with the necessary security clearance. When a judgment is marked as finished by the judge presiding over the case, the text and a specified set of metadata are put through an anonymisation filter. The details of that filter are discussed above.

After anonymisation, the text (data) and metadata are exported to a separate server, so that the ECRIS system is not affected by the data transfer. The data/metadata then goes through a secured connection to the indexing and storage servers at RoLII. RoLII then feeds the public access portal from its web server. The data are also accessible for third party software (third parties can apply for access with RoLII) through an API (application program interface, an interface between computers instead of between a website and its users). A visual representation of the system is shown right.

The 'editor' in the middle is a human safeguard, using the CMS to check and correct any anonymization issues, both at their own initiative and responding to user feedback.

The public data will go back to 2011 and are incrementally imported overnight. This means that the public has

access to all judgments only 24 hours after they have been marked for release by the judge. The portal features a search function, by text and metadata such as type of case, date, or court of law.

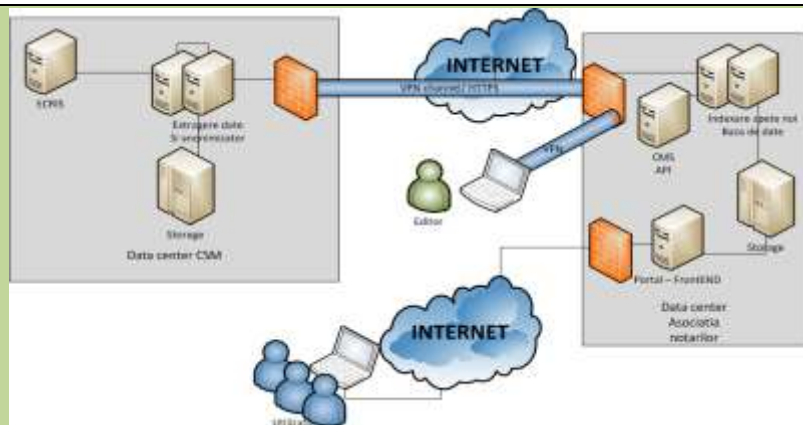
Public-private partnership

The whole project is owned and governed by the RoLII Foundation which is coordinating the communication between the main stakeholders of the project.

The CMS has control of the primary data before export to the public portal and offers access to the ECRIS system. The software collecting the data and the anonymisation tools are hosted on CMS hardware. The National Union of Public Notaries will host the public portal on its servers and hardware. Wolters Kluwer Romania is providing advice for the technical solutions, project management of the implementation of the project and software solutions.

Wolters Kluwer Romania also provides the customised software for anonymisation, extraction, management and online publication at no charge. Wolters Kluwer Romania has access to the anonymised data through the API, like other private parties. Building on these public data, the company is able to provide paid services and products for its clients in its own products and software tools.

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The **European Case Law Identifier (ECLI)** has been developed to make it easier and quicker to search for judgments from European and national courts. In the past, if a Supreme Court ruling from one Member State was relevant for a specific legal debate, it might be registered in a variety of national and cross border databases, each with a different identifier. This made tracking down the ruling in the right format (summarised, translated or annotated) time-consuming and tricky, as all identifiers would have to be cited and all databases searched. To overcome these obstacles, the Council of Ministers invited Member States and other EU institutions to introduce the ECLI and a minimum set of uniform metadata for case law to improve search facilities. The Justice Scoreboard shows that eleven Member States assign an ECLI to published judgements of at least one court level.

Main characteristics of ECLI

ECLI is a uniform identifier that has the same recognisable format for all Member States and EU courts. It is composed of five, mandatory, elements:

- ✚ 'ECLI' (to identify the identifier as being a European Case Law Identifier);
- ✚ Country code;
- ✚ Code of the court that rendered the judgment;
- ✚ Year the judgment was rendered;
- ✚ An ordinal number, up to 25 alphanumeric characters, in a format that is decided upon by each Member State. Dots are allowed, but not other punctuation marks.

The elements are separated by a colon. A (non-existent) example of an ECLI could be 'ECLI:NL:HR:2009:384425', which could be decision 384425 of the Supreme Court ('HR') of the Netherlands ('NL') from the year 2009.

To make it easier to understand and find case law, each document containing a judicial decision should have a set of metadata as described in this paragraph. These metadata should be described according to the standards set by the Dublin Core Metadata Initiative. The Council Conclusions on ECLI give a description of the metadata that can be used.

Every Member State using ECLI must appoint a governmental or judicial organisation as the national ECLI coordinator, responsible for establishing the list of codes for the participating courts, the publication of the way the ordinal number is made up, and all other information that is relevant for the functioning of the ECLI system. The ECLI co-ordinator for the EU is the Court of Justice of the European Union.

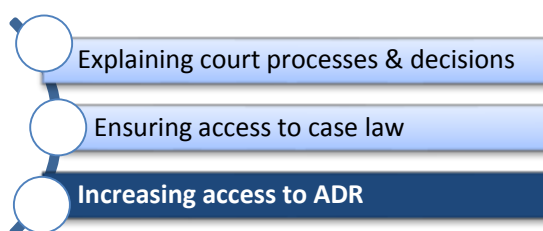
Source and further information:

https://e-justice.europa.eu/content_european_case_law_identifier_ecli-175-en.do

Each Member State decides whether, and to what extent, it will use the ECLI system (for example, it might apply retroactively to historical records), including the number of participating courts (all courts, only supreme court level, etc.). The ECLI is a purely voluntary arrangement, but the benefits increase considerably with more participating Member States.

7.2.3 Increasing access to alternative dispute resolution methods

The use of alternative dispute resolution (ADR) methods is a question of justice policy that has important consequences for both the quality and efficiency of judicial outcomes, by providing a voluntary alternative to court proceedings to resolve cases. In principle, ADR methods have



many advantages over litigation in civil, commercial or administrative cases. It usually reduces costs to the parties, offers greater flexibility in procedure, provides more privacy and control to the parties, may result in speedier resolutions, and settles on solutions which should meet each side's interests. For the judiciary, ADR methods frees up court time and saves costs. The 2017 EU Justice Scoreboard showed that all 26 Member States with available data promote and incentivise the use of ADR methods in civil and commercial disputes, 25 in labour disputes, and 24 countries in consumer disputes, although the intensity of promotion/incentives varies.

Recourse to ADR methods is valuable in fields such as consumer protection or family matters (such as contesting wills or child visitation after divorce) where the prospect of formal court procedures can have a chilling effect on the public and dissuade action. In this way, the availability of ADR methods serves justice by enabling access to it. There is overwhelming demand for ADR methods among the public. A Commission-funded Flash Eurobarometer survey, [“Justice in the EU”](#), in 2013 found that roughly nine out of ten people (89%) seeking a solution to a dispute with a business, public administration or another citizen would seek an agreement out of court, if that option was available. Over four out of ten people (43%) say that they would find an agreement with the other party directly, while 46% say that they would find an agreement with the other party with the help of a non-judicial body that has a mediation role.

Voluntary ADR methods take various forms, including negotiations, tribunals, arbitration, mediation and conciliation. The main defining features of different types of ADR methods are: whether a third party is involved as an intermediary or not; whether the outcome is binding on the parties; and whether it is instigated by the parties before they proceed to court or once proceedings have commenced. The two types which are likely to have the most direct impact on the efficiency and quality of justice are arbitration and mediation, both of which are voluntary in nature and structured in method.

Two key forms of ADR methods

Under **arbitration**, the parties agree on an impartial third party (‘arbitrator’), who acts in effect as a judge but outside the court system, listening to the arguments from both parties and proposing a settlement which is typically binding, but in exceptional cases may be advisory only. Arbitration is normally voluntary and arises in the context of a pre-agreed arrangement. The parties stipulate in a contract that they will resort to arbitration, not litigation, in the event of a dispute, and will comply with the arbitrator’s decision. Arbitration is most typical in commercial cases and employment law, the classic example being collective bargaining agreements over wages and working conditions. Arbitration agreements rarely involve the right to appeal, and where they do, the complainant faces a high standard of proof to demonstrate that due process has not been followed.

By contrast, **mediation** involves an impartial third party (‘mediator’) acting as an intermediary between the parties to try and reach a consensual resolution. The mediator may put forward their own proposal for a settlement, but this is never imposed, it is the parties’ prerogative to agree the way forward. Essentially, mediation is negotiation with the addition of a competent, neutral facilitator. Mediation is either proposed by the parties themselves, recommended or ordered by the court, or prescribed by law, as an alternative to litigation in a range of civil, commercial and administrative cases. Examples include contractual, partnership, business, employment and family disagreements. If the mediation is not successful, the parties reserve the right to litigate.

In principle, **arbitration** brings all the advantages of ADR, but in practice, the high stakes for both parties and the limited option to appeal, mean that arbitration can sometimes more closely resemble court processes in the extent of the testimony, evidence and expected disclosure sought by legal representatives on both sides, which can also draw out proceedings and add to costs, depending on the position adopted by the arbitrator. They can also be more complex than litigation in the case of multi-party disputes, for example in construction contracts. Arbitration is mainly used

for large corporate cases, although there also examples in other domains, such as consumer disputes.

Mediation has more widespread application than arbitration and also presents opportunities and potential drawbacks. It assumes ‘good faith’ on all side, and hence is only an expedient option if all parties are genuine about their willingness to make concessions. If there is no prior desire to compromise, and the result is a court case anyway, then the costs of mediation are simply added to the costs of litigation. It is also dependent on the skills and neutrality of the mediator. The lack of publicity can also have its disadvantages, as public information can discourage the concerned party from repeating similar action in the future (for example, in a trade or labour dispute). More positively, however, mediation brings several advantages in reaching a just outcome, in addition to the general arguments for ADR, as it is non-confrontational, and seeks to get all sides to understand the perspective of other parties in reaching an agreed position. As well as confidentiality, it takes place in a less daunting environment than a courtroom.

Mediation can be especially expedient in **cross-border disputes**, such as family conflicts between residents in different EU countries, consumer disputes with traders over purchases of goods or services, or trade disputes over import-exports, where an amicable settlement is preferable to a long drawn-out legal battle. Without ADR, such cases face a potential risk that litigants and their legal representatives become embroiled in costly court proceedings in contrasting legal systems, due to language differences, unfamiliarity, uncertainty of outcome, etc. In this context, the EU adopted the [Mediation Directive](#) for civil and commercial matters in 2008²⁶, which had be implemented by May 2011 and is now applied in the Member States.

The Mediation Directive

The Directive has the objective *“to facilitate access to alternative dispute resolution and to promote the amicable settlement of disputes by encouraging the use of mediation and by ensuring a balanced relationship between mediation and judicial proceedings.”* Cross-border disputes are defined as cases in which at least one of the parties is domiciled in a Member State other than that of any other party, on the date on which they agree to use mediation, mediation is ordered by a court, an obligation to use mediation arises under national law, or an invitation is made to the parties by a court to use mediation to settle the dispute.

The Directive is applicable to a wide range of cross-border disputes concerning all civil and commercial matters, except for conflicts related to rights and obligations which are not at the parties’ disposal under the relevant applicable law. The Directive does not apply especially to matters related to revenue, customs or administrative matters or to the liability of the state for acts or omissions in the exercise of state authority (*“acta iure imperii”*). It also does not apply to pre-contractual negotiations or to processes of an adjudicatory nature, such as certain judicial conciliation schemes, consumer complaint schemes, arbitration and expert determination or to processes administered by persons or bodies issuing a formal recommendation, whether or not it is legally binding as to the resolution of the dispute. The Directive includes definitions and sets out the obligations on the European Commission and Member States (excluding Denmark), for transposition into national law.

²⁶ Directive 2008/52/EC of the European Parliament and of the Council of 21st May 2008 on certain aspects of mediation in civil and commercial matters.

The **Mediation Directive** creates several obligations on Member States within its scope:

- ✚ It obliges each Member State to encourage the training of mediators, the development of voluntary codes of conduct, their adherence by mediators, and other effective quality control mechanisms.
- ✚ It encourages judges to invite the parties to a dispute to try mediation first, if considered an appropriate option given the circumstances of the case, including inviting parties to attend information sessions if available.
- ✚ It requires Member States to ensure that written agreements resulting from mediation are enforceable, if both parties so request and the agreement is not contrary to the law.
- ✚ It ensures that mediation takes place in an atmosphere of confidentiality; hence, the mediator cannot be compelled to give evidence in court or arbitration regarding information arising from the mediation, unless there is an overriding consideration (such as prevention of harm or protection of children), or disclosure is necessary to implement or enforce the agreement.
- ✚ It guarantees that the parties will not subsequently lose their right to go to court due to the time spent in mediation.
- ✚ It encourages Member States to publish information for the public on how to contact mediators and organisations providing mediation services, including through the Internet.

There is a growing argument for re-framing ADR methods as "appropriate" dispute resolution, which encompasses *all* the relevant options for conflict resolution, and gives parity to litigation and to non-court methods. At present, however, the practical application of mediation across the EU remains very low. A European Parliament study²⁷ found that mediation in civil and commercial matters is still used in less than 1% of cases, despite the proven benefits.

| EU averages | Time | Cost |
|---|------------|------------|
| Court litigation | 566.0 days | € 9 179.00 |
| Mediation then court litigation (with 50% mediation success rate) | 326.0 days | € 7 960.50 |
| Mediation then court litigation (with 70% mediation success rate) | 212.8 days | € 6 124.70 |

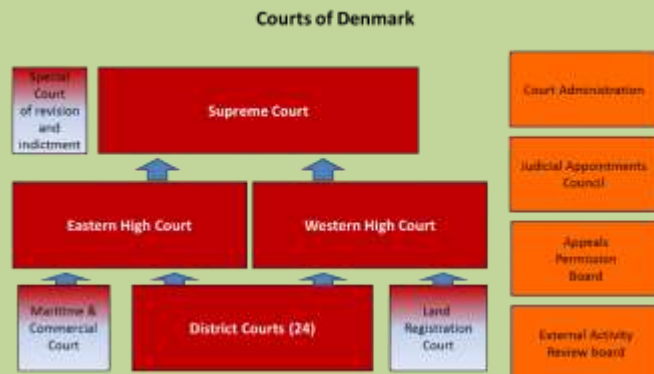
One of the few Member States with long-standing experience in mediation is [Denmark](#), which introduced it as an option for civil cases in 2008. Even in **Denmark**, mediation constitutes just 2% of civil cases, but has proved a valuable instrument even when the two parties do not reach agreement, by clarifying facts and legal and personal issues that enable the court case to be closed quite rapidly after the mediation has ended.

²⁷ G. De Palo, L. D'Urso, M. Trevor, B. Branon, R. Canessa, B. Cawyer and L. Reagan Florence (2014), ['Rebooting' the Mediation Directive: Assessing the limited impact of its implementation and proposing measures to increase the number of mediations in the EU](#), commissioned by the European Parliament.

Inspiring example: Mediation (Denmark)

The Danish courts system is a unified system. Generally, all cases start in the district courts in the first instance. Beyond the district courts, there are two specialised courts (the Land Registration Court and the Maritime and Commercial Court)²⁸.

With a few exceptions, all civil and criminal court cases start in one of the 24 district courts and can be appealed to one of the two high courts. Only in cases where principles are at stake, a case can be referred to one of the high courts in the first instance and thus also be brought to the Supreme Court. If a case has started in the district court and then been appealed to a high court, the parties need a permission from the Appeals Permission Board to be able to bring the case before the Supreme Court.



Mediation has been offered to parties within the civil jurisdiction in Denmark since 1 April 2008. Regulations on mediation within the civil jurisdiction can be found in the Administration of Justice Act, section 27. Mediation is offered in the district courts, the high courts and the Commercial and Maritime Court, but not in the Land Registration Court and the Supreme Court. Mediation is only offered in pending civil cases. It is not possible to submit a request for mediation, but the plaintiff can ask for mediation in the writ of summons or the defendant can ask for mediation in his or her defence. In practice, the question of mediation will be discussed during the preparatory hearing that is held by teleconference after the courts reception of the writ of summons and the defence. Before the preparatory hearing, the court will send a letter to the parties informing them about the hearing, the possibility of mediation and other issues that are going to be discussed during the preparatory hearing (e.g. planning of the final hearing, procurement of evidence, survey reports, etc.).

Mediation is only possible in cases where the subject matter of the case is at the parties' disposal. However, it goes without saying that a lot of informal mediation is performed by judges, lawyers, and other professionals working within the family jurisdiction. Mediation is, for the most part, not possible in cases concerning administrative law.

It is at the courts' discretion to decide that a case should be mediated. Decision about mediation could be taken on the request of one or both parties. The court can also suggest mediation, but cannot decide that a case should be mediated against either party's will. Even if both parties request mediation, the court can refuse to mediate a case, for example if the subject matter of the case is not at the parties' disposal, or if the principle of equality of arms would be at risk in mediation (i.e. each party must have a reasonable opportunity to present his or her case without being placed at a substantial disadvantage with regards to the other party).

The court is responsible for the appointment of a mediator, but can ask the opinion of the parties before the appointment. Only judges, jurists (e.g. assistant judges) and lawyers who are authorised as court mediators can be appointed. Authorisation is granted for a limited period of four years, but is renewable. It is only given to lawyers who have completed training and education as a mediator to a certain level, and can be withdrawn if the lawyer neglects his or her duties as a mediator, or if he or she stops practicing as a lawyer. A lawyer acting as mediator in a court case will be paid by the court. Ethical guidelines for court mediators have existed since 2008.

Mediation in court must end if any of the parties no longer wish to participate or if the mediator decides to end the mediation. In the latter case, the mediator must invite the parties to state their opinion on the ending of the mediation. The grounds for ending the mediation can be that the parties do not participate adequately,

²⁸ Furthermore, there is a part of the district court, the housing tribunal, which administer cases about leasing.

or that the mediator deems it impossible to reach an agreement. The mediator must also end the mediation, if it is necessary to prevent the parties from concluding an illegal agreement.

If an agreement is reached, the court case is closed. If an agreement is not reached, the case will continue as an ordinary civil case. A judge, who has acted as mediator in a case, cannot continue the handling of it as an ordinary civil case, and a lawyer, who has acted as mediator, cannot act as counsel of any of the parties. What has been discussed during the mediation is confidential and can, with a few exemptions, not be divulged without consent of the parties. An agreement reached by mediation can be entered in the court records and can thus serve as basis of execution or enforcement of the agreement.

Even though regulations on mediation have been in force since 2008, there is still a substantial reluctance to use mediation. In 2016, the District Courts concluded 46 011 civil cases, of which 1 146 cases were taken out for mediation; 514 cases were concluded with mediation in 2016. Even when an agreement is not reached, however, it is the experience in Denmark that mediation can be valuable and an important step in ending the case, given the fact that the mediation will often help clarify the facts, legal questions and sometimes even personal questions that must be dealt with to close the case. It is important also to note that under Danish law, a judge in a civil case in the first instance must explore the possibilities of a settlement before delivering a judgment. This means that there is also a number of cases where the judge is active in helping the parties to settle the case by means other than mediation, e.g. by encouraging negotiations between the parties or by clarifying rules on the burden of proof etc.

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The use of ADR across the EU is also enhanced due to [Directive 2013/11/EU on consumer ADR](#), which Member States had to transpose by July 2015. The ADR Directive requires all Member States to ensure that 'ADR entities' (service providers) are available to provide ADR procedures (e.g. mediation, conciliation, ombudsman or arbitration procedures) to resolve disputes between EU consumers and EU businesses over the purchase of goods and services made offline or online, domestically or across borders. ADR entities must meet binding quality requirements, including independence, transparency, expertise, effectiveness and fairness, and their services must be easily accessible, available to consumers free of charge or at a nominal cost, and the procedure should be completed within 90 days (with the possibility of extension under certain circumstances). The Directive excludes disputes relating to services of general interest, health and further or higher education, and does not extend to procedures other than those concerning contractual disputes submitted by consumers against traders (such as business-to-business, business-to-consumer, or family disputes). The availability of quality ADR procedures for settling consumer disputes is expected to strengthen national and cross-border consumer protection, improve the functioning of the internal market, encourage trade and benefit businesses, especially those that previously were at a competitive disadvantage because ADR services were not available for resolving their disputes with consumers. Consumers will be able to shop in their country, in another EU country and over the Internet with more confidence, knowing that they can access ADR entities that offer fast and fair dispute resolution at low cost, if something goes wrong. Neither businesses nor consumers will be obliged to use ADR under the Directive (while participation in ADR procedures might be mandatory for businesses, by virtue of Member States' national laws), but each Member State must ensure ADR is available if both parties agree to use it, for disputes in any retail sector.

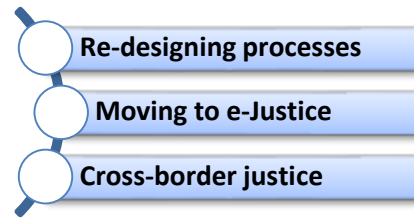
As a complementary initiative, [Regulation \(EU\) No 524/2013 on Online Dispute Resolution \(ODR\)](#) mandates the Commission to establish an EU-wide Online Dispute Resolution platform for contractual disputes between EU consumers and EU traders that arise from online transactions – an

interactive and free-of-charge website offering a single point of entry to consumers and traders. The 'ODR platform' was launched on 15 February 2016 (<http://ec.europa.eu/odr>). All the national ADR entities notified by Member States to the Commission are registered on the ODR platform, hence allowing consumers to submit complaints over online purchases against businesses established in their or another Member State. The ODR platform provides general information regarding ADR for such disputes, and allows consumers and traders to submit their cases by filling in an electronic complaint form, available in all the EU's official languages, and attach relevant documents. Once the two parties agree on the ADR entity that will handle their dispute, the ODR platform automatically sends the dispute to that ADR entity. The ADR entity then has the possibility to handle the dispute entirely online, including through a case management tool.

A European Commission business survey on ADR in 2010-2011 found that the vast majority of businesses that had used ADR were satisfied with their experience (73%), would use it again in the future (82%), and would prefer ADR than going to court to settle disputes (70%). The ADR procedure seemed to be successful for most businesses in terms of cost, outcome and time: 83% stated that it is cheaper than court; 85% of the companies managed to settle the dispute with the consumer and 70% of the disputes were settled within three months. According to businesses, the main advantages of ADR are that disputes are settled quickly (55%) and that it allows them to maintain their reputation (25%). More recently, the [European Commission's Flash Eurobarometer survey of retailers' attitudes](#) towards cross-border trade and consumer protection in 2014 revealed that just over half of all retailers across the EU28 were aware of at least one ADR body (54%), while the [Flash Eurobarometer survey of consumer attitudes](#) towards cross-border trade and consumer protection in 2014 found that 46% of EU consumers agreed that it was easy to settle disputes with retailers or service providers using an out-of-court body, while 36% thought it was easy to do so through the courts.

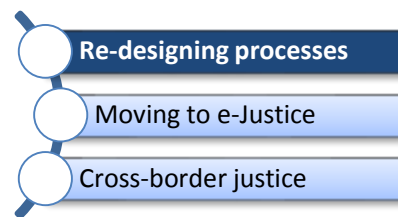
7.3 Modernising justice systems

Like public administrations, judiciaries are finding ways to simplify and speed up administration, to re-engineer their processes, and to take advantage of computing and networking power, to manage the judicial process better, faster and more cost-effectively (see also [theme 5](#)). As with citizens who travel and work in other EU countries, and businesses that invest and trade, justice also cuts across administrative boundaries, and hence cross-border justice is an integral and increasing element of modernising judicial systems. This topic should be read in conjunction with eGovernment ([topic 5.4](#)) in the chapter on improving service delivery and digitalisation. In particular, the ongoing development of e-Justice and cross-border justice falls within the framework of the European Union’s [eGovernment Action Plan 2016-2020](#)²⁹, which starts with the vision of public administrations and public institutions providing borderless, personalised, user-friendly, end-to-end digital public services to all citizens and businesses in the EU by 2020.



7.3.1 Re-designing processes

Like their counterparts in government, judiciaries are increasingly looking to creative solutions to make their administrative processes more efficient, but also more ‘user-centric’. ICT plays a major and often central role in the modernisation story, but administrative simplification and process re-design is both an intermediate step to e-Justice and sometimes an end in itself that secures time and cost savings. Some judiciaries have used the results of performance measurement (see [topic 7.1](#)) to initiate substantial changes in systems and procedures. Self-reflection can be the catalyst for sharing good practices across court systems within Member States, such as the example of the “Dissemination of Best Practices in Judicial Offices in Italy” project, which was utilised by the Court of Monza to instigate a modernisation drive, which re-designed operations, made the most of digitalisation and forged a permanent partnership in the field of voluntary jurisdiction. The result is both greater efficiency and a service that is designed around the citizens’ interests, breaking down administrative boundaries.



Inspiring example: Organisational and process transformation in the Court of Monza (Italy)

In 2009, based on the positive results achieved by the reorganisation project run in Bolzano, the Minister of Public Administration and the Minister of Justice and the Regions launched an interregional project called “Dissemination of best practices in judicial offices in Italy”. More than 23 regional bids were prepared and 182 judicial offices participated in the project. The “Best Practices” project shows the possibility to activate pilot projects and disseminate solutions and change management methodologies throughout the entire system, and enable the members of the organisation to rely on their own capabilities and eventually operate without the help of consultants. Nowadays, “Best Practices” is Italy’s widest organisational change management programme involving a single large public administration.

²⁹ Building on the eGovernment Action Plan 2011-2015

The reorganisation of Lombardy Judicial Offices was funded through a bid launched by the Lombardy Region, named “InnovaGiustizia Project”. The project lasted from January 2011 to July 2013 and involved the judicial offices of Milano, Monza, Varese, Crema, Cremona, Brescia, and Lecco. A successful site project was developed in the Judicial Offices in Monza, including the Court and Prosecutor’s Offices. A Steering Committee including judges and administrative staff was set up to manage the project, led by the President of the Court and the Chief Prosecutor. Inter-professional work groups were constituted for running pilot projects performing a large variety of participatory analysis and redesign of key issues for the Judicial Offices. Fondazione Irso, an academic and consultancy professional team, took the responsibility both for project management of the entire InnovaGiustizia project and for supporting the reorganisation of Monza Judicial Offices.

The **voluntary jurisdiction project** is one of the pilot projects of the Court of Monza, and has the objective to preserve the rights of vulnerable members of society, such as elderly citizens and people with mental or physical disabilities. ‘Voluntary jurisdiction’ means the legal protective measures: the Court does not run trials in such cases, but rather acts in the interest of these citizens, called “beneficiaries”. Such measures are required by citizens themselves or by their relatives, in most cases without legal representation.

In the past, the protection of ‘unable’ persons (protection of interdicts) was limited to revoking their legal authority and to inhibiting potential harmful action from others. A January 2004 Law set a new approach. In addition to legal measures of protection, Tutelary Judges were entitled to manage the so-called ‘Administration of Support’: a citizen who takes care of another citizen, not only in case of ‘total inability’ but also in the so-called ‘partial incapacity’, both mental and physical. The new approach reinforced both legal, social and medical protection to these citizens. Voluntary jurisdiction typically occurs in critical occurrences in these citizens’ lives, as important economic transactions, administrative duties and fiscal declarations, but also sickness, travel, and events of the citizen’s social life. The Tutelary Judge (“Giudice Tutelare”) determines which actions can be performed by the ‘Administration of Support’ on behalf of the beneficiary person. The Judge gives guidance continually to the Administrator when needed. It appears from the above considerations that voluntary jurisdiction is a flexible system because the Judge guides the Administrator’s intervention in accordance with the needs of the person. It requires a careful and respectful dealing, high efficiency of the various work processes, full effectiveness of service and high quality in the relationship. The activities of the Judge do not end only with a legal provision, but are “long-lasting” according to the needs of the protected person during his/her life.

Many institutions participate in the process of caring for these citizens. The needs of beneficiaries included in voluntary jurisdiction are normally dealt by different bodies with little coordination:

- ✚ The court deals with the legal framework;
- ✚ The social services of the municipality manage the social welfare; and
- ✚ The so-called ‘third sector’ provides health services together with local health authorities.

The citizen was used to managing the overlaps and bureaucratic obstacles, and searching for the best way to solve his/her needs. The citizen was alone in facing his/her unique case, dealing with various uncoordinated relationships with different organisations. The court was handling a large number of cases and the other institutions take part without proper coordination among them. In Monza, there were more than 5,300 cases of voluntary jurisdiction in 2010.

In this context, the voluntary jurisdiction project was instigated with two pillars:

- ✚ A **complete reorganisation** of the court: this involved the reorganisation of services - activities, work processes, relationships between Judges and Chancellors, office layouts; and the reorganisation of both physical (front line office) and web access to services, thanks to a renovated Court website with a dedicated section (information, forms, procedures tracking);
- ✚ The institution of a **permanent cooperation** between the institutions of the Monza e Brianza area (municipalities under the jurisdiction of Monza Court, local health authorities, the Chamber of Commerce of Monza e Brianza, and the University of Milan Bicocca) and the associations of the “third sector”, to handle the needs of the beneficiaries.

The project centred on a complete reorganisation of the voluntary jurisdiction sector. A Steering Committee was established to decide the areas to redesign, and seven design teams were appointed to tackle the identified issues. A deep analysis of each type of work process was made, identifying for each of the 70 different types of proceedings: individual steps; necessary time for each step; role needed for each step; and whether each activity was performed in the back office or the front office. The analysis found two critical issues. First, the citizen has to access the court many times, for five main reasons: to request preliminary information; to submit papers; to request information on the state of his/her application; to request copies of the order; to collect copies. Second, it was difficult to track and check the state of each work process.

Hence, a **barcode-based tracking system** was developed to reduce the need for the public to have physical access to the court. Each new paper file is marked with a barcode which contains also the name of employees who got the application. Each file has an identification number. Every time the file is moved and is processed and changes his state, the system records this movement by reading the barcode. So at every moment, the system knows where the paper file is and the status of the application. This information is available on the website, so that every user connecting to the website is able to know the state of his application. The system knows how much time every single step of the proceeding needs too. It controls every single step and if there is a delay in the proceeding, the system sends an email automatically to the presiding judge and to the registrar, to react quickly and solve the problem.



A new dedicated section of the **Court's website** was implemented on www.tribunale.monza.giustizia.it. The user can check the state of his proceeding from his/her home. To give preliminary information, one info-sheet was prepared for each type of proceeding, where the single steps of procedure are explained, as the cost, the required documents and so on. The texts in this web area were conceived to be easily understood by the private citizen and not intended for a law specialist. User can also download forms for the applications. All the forms were re-written, to make them more **user-friendly**. Moreover, if the citizen inputs his/her mobile phone number or his/her email address, he/she is sent notice of **updates on case status by SMS or email**. This happens automatically, without the intervention of any operator.



To provide **physical front offices and help desks for citizens**, seven “Territorial Offices of Voluntary Jurisdiction” (*Sportelli Territoriali di Prossimità*) were established as help desks in the main municipalities. These front offices are based on the permanent cooperation arrangements. A “table of justice” was established in November 2010 between the institutions of the Monza e Brianza area and the associations of the ‘third sector’, which led to the signing of a series of protocols between the Court and:

- + The seven municipalities to establish the Territorial Office and provide space and support;
- + The Volunteers Associations to run the Territorial Offices.
- + Local health authorities to create a list of accredited guardians;
- + The Lawyers Professional Association to provide free expert advice in the Territorial Offices.

In every territorial front office, citizens can find help with: preliminary information; filling in request forms; submission of the request; further information; collection of the Court Order; free legal aid by a lawyer about voluntary jurisdiction.

These developments were supported by various **training activities**:

- + Training of 45 front-line operators (6 hours each);
- + 15 days of coaching for future front-line operators;
- + Training during courses on ‘Administration of Support’ organised by the Province of Monza e Brianza (three specific training lessons).

A **permanent monitoring system** was established, divided in two levels. The justice board ('table of justice') oversees the system at the political and institutional level. The inter-institutional working group supervises performance and progress at the operational level, and is composed of: court judges; municipality representatives; health department representatives; local bar representatives; and volunteer organisations' representatives. The working group meets every 3 months to: analyse and solve problems, gather and evaluate suggestions, and give answers to raised questions.

The **tangible results** of the voluntary jurisdiction project have been:

- ✚ The number of citizens needing to access the Chancellor's office is 40% lower.
- ✚ The average time taken for the first deposit of application is down by 20%.
- ✚ The duration of court proceedings to nominate the "Administrator of Support" has fallen by 75%.
- ✚ 80% of received applications now use the barcode forms (100% of citizens use the new forms, but the overall percentage is lower because some professionals still use the so-called "print" version).
- ✚ 100% of received dossiers are managed by the online tracking system.
- ✚ From January to November 2014, more than 1,550 citizens have entered their email address or their mobile phone number to receive automatic email or SMS updates on their case status.
- ✚ There have been about 5,405 requests by citizens submitted to the territorial front offices in 2013, with a further 3,693 requests in the first half of 2014, representing a 24.5% increase compared with the same period last year.
- ✚ The dedicated section on voluntary jurisdiction in the website www.tribunale.monza.giustizia.it has been accessed about 218,000 times during 2014.

On top of all the above, the project has instilled a greater level of cooperation between judges and clerks to accelerate processes, and has instituted a permanent cooperation among the institutions of the Monza e Brianza area. There is an increased confidence that "*change may occur also without new laws or additional resources*", and a new culture - the people being served are at the centre.

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The example of **Slovenia's** 'Triage' project provides another perspective on business re-design. In this case, the opportunity to improve the **functioning of the judicial process** emerged from performance monitoring, which itself has been enhanced by the Supreme Court of Slovenia's electronic data warehousing initiative (see inspiring example in [section 6.1.1](#)). The collected data revealed that a high proportion of cases before the courts was being resolved on purely procedural matters, rather than their substantive legal merits. This meant that judicial resources were being tied up unnecessarily, as judges were dealing with many simpler procedural decisions, and what otherwise would be straightforward cases were having to wait for court time, slowing the passage of justice for cases that would have to be dealt with on their merit. The Triage process was piloted to improve the whole system's functioning, by changing how cases are processed once they come to court.

Inspiring example: Reorganising business processes through the Triage project (Slovenia)

The pioneering approach to strategic court management, developed by the Supreme Court of Slovenia, successfully turned data into information, information into knowledge, and knowledge into plans that drive appropriate business actions.

Inter alia, the information gathered by the Data Warehouse Project (see [topic 7.1](#)) revealed that, at the **Commercial Disputes Department** at the District Court in Ljubljana (being the largest district court in Slovenia), an important percentage of cases was resolved without a main hearing and without the need for the judge to go into the substance of the matter, as there were procedural or other reasons dictating a simpler resolution of the case.

Before July 2012, when the Triage pilot project was introduced, more than one third of proceedings at the Commercial Department were being stopped as the lawsuit had been withdrawn, and an additional 10% of all proceedings were being dismissed as the procedural requirements had not been met. Altogether, **nearly half of the decisions of judges were not on the merits of the case**, but rather procedural decisions. Old cases were being left unresolved and the productivity of judges remained lower than optimum. Before the introduction of the Triage process, cases had been assigned to judges on a temporal basis – cases waited their turn to be looked into, even though the solution might have been reached quite quickly. It was evident that speedy delivery of justice in commercial disputes was of paramount importance for maintaining and promoting economic growth through a better business environment, therefore an improvement in the functioning of the Commercial Disputes Department had to be attained.

The Triage Pilot project

Following the successful practice of the Commercial Department of the Supreme Court when dealing with extraordinary legal remedies and other international examples of fast track procedures, the decision was taken in 2012 to start the Triage pilot project at the Commercial Department of the District court in Ljubljana.

The main focus of the project was the **organisation of the business process** within the department. A clear structure of present competences and responsibilities was described and drawn up, and a new structure had to be set up. The project was prepared and implemented by a **working group** that included the heads of the Commercial Department at the Supreme Court and at the District Court, top level management within the judiciary, with the support of the Centre for Informatics and the Office for Court Management Development. According to the principles of project management, a **project group**, composed of judges and personnel more directly linked to the day-to-day work of the Commercial Department at the District Court was formed to analyse the progress of the pilot project, report to the working group and implement its strategic decisions.

Before the start of the project, **all unresolved cases were analysed and sorted** according to the new business process. Several changes in the organisation and management of cases had to be introduced, without the need to change procedural laws. The main challenge was to **shift the focus** from the productivity of an individual judge or judicial adviser **to the productivity of the whole department**.

In the first stage of the work process, the **triage office** managed by the **triage judge** was introduced, to decide on how to handle individual incoming cases, optimising the available human resources and unburdening judges of non-judicial work. As soon as a new case is received, the triage office analyses the nature of the case and adopts all necessary procedural decisions. Drafts of decisions are prepared by judicial advisers, judicial assistants or even administrative support staff and adopted at the **lowest level of competence possible**, leaving the triage judge to confirm the decision only when required by law. Approximately one third of all cases are currently solved by the triage office, without the need for a hearing. The remaining cases are then distributed to Commercial Department judges to decide upon the merits of the case.

The **triage process enables**:

- ✚ A better overview of all incoming cases;
- ✚ A uniform application of administrative and procedural decisions as well as decisions on substance in the triage phase;
- ✚ Coordination of the work of judges;
- ✚ The unburdening of judges of tasks that are not real judicial decision-making.

Formal requirements for the introduction of Triage

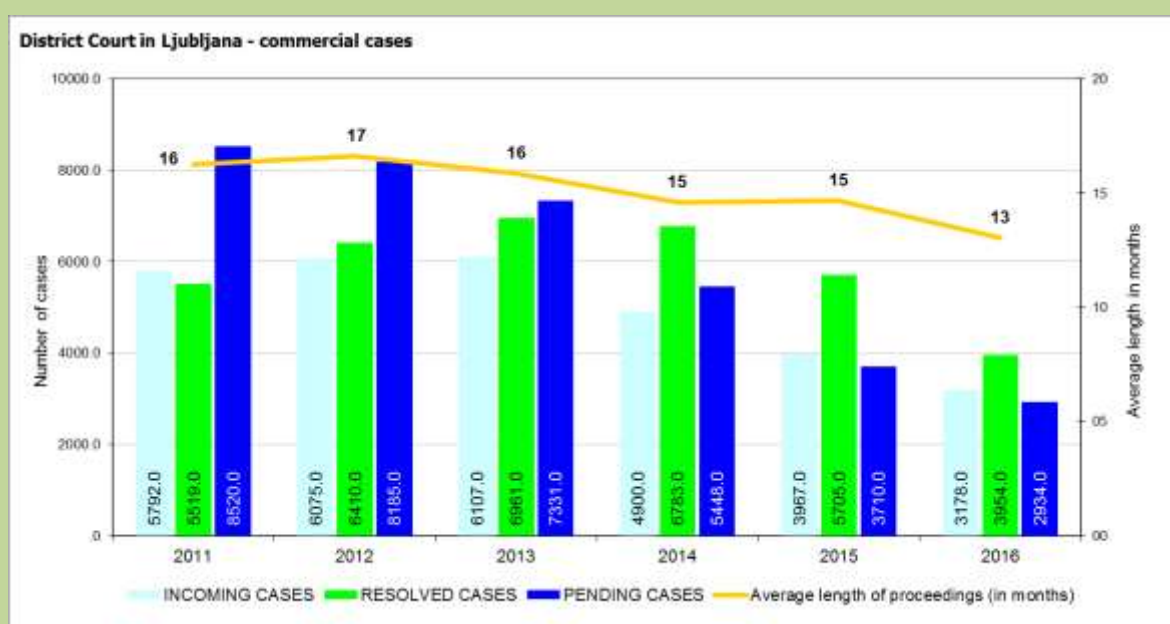
The goal of the Triage project is to shift from individual productivity to the productivity of the whole department. Planned changes had to be supported by the **Council for the Judiciary** that sets the expected standards for quality and quantity of work for individual judges. The Council recognised the value of such reorganisation endeavours, and it explicitly allowed in its rules the possibility to evaluate judges at the level of the department, notifying the important role of the triage judge, who has the overview on the individual productivity of judges.

Results

The success of the triage process is measured mainly through the following criteria:

- ✚ The number of all resolved cases;
- ✚ The ratio of decisions on merit among all decisions adopted by judges;
- ✚ Disposition time (DT);
- ✚ The responsiveness of the triage office – percentage of incoming cases, solved within a time period.

For example, while in 2011, the **clearance rate** of the Commercial Disputes Department at the District Court in Ljubljana was 95.3% and the **average length of proceedings** was 16.3 months, in 2012, only 6 months after the introduction of the Triage project, the clearance rate rose to 106% (with the court solving 16% more cases than in the previous year). This trend continued in the following years, as the average length of proceedings for resolution of a commercial case in 2013 amounted to 15.9 months, while in 2014 it decreased to 14.6 months. With a clearance rate of 124%, the average length of proceedings in 2016 was reduced to 13 months.



The **number of all resolved cases** at the same court has risen from 5 519 (2011) to 6 784 (2014), in 2016, it was 5 705. The **number of pending cases** at that court decreased from 8 520 at the end of 2011, before the introduction of Triage, to 2,934 in 2016.

| Year | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 |
|---|-------|-------|-------|-------|-------|-------|-------|
| INCOMING CASES | 5,810 | 5,792 | 6,075 | 6,107 | 4,900 | 3,967 | 3,178 |
| RESOLVED CASES | 4,494 | 5,519 | 6,410 | 6,961 | 6,783 | 5,705 | 3,954 |
| PENDING CASES | 8,247 | 8,520 | 8,185 | 7,331 | 5,448 | 3,710 | 2,934 |
| Average length of proceedings (in months) | 15.7 | 16.3 | 16.6 | 15.9 | 14.6 | 14.7 | 13.0 |
| Clearance rate | 77% | 95% | 106% | 114% | 138% | 144% | 124% |

The **ratio of decisions on merit** has risen from approximately 50 % in 2011 to more than 80 % in 2014 and 2015 (taking into account decisions by judges after the case went through the triage procedure).

| District Court in Ljubljana | 2013 | 2014 | 2015 |
|--|-------|-------|-------|
| Commercial cases - all | 6.961 | 6.784 | 5.705 |
| Commercial cases – decisions after triage | 3.811 | 4.041 | 3.763 |
| Commercial cases – decisions after triage – on merit | 2.868 | 3.339 | 3.208 |
| | 75,3% | 82,6% | 85,3% |

Use of elements of triage in different types of procedures

The elements of the triage procedure were first introduced in commercial disputes – in 2012 in district courts in Ljubljana, Maribor, Celje and Koper. In 2013, the triage procedure has been introduced in labour disputes at the Labour and Social Disputes Court in Ljubljana, extending the working method to social disputes in 2015. As individual elements can be applied at different court levels and departments, the approach has been introduced in the largest local court in the country – the Local Court in Ljubljana – in the criminal, non-litigious and civil-litigious departments. Following the success of the triage organisation, the work process has been reshaped using elements of triage approach also in criminal law departments of local and district courts. The elements introduced vary according to the size and personnel of each court.

The feedback received from judges, involved in the triage procedure leads to conclusion that after the adoption of the triage procedure judges, not having to deal with some procedural phases of the proceedings, are left with **more time to focus on matters of substance**. The figures confirm the success of the reorganisation:

- ✚ In labour disputes, the disposition time has dropped from 16.8 months in 2013 to 11.9 months in all labour courts at the end of 2014, rising slightly to 12.3 months at the end of 2015.
- ✚ In criminal matters, the disposition time in district courts has dropped from 16.8 months in 2012 to 11.8 months at the end of 2014, rising slightly to 12.7 at the end of 2015, while in local courts it has fallen from 10.4 to 7.0 months by the end of 2014, and again increasing by a small amount to 8.5 months at the end of 2015.

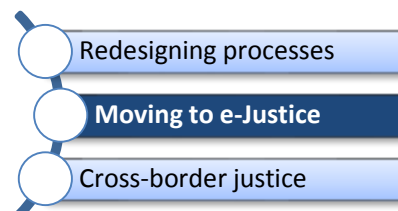
Conclusion

The Triage project has proven to be successful, as it has brought substantial **improvements of work processes** at courts. Not only has the **number of unresolved cases decreased** considerably and **average length of proceedings has been shortened**, but more importantly the organisation of work has evolved so that **human resources are used more efficiently** and judges can focus on decision making, which in the long term leads to **better judicial decisions** and **more settled case-law**.

For further information: Mr. Jaša Vrabec, National Correspondent to the CEPEJ, Office for Court Management Development - Head of the Office, Supreme Court of the Republic of Slovenia, jas.vrabec@sodisce.si

7.3.2 Moving to e-Justice

There is a strong trend within Europe to further develop ICT in courts. Overall, 3% of the court budget of European members on average was devoted to computerisation in 2014, according to CEPEJ's 2016 report. This masks a large variation among individual EU Member States, from 0.1% of the budget allocated to the functioning of courts in Malta, to 8.2% in the case of Denmark.



As noted already, ICT is already making an important contribution to performance monitoring and management ([topic 7.1](#)) and communicating with the public ([topic 7.2](#)). The Ministry of Justice in

Poland has combined the two functions with its Justice System Statistical Information, by publishing both comparative data and court rulings, while also opening a portal to details of ongoing proceedings for authorised persons.

Inspiring example: Access to information and court rulings (Poland)

Even before its Strategy for Modernising Justice Area in Poland 2014-2020 was approved, the Ministry of Justice had set up a new website, Justice System Statistical Information (www.isws.ms.gov.pl, Polish only), to publish data including international and national comparisons, as well as information on good practices ready to be implemented, which has been operational from May 2013. This website is now an open information source for the current level strategic measures in the area of justice.

At the same time, three other IT tools are being continuously developed, to improve quality and increase accessibility of public service delivered by the justice system:

- ✚ The **Information Portal** aims to give authorised persons' access by Internet to information concerning ongoing proceedings in which they participate.
- ✚ A **Court Portal** unifies different courts' websites and creates a justice system contact point for the citizens.
- ✚ The **Court Rulings Portal** publishes common courts' rulings on the Internet.

For further information: Ministry of Justice, Poland

The national courts portal in **Latvia** fulfils similar functions regarding data monitoring, ongoing proceedings and court decisions, as well as e-Services for submitting forms, notification of court hearings, and an information service on the availability of advocates and prosecutors, to enable a more efficient judicial process.

Inspiring example: Courts e-Services portal (Latvia)

To improve the provision of information to the citizens and businesses on court services, the national courts portal (<https://www.tiesas.lv/>) has been improved and is providing a more user-friendly interface with updated information on courts and value-added electronic services. The enhancements include:

- ✚ A platform for submitting online applications for courts or appending case files;
- ✚ Functionality to submit or fill-in electronic template forms online;
- ✚ A calculator to enable the amount of the state's fee to be calculated, related to document submission to the court;
- ✚ Tracking of court proceedings, to provide information on the current status of any specific proceeding;
- ✚ Monitoring of the appointed court hearings (an e-Service for legal persons, to ensure a reminder is sent to the user's email address regarding the scheduled court hearings, in which the concrete legal person is registered as the case participant);
- ✚ Monitoring of judicial data, and providing electronic notifications to the user's email address with precise information regarding any changes in judicial case data; and

- ✚ A calendar showing the availability of advocates and prosecutors, to reduce the number of postponed hearings (information is received from the Court Information System about the scheduled court hearings, allowing the e-Service to monitor the availability of advocates and prosecutors within the specific proceedings).

Since 1 September 2013, the portal has also included anonymised court decisions with advanced search options, to improve transparency. All final court decisions and judgements adopted in public proceedings are published in an ‘impersonalised’ form and are accessible by anyone free of charge. As of 1 October 2016, there are approximately 150 000 anonymised decisions available. It is possible to search the database for decisions using case number, court, type of case, etc. Selected decisions can be viewed online or saved for later use. This solution also eases the work of court employees, by importing court decisions in accordance with the regulatory framework, and automatic text processing.

Taken together, these tools allow the court system to reduce the number of suspended cases and provide a faster trial process, including smoother cross-border processes.

For further information: Ms. Andreja Skrastina, Director of the Court and Land Registers Department of the Court Administration, Andreja.Skrastina@ta.gov.lv

The main applications of ICT within the European court system have been identified by CEPEJ in three distinct areas:

- ✚ ***Computer equipment used to directly assist judges and court clerks***

This includes: word processing/office facilities whereby a judge or court staff member can draft his/her decisions or the preparation of a court case in an "electronic file"; various tools and applications for legal research (CD-ROMs, Intranet and Internet software) so a judge can gain access to statute law, appeal decisions, rules, court working methods, etc.; office applications and tools for jurisprudence combined with “standard-decisions” models or templates that can be used by judges to reduce their workload when drafting a judgment; electronic databases of jurisprudence, email facilities and internet connections.

- ✚ ***Electronic systems for the registration and management of cases***

Computerised databases replace traditional court docket books and other registers and enable extra functionalities in managing cases, and generating data on performance and financial management of courts, case tracking, case planning and document management.

- ✚ ***Electronic communication & information exchange between courts and their environment***

As well as websites (see [topic 7.2](#)), this includes the use of technology in the courtroom to present cases, including for instance video conferencing, electronic evidence presentation software, overhead projectors, scanning and bar-coding devices, digital audio technology and real-time transcription.

The role of electronic communication within the judicial network is well-illustrated by **Slovenia’s** ‘EVIP’ hub, which benefits the entire Slovenian court system. From its modest origins as a module for the secure electronic dispatch of court decisions, it has evolved step-by-step - through the digitalisation of incoming mail and delivery receipts, into a logistical instrument for e-Filing, e-Delivery and electronic case management.

Inspiring example: EVIP - communications hub for court logistics (Slovenia)

Until the late 2000s, every court in the Slovenian system was responsible for **printing, packaging and delivering its own court decisions – manually**. Court documents were printed by court staff and sometimes even judges in their offices and court staff was responsible for printing and packaging envelopes and manually filling the post-book, preparing the boxes of mail to be delivered. This took up valuable staff and financial resources to deal with mailouts and specialised printers. Just as importantly, it slowed down the exercise and enforcement of justice, as printing the envelopes and packaging documents was done only after more important tasks were accomplished (e.g. drafting decisions, registering the main hearing sessions).

A 2007 project "IT support for enforcement procedure based on authentic document" identified this inefficiency and set a goal that decisions should leave the court system *within two working days*, to significantly speed-up judicial proceedings. The **logistical solution was to move to secure electronic transfer** (digitalisation and automation) and to centralise the process, ultimately delivering savings worth over 2% of the courts' budget.

The process

This outcome was not achieved overnight, but instead evolved through a sequence of events, each one leading from the other:

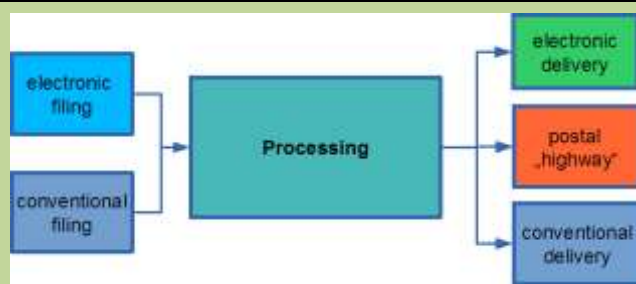
First, a decision to use an external printing and enveloping contractor led to designing a software "postbook module" to securely transfer court documents, along with all the data required for sending to the printing facility. A special, uniform envelope design was implemented to enable all the data to be printed directly to envelopes without further processing. As the number of IT-supported deliveries grew, the new business process was named "postal highway".

1. **Development of the 'postbook module':** A decision was reached to use an external printing and enveloping contractor with sufficient capacities. At the same time, the 'post book module' was designed to securely transfer all the decisions in electronic form, along with its metadata (name, delivery address, and description of content) to the external contractor. Additionally, a special envelope (a 'machine envelope') was designed to support the new business process, which involved the following steps: printing; enveloping; and printing metadata on the (full) envelope. The system came into effect on 1 January 2008. During 2008, 557,463 deliveries were made using the 'post book module'. In 2009, this number more than doubled to 1,120,463, which amounts to approximately one in six of all court shipments each year. The fact that the shipments were produced (printed, enveloped) outside of the courts contributed to substantial savings. It was estimated that, in 2009, more than 72 person-years of staff effort were saved, and re-invested in accelerating the entire enforcement procedure. The impressive number of IT-supported deliveries and the outlook of its further growth, led to a new field of research in **court logistics**: the new business process was named '**postal highway**'.

The "post book module" has been re-used for every new IT system put in place. A project group was established to ensure interoperability of the module. To extend the use of the software to incoming mail and to support other types of filing and/or delivery, a specific software EVIP was created. All the input/output interactions with courts are performed in a controlled and standardised fashion and logistic data can be monitored by the business intelligence system.

2. Formation of an "e-Registry" project group:

The success of the 'postbook module' led to the decision that all new IT systems should use the module as prescribed by the IT Strategy rules on reusing components and modules. To ensure interoperability of the module with other elements of the IT content management system (CMS), a separate



project group (called 'e-Registry') was established at the end of 2009. Its primary objective was to further develop the 'postbook module' to provide its services in horizontal form, available to others using a pre-defined application programming interface (API). During this further development, a new initiative emerged from within the Supreme Court's Centre for Information Technology, that the goal of e-Registry project group should be extended to incoming mail, instead of limiting itself only to outgoing mail. Additionally, it should support other types of filing and/or delivery, as for example electronic filing and delivery. To follow the IT strategy, the new module was named **EVIP** (the Slovenian acronym for 'Registry of Incoming and Outgoing Mail'). It supports all input/output interactions with courts in a controlled and standardised fashion, with logistics data monitored by the courts' business intelligence (BI) systems.

To further minimise the costs and delivery times, e-Delivery was introduced to EVIP. The system went live in 2011 for insolvency procedures and land registry. In 2011, over 121 000 e-Deliveries were made, along with nearly 1.5 million deliveries using the 'postal highway'. In 2014, e-Delivery was introduced to the enforcement procedure, lowering the load on the 'postal highway'. In 2015, e-Deliveries and "postal highway" combined represented more than 50% of all deliveries.

3. **Introduction of e-Filing and e-Delivery to EVIP:** During the re-engineering of the land registry and insolvency IT systems, it was decided that electronic filing (e-Filing) should be introduced. To further minimise the costs and delivery times, electronic delivery should be introduced. A new functionality (module) was introduced to EVIP, called **SVEV** (Slovenian acronym for 'System for Secure Electronic Delivery'). The system went live on 1 February 2011 for insolvency procedures, with the land registry following on 1 May 2011. During the year 2011, 121 365 electronic deliveries were made using the SVEV module of EVIP, along with 1 591 498 deliveries using the 'postal highway'. In 2014, e-Delivery was introduced into the enforcement procedure, boosting the numbers of electronic deliveries to 790 637, while lowering the load on 'postal highway' to 1 319 470. In 2015, the number of electronic deliveries grew to 1 291 192, along with 2 059 480 deliveries using the 'postal highway', together representing more than 50% of all deliveries.

Based on experiences with e-delivery, the Supreme Court developed a new e-delivery module, Laurentius, to promote exchange of messages/documents between courts and their clients, as well as between other entities (G2G, G2B and G2C) The source code of Laurentius was published under EUPL open-source license and in September 2016 passed all tests by the CEF Digital and was listed as an "e-SENS AS4 conformant solution".

4. **Standardisation and promotion of e-Delivery:** Based on the positive experiences with electronic delivery, the Supreme Court set a new objective of promoting e-Delivery to all clients of the courts. Combining the Slovenian experiences with those of several European large scale projects (LSPs) - namely PEPPOL, SPOCS, e-SENS and e-Codex - it was clear that standardisation of e-Delivery protocol is crucial to promotion and widespread use of e-Delivery, not only for exchange of messages/documents between courts and their



clients, but also between other entities (e.g. for G2G, G2B and G2C communication). Therefore, the Centre developed a new e-Delivery module, Laurentius, named after Lovrenc Košir, regarded by some sources as the inventor of the postal stamp. The source code of Laurentius was published under EUPL open-source license and is available on GitHub at <https://vsrscif.github.io/Laurentius/>. Laurentius is based on open standards (Oasis ebMS 3.0, Apache AS 4.0 and others) and with the aim to maintain compatibility with future EU standards, was submitted to the EU's [Connecting Europe Facility \(CEF\)](#) for testing as an e-SENS AS4 conformant solution. In September 2016, Laurentius passed all tests by the CEF Digital and was listed as an “e-SENS AS4 conformant solution”. The EC stamp of approval made it the first open source, [AS4](#) compliant document exchange solution developed by a public administration - not counting the EC's own sample implementation, [Domibus](#).

Success factors

EVIP initiative followed the strategic guidelines from Slovenia's IT Strategy, which identifies **four components** as the key success factors, each equally important to every IT-related project:

- ✦ **Legislative:** during the development of new services, it is crucial to have a two-way cooperation with the legislature. Without that, introduction of new services (e.g. 'postal highway' with its new envelope, electronic delivery, etc) is not possible;
- ✦ **Technical:** use of adequate technology for the problem at hand, adhering to the IT strategy and the existing architecture of the IT system;
- ✦ **Organisational:** every IT solution's success is tightly connected to the ability of an organisation to adapt to change, as well as to the flexibility of the IT solution to be able to provide added value to the users; and
- ✦ **Business and strategic:** every IT project should have a solid business objective (plan), which follows the strategic goals of the entire organisation.

Results

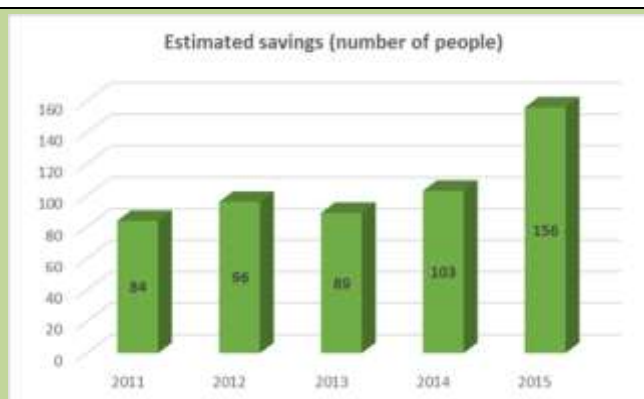
EVIP is now a central communications hub between entities across the Slovenian judicial system that participate in court procedures. It acts as a central register of incoming and outgoing deliveries (mail, messages, etc.), as a communication hub (B2G, G2B, G2G, G2P) between entities, and as an integration layer with court's back-office applications.

The EVIP has had a **significant impact on the performance of Slovenian courts**, especially in the field of logistics (i.e. incoming and outgoing mail). The time needed for preparation and shipment of court documents has been significantly cut, even for the court procedures that do not yet fully support electronic delivery. Before the introduction of EVIP, times were calculated in months – now, they are calculated in days, or hours in the case of e-Delivery, significantly shortening the entire length of court procedures. Moreover, court personnel have been relieved of the administrative work of printing, enveloping and shipping, leaving them with more time to focus on court procedures.

As the **result** of EVIP: there is no longer the need for every judicial assistant to have their own printer; central printing is faster and cheaper; centralisation provides for a constant quality in terms of data, print, packaging, form of the decisions; and centralised digitalisation of confirmations of receipt make the insertion of receipts by hand in case files unnecessary, as it is the IT system that provides for the insertion.



The chart (right) shows the **savings** in terms of people each year (in 2016, the estimated number rose to 161), while the table (below) shows the financial benefits. Due to a strategic decision that core IT systems should be developed in-house, the only attributable costs are salaries of the engineers involved with the project, estimated at €175.000 in total. Set against these direct costs, the table shows the cost savings of using the EPIV system, compared with the counter-case of not using it ('reference costs'), are significant, rising to about €4.5 million by 2016 - equivalent to more than 2% of the courts' budget.



| | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 |
|--|------------------|------------------|------------------|------------------|------------------|------------------|
| 'Postal highway' module | 1 591 498 | 1 720 555 | 1 613 165 | 1 319 470 | 2 059 480 | 2 057 581 |
| Electronic delivery (SVEV) module | 121 365 | 242 358 | 219 106 | 790 637 | 1 291 192 | 1 406 994 |
| Total deliveries | 1 712 863 | 1 962 913 | 1 832 271 | 2 110 107 | 3 350 672 | 3 464 575 |
| Reference costs of traditional dispatch (EUR) | 5 017 265 | 5 740 261 | 5 365 179 | 6 170 754 | 9 550 552 | 9 890 373 |
| Cost of printing (EUR) | 364 866 | 411 529 | 389 007 | 442 421 | 529 099 | 557 682 |
| Labour cost (EUR) | 884 100 | 1 010 323 | 945 176 | 1 086 098 | 1 649 975 | 1 710 626 |
| Postage (EUR) | 3 768 299 | 4 318 409 | 4 030 996 | 4 642 235 | 7 371 478 | 7 622 065 |
| Actual costs (EUR) | 3 841 795 | 4 173 690 | 3 804 665 | 3 410 150 | 5 304 710 | 5 393 555 |
| Printing & enveloping (EUR) | 266 467 | 283 544 | 269 309 | 216 868 | 264 282 | 274 196 |
| Labour cost (EUR) | 0 | 0 | 0 | 0 | 0 | 0 |
| Postage (EUR) | 3 575 328 | 3 890 146 | 3 535 356 | 3 193 282 | 5 040 428 | 5 119 359 |
| Hence, savings (EUR) | 1 175 469 | 1 566 571 | 1 560 513 | 2 760 605 | 4 245 842 | 4 496 818 |

For further information: Bojan Muršec, Director, Centre for Information Technology, Supreme Court of the Republic of Slovenia, bojan.mursec@sodisce.si. See also:

<https://joinup.ec.europa.eu/community/osor/news/ec-approves-slovenia-courts-data-exchange-solution>;
<https://joinup.ec.europa.eu/community/osor/news/open-standards-default-slovenia-supreme-court>;

The use of automation to improve efficiency is exemplified by the **Latvian** project 'recording of court hearings with technical means' which reached the final of the [Crystal Scales of Justice award](#) in 2015, and has reduced the time to produce protocols for a 5-hour court hearing from up to three days (paper) to less than two hours (audio).

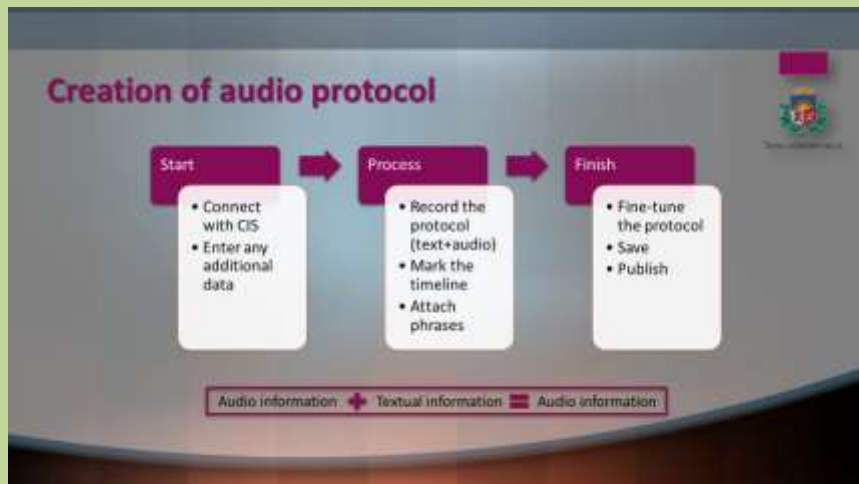
Inspiring example: Audio protocols in courts (Latvia)

In 2009, the Republic of Latvia commenced a cooperation project with counterparts in Switzerland to modernise the Latvian judiciary, featuring the automatic audio recording of court proceedings. The intention was to allow the court administration to record data about court hearings, its parties and their statements, and automatically generates an audio protocol and universally compatible PDF file, as an electronic document

for the Court Information System (CIS). Delivery and installation of sound recording equipment was completed on 30 June 2012, and the necessary amendments were made to the Civil Procedure Law, Criminal Procedure Law and Administrative Procedure Law to allow the new system to be used. Its main features are:

- ✚ Direct audio recording (all court rooms in Latvia are equipped with recording equipment);
- ✚ The use of pre-defined phrases (expressions);
- ✚ The application of pre-defined fields for timeline marking
- ✚ Easy editing; and
- ✚ Integration with the CIS.

Prior to the court session, the set-up involves entering information about the session participants and the case itself. During the session, the protocoling involves recording real-time court activity and time-stamping. After the session is over, the activity data is reviewed, refined and merged with the audio file. The finished protocol is produced on a standardised form, with marked procedural steps and structured data. It is synched with the audio, there is no need to add remarks.



The benefits for judges and court employees from using audio protocols in courts, compared with the previous paper-based system, include:

- ✚ There is no need to approve the protocol and/or to decide on remarks.
- ✚ It is easy to find the required information, eliminating the need to read through the whole protocol.
- ✚ Electronic availability means there is no need to visit the court to obtain the protocol.
- ✚ There is no need to wait for the protocol before starting appealation.

The impact of the recording system can be seen in increased efficiency and the significantly shorter time it takes to create protocols. For a 5-hour court hearing, a paper protocol used to take up to three days to produce, but now takes less than two hours with the automated recording.

In 2015, the resulting project “Recording of court hearings with technical means” was nominated for the Crystal Scales of Justice prize by the Council of Europe, which promotes innovative practices in civil matters, in respect of conduct of proceedings, court organisation and the general functioning of the justice system.

For further information: Ms. Andreta Skrastina, Director of the Court and Land Registers Department of the Court Administration, Andreta.Skrastina@ta.gov.lv

ICT is also a powerful tool for placing the management of justice in the wider framework of law enforcement. The caseload of the justice system is driven by the number and nature of public prosecutions arising from police work and other bodies with investigative powers (e.g. anti-corruption agencies). Similarly, occupancy levels in the prison system, including problems of capacity use and overcrowding, are overwhelmingly shaped by court judgments, in numbers and length, which affect in turn probation services, and in parallel the management of non-custodial sentences

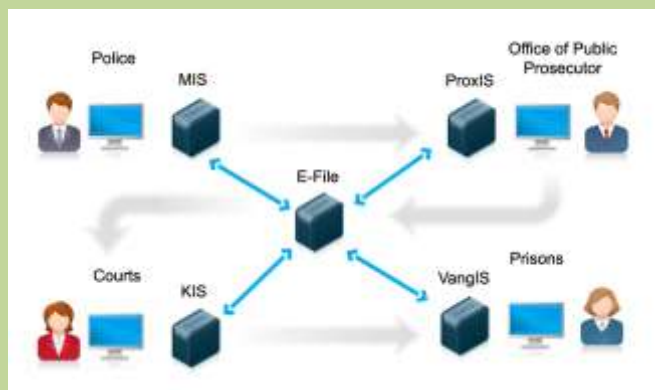
(e.g. community service). Some Member States have moved to connect the information systems used in law enforcement.

Inspiring example: Everything goes through e-File (Estonia)

Recognising the need to break down information silos, the Ministries of Justice and Interior embarked on a plan to connect existing information systems (IS) through a central case management information system containing all information on the status of legal proceedings, procedural acts and court adjudications whether criminal, civil, administrative or misdemeanours. The e-File enables to exchange information simultaneously between various parties to the proceeding. As a result, institutions no longer need to key in the same information more than once, each can change or add information when necessary. With the help of EU funds, Estonia engaged in developing e-File as a central database and case management system communicating with each of its client-systems, and providing access to justice through its Public e-File Portal (AET).

The first generation, e-File 1.0, started with the four client-systems of the police (MIS), the prosecutors' Criminal Case Management Register (KRMR), courts (KIS), and the Public E-File Portal (AET). Having successfully implemented that project in 2009, the authorities moved onto the next generation: e-File 2.0. The existing systems of MIS, KIS, KRMR, and AET are now connected to the Statistics Portal (ÕSA), the Punishment Register and IS of Penalties & Fees (KaRR), the Portal for Misdemeanour Procedures (VMP) and the Supreme Court (RKIS).

Every client-system connected to the e-File (KIS, KRMR, MIS VMP etc.) is a modern case management system that works as the search engine for procedural materials, as well as the tool for the registration of documents, judgements, court hearings, and other procedural data. Systems can also automatically allocate judges, prosecutors, and other officials to lead a case. Moreover, e-File provides the publication of court judgements on official websites and collection of metadata in the fastest and easiest way.



The advantages and benefits of the e-File are that:

- ✚ It minimises multiple data entries
- ✚ It enables central storage of files and metadata;
- ✚ It supports its client-systems;
- ✚ It allows for general and consolidated statistics;
- ✚ It provides faster and better access to data and justice;
- ✚ It improves data quality;
- ✚ It is securer and safer than paper systems;
- ✚ It cuts 'red-tape'.

The Court Information System, KIS, is a modern information management system for Estonian courts of the 1st and 2nd instance and Supreme Court offering one information system for all types of court cases. KIS enables the registration of court cases, hearings and judgments, automatic allocation of cases to judges, creation of summons, publication of judgments on the official website, and collection of metadata. The IS also has a search engine for court documents, judgements, hearings and cases. KIS is divided into parts accessible to the public and authorised users. Confidential data (cases) can only be seen by the judge of the case and court staff bound up with the case.

Great amount of data is generated by IS themselves, including KIS, according to set criteria ('classifiers'), for

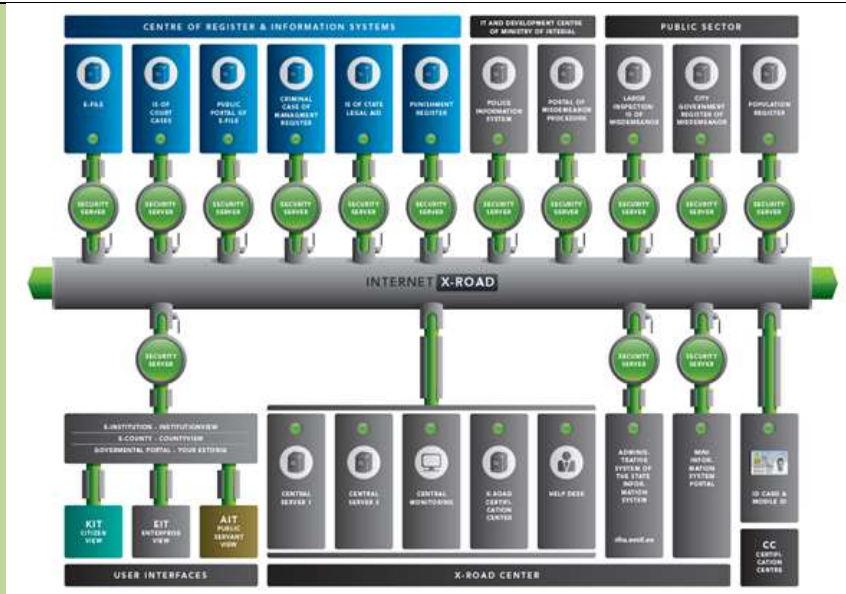
example, types of cases or documents. All procedural information is stored in e-File, making the latter the original source from which the ÖSA draws its statistics. The ÖSA itself is simply a statistical tool to analyse data and provide reports on request for governmental officials dealing with procedural statistics, it does not store or create new data itself, relying entirely on e-File. The main indicators generated by ÖSA include caseload (incoming and resolved cases), pending cases & cases lasting longer than 3 years, average length of proceedings, clearance rate, and measures of the workload of courts, Public Prosecutors' offices, and other officials. Statistics can be broken down by unit (e.g. court), by an official (e.g. judge) and by year.

The latest generation, KIS2, includes new classifiers based on courts' needs, for example types of cases (e.g. litigious and non-litigious), categories of cases (e.g. bankruptcy) and subcategories (e.g. initiation of bankruptcy proceedings against legal persons). As a tool for judges, KIS2 represents a valuable evolution, with searches based on phases of proceedings (e.g. acceptance of a civil action, assignment of a case, pending response of the defendant), issuing of reminders, and monitoring of the length of time spent on each phase.

The advantages and benefits of KIS are that:

- ✚ It makes court proceedings faster;
- ✚ It enables more complex allocation of cases;
- ✚ It allows judges to manage their workload and to specialise;
- ✚ It enables transfer of data into templates;
- ✚ It means less time-consuming publication of judgments and court hearings;
- ✚ It enables documents to be generated: standard court orders, summonses etc.;
- ✚ It provides a better overview of cases and proceedings;
- ✚ It represents a single information system for the entire judiciary.

Connected to KIS and being part of e-File, the web-based information system Public e-File (AET) enables parties to proceedings and their representatives to submit proceedings' documents to the court electronically (both to initiate and during ongoing proceedings). Furthermore, Public e-File enables to monitor the progress of the related court proceedings, see judgments and receive summons for all types of proceedings. In common with the rest of the administration, X-Road is the electronic layer for data exchange and interoperability (see [topic 5.4](#)) between all the IS belonging to state agencies, including data control provided by the Population Register, Commercial Register etc., secured by the state. While KIS is accessible by judges, KRMR by public prosecutors, MIS by police officers etc., AET is available to the public and legal representatives (for whom the use of AET will become compulsory in couple of years). The security of the proposed solutions is ensured by electronic identity (eID) and electronic signature using Public Key Infrastructure and since information is sent via X-Road. When a court uploads a document to KIS which is then sent via the X-Road and the e-File to the Public e-File, the addressee receives a notification to the e-mail. After the addressee accesses the Public e-File with his/hers ID-card and opens the document, the document is considered as legally received. KIS then receives a notification that the document has been viewed by the addressee or her/his representative. If the document is not received in the AET during the concrete time-period, the court uses other methods of service.



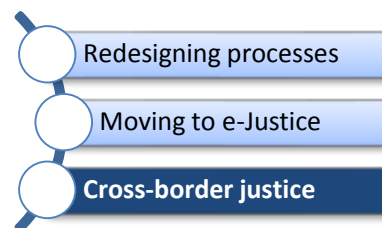
The advantages and benefits of AET are that:

- ✚ All parts of a proceeding are equal because they possess the same information at the same time;
- ✚ It grants certainty to the public because a person can view the proceedings he/she is involved in through the computer/Internet;
- ✚ It saves time both for the public and state officials;
- ✚ It is easy to use.

For further information: Kätlin Kattai, Head of International Relations, Centre of Registers and Information Systems (RIK), Katlin.Kattai@just.ee; see also: <http://www.rik.ee/en/e-file>

7.3.3 Cross-border justice

The power of ICT extends beyond joined-up administration in one country. E-Justice also facilitates cross-border co-operation among EU judiciaries, to help citizens, businesses and governments overcome the barriers and bottlenecks to accessing justice in other jurisdictions. A large step in facilitating e-Justice was taken with the creation of a **European portal**: <https://e-Justice.europa.eu>. Owned jointly by the EC and every Member State, the portal is intended as the ‘one-stop electronic shop’, providing online tools for citizens, legal practitioners and legal authorities, such as information, guidelines, online forms and signposting. The next development in e-Justice across Europe is the [e-CODEX project](#).



e-CODEX: Making access to justice easier across borders

About 10 million EU citizens have already been involved in cross-border civil litigation. But seeking justice in another EU country is often intimidating for many people, especially where there are language differences and the legal system is unfamiliar, as well as the paperwork involved and the time it takes. The EU is committed to taking the stress and cost out of cross-border justice by finding an easy digital way for citizens, private businesses and public bodies to exchange information online, speed up the process, and use the internet to overcome the barriers of distance and language. A large-scale pilot project, e-CODEX, was launched in 2011, co-financed by the EC’s Competitiveness and Innovation Framework Programme, to achieve interoperability

between national judicial systems.

“For example, if you lose your luggage while travelling from Berlin to Madrid, you can claim up to EUR 2000, but the airlines or airports involved may be in different countries to the traveller and so this is likely to become a small claims procedure” (Carsten Schmidt, e-CODEX Coordinator, MoJ, North Rhine-Westphalia).

Previously, citizens could download a form from the European e-Justice Portal, but they still needed to print, sign and physically send it to the relevant authorities. The aim of e-CODEX is to complete the whole process online and in your own language, starting with pilots covering three procedures that are currently purely paper-based: small claims; the European Payment Order; and the European Arrest Warrant.

This doesn't only entail resolving technical ICT matters, such as electronic identification and signature, authentication, filing and semantics, but just as importantly, changing the way that administrations think and act, and allaying citizen's concerns about use of information. e-CODEX relies on the partnership with MS, who must be able to accept electronic files in courts, for example, but also raise awareness of the opportunities e-CODEX provides. The by-product is that national systems also become more efficient, a win-win for domestic users and cross-EU cooperation. So far, e-CODEX has attracted the partnership of 14 EU countries: Austria, Belgium, Czech Republic, Estonia, France, Germany, Greece, Hungary, Italy, Malta, the Netherlands, Portugal, Romania and Spain, with Turkey as an associate.³⁰

An example of where e-CODEX could be used to make judicial processes more efficient is **small claims procedures**. Systems to support electronic processing of uncontested claims and small claims were available by 2012 in all courts in Austria, Czech Republic, Estonia, Finland, Latvia, Lithuania, Malta, Portugal and Sweden.³¹ Cross-border claims up to €2000 have been simplified and accelerated by the European Small Claims Procedure, which includes an online option.³² A judgment given in the European Small Claims Procedure is recognised and enforceable in another Member State without the need for a declaration of enforceability and without any possibility of opposing its recognition.

Small claims procedures have been analysed as a 'life event' for citizens by the European Commission's eGovernment Benchmarking reports (see [topic 5.4](#)), which have identified seven individual public services for 'small claims procedures' from orientation and initiation to retrieving verdict and appeal:

Starting a small claims procedures

1. Obtain information on how to start small claims procedure
2. Obtain information on related legislation and rights
3. Start a small claims procedure (issue the money claim at court)
4. Share evidence/ supporting documents
5. Obtain information on case handling
6. Retrieve judgement
7. Appeal against court decision

The [2014 report](#) found that: *“Few countries enable citizens to start this procedure online and safely exchange information with the judicial authorities during the course of the procedure. At the moment, there is the risk that citizens cannot properly find what they are looking for, nor understand*

³⁰ Source: research*eu focus magazine, no 12

³¹ The 2014 EU Justice Scoreboard, page 19.

³² European Commission (2007), *Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure, making it possible to use electronic methods for small claims*, Brussels.

it, in turn potentially decreasing citizens' trust in the justice system. Judicial procedures can be lengthy and complicated, making it even more important to manage the expectations of citizens starting such procedures and to guide them through the process. The citizen starts out online to find information on his/her rights and on how to issue a small claim. However, as soon as it comes to actually starting the procedure, face-to-face contact or paper transactions are needed. The same goes for the exchange of information back and forth during the course of the procedure (e.g. to share evidence and gain information on the case handling)." For steps 1, 2 and 6, services were fully provided through the service provider and/or a government portal in more than 55% of surveyed countries, while steps 3, 4, 5 and 7 were available in less than 45%.

The [2016 report](#) found that not one single service step is automated for this life event. An 'appeal against a court decision' (step 7) always has to be initiated by the user and can therefore not be automated. Other steps, such as 'obtaining information on case handling' (step 5) and 'retrieve judgement' (step 6), could be automated to a high extent while they are not.

However, the 2014 report also highlighted e-CODEX's prospective role, as a secure and reliable "platform" to exchange documents and data between citizens, businesses, governments and judicial authorities on a cross-border level. A broad roll out of this e-Delivery solution will increase the level of integration of e-Documents and will help governments to provide the small claims procedure fully online on the national and cross-border level.

Since 2013, the Commission launched [Electronic Simple European Networked Services \(e-SENS\)](#) to build on the achievements of preceding large-scale pilot projects, including e-CODEX, and extend their potential to more and different domains. By providing a set of Basic Cross Sector Services in justice and other key areas, ready for reuse, e-SENS lays the ground for the [Connecting Europe Facility's Digital Services Infrastructure](#) in 2014-2020 (see also [topic 5.4](#)).

Further support to e-Justice is laid out in the [eGovernment Action Plan 2016-2020](#).

Support to e-Justice under the eGovernment Action Plan

The Commission will make the European e-Justice Portal a one-stop shop for information on European justice and access to judicial procedures in the Member States. For 2016, this will include the go-live of tools for direct communications between citizens and courts in other Member States (e-CODEX), as well as the introduction of the European Case Law Identifier (ECLI) search engine. Further developments will follow the [Multiannual European e-Justice Action Plan 2014-2018](#).

The Commission will continue its ongoing work together with the Member States on setting up the mandatory interconnection of all Member States' business registers, to allow access via the European e-Justice portal to certain information on companies registered in Member States and to ensure that all EU business registers concerned can communicate with each other electronically in a safe and secure way. This will enhance confidence in the Single Market through transparency and up-to-date information on companies and reduce burdens on companies.

The Commission will also further develop an electronic interconnection of insolvency registers to enhance transparency and legal certainty in the internal market (see also [topic 6.2](#)). Regulation 2015/848 obliges Member States to set up their own domestic insolvency electronic registers by 2018, while the establishment of the interconnection of insolvency registers is set for 2019. This will become available on the European e-Justice Portal.

Further actions to accelerate the cross-border and cross-sector use of electronic identification (eID), including mobile ID, and trust services (especially e-Signature, website authentication and online registered delivery service) will be pursued on the European e-Justice Portal.

7.4 Training and continuing professional development

The decisive factor in the quality of the justice system will always be the knowledge and competence of judges, prosecutors, court administrators and other legal professionals. Europe's judiciaries face an ever-evolving challenge to keep up-to-date with the latest developments in the body of law, whether their domestic legislation, or EU regulations, directives and jurisprudence. The same people must also administer



or adjust to the radical changes in the operating environment that arise from managing performance, by ensuring timely procedures, explaining the law in an understandable manner both to the parties and to the public, establishing ADR, exploiting computerisation and enabling e-Justice across borders. In this climate, training at all levels and all stages, including continuing professional development (CPD), is a vital tool in the modernisation of the judiciary in the service of the public (see also [topic 4.3](#) on managing, motivating and developing staff).

According to the 2017 EU Justice Scoreboard, initial training for judges is compulsory in 23 EU Member States such as attending a judicial school or a traineeship in the court. Mandatory in-service training is much less common, being offered more often on an optional basis. General in-service training for judges is compulsory in just 11 Member States^{Error! Bookmark not defined.}. In-service training for specialised judicial functions (such as economic or administrative issues) is required for judges in 10 countries. In-service training for court management functions for judges is obligatory in just five EU countries, while training for use of computer facilities in the court was mandatory for judges in just four members. Only 1% of court budgets was spent on judicial training in Europe in 2014. The importance of training is underlined by the fact that 26 Member States report in the 2016 EU Justice Scoreboard the existence of standards on training of court staff and 24 for training of judges.

The importance of judicial training to building mutual trust across Europe in each other's justice systems was recognised in the [2008 European Council Resolution](#) and most significantly, the [Lisbon Treaty](#), which gave the EU competence for the first time to support training of the judiciary and judicial staff in both civil and criminal law. This was followed by the [2010 Stockholm Programme](#), which established such training as a priority in the context of the Council's goal to develop Europe as a territory of freedom, security and justice. *"Priority should be given to mechanisms that facilitate access to justice, so that people can enforce their rights throughout the Union. Training of, and cooperation between, public professionals should also be improved, and resources should be mobilised to eliminate barriers to the recognition of legal decisions in other Member States."*

The [European Commission's Communication of September 2011](#) reinforced this momentum to strengthen European judicial training, as well as peer-to-peer exchanges of experience and expert practice. Knowledge and understanding of EU law across Europe's judiciaries is crucial to create the confidence for businesses to operate across the EU, and for citizens to travel and live in other Member States. For economic growth, Europe's enterprises must be able to take investment and trading decisions, secure in the knowledge that their rights will be upheld in another jurisdiction.

The Communication set a target of at least 50% of legal practitioners being trained in EU law by 2020, or 700 000 people, in line with the objectives of the Stockholm Programme. The aim is that legal practitioners should benefit from at least one week's training in the EU *acquis* and legal instruments during the course of their career.

In taking forward this goal, the top priority should be the judges and prosecutors responsible for enforcing EU law. However, European judicial training is also essential for other practitioners, such as court staff, lawyers, solicitors, bailiffs, notaries and mediators. This commitment was reiterated in the [EU Justice Agenda for Europe 2020](#), which highlights judicial training as a key challenge for the coming years: *“The impact of EU law on the daily lives of European citizens and businesses is such that every national legal practitioner – from lawyers and bailiffs on the one hand, to judges and prosecutors on the other – should also be knowledgeable in EU law and capable of interpreting and effectively enforcing EU law, alongside his or her own domestic law ... the 2014-2020 Justice financial programme reflects the importance granted to training by the Commission. 35% of the programme's overall budget of €378 million will support high-quality European training projects for all justice professions and help share best practices on subjects such as curricula or interactive training methodology”*.

The [European Commission's 2016 report on European judicial training](#) shows that at least 124 000 legal practitioners (judges, prosecutors, court staff, lawyers, bailiffs and notaries) took part in training activities on EU law or the national law of another Member State in 2015. The Commission is committed to increasing the funding available for European judicial training as a priority under the 2014-2020 financial framework: the aim to support the training of more than 20 000 legal practitioners per year by 2020 was already surpassed in 2014 by 5 000 practitioners. However, by itself, this funding will clearly not achieve the goal of 50% trained practitioners. The target is reachable through the common efforts and shared responsibility of all stakeholders: Member States, Judicial Councils, European and national judicial training bodies, and the legal professions themselves at national and European level. In June 2016, the European Judicial Training Network (EJTN) accepted ["nine principles of judicial training"](#) that clearly state the different responsibilities of the actors concerned for the training of judges and prosecutors. On the average (across all legal professions and all Member States), the goal is likely to be reached, but more efforts are needed for some legal professions and for certain Member States. To encourage more training on EU law for the professional group with the least respective training offer, the Directorate-General Justice and Consumers devoted its annual [judicial training conference](#) in 2015 to the subject of training of court staff.

The Commission is also supporting high quality training projects with pan-European benefits, including eLearning.³³

³³ Information about EU financial support for European judicial training projects can be found on the websites of the Directorate General for Justice and Consumers, the Directorate General for Competition, the Directorate General for Home Affairs, and the European Anti-Fraud Office (OLAF).

Initiatives to stimulate training and exchange knowledge

In April 2013, the European Commission organised a [conference](#) to stimulate European judicial training. The Commission has developed training modules on the implementation of specific European legislative instruments, which are available free of charge on the training section of the [European e-Justice Portal](#) and can be adapted to national contexts and different target groups by trainers running specialised training courses.

From 2013 onwards, the Commission is supporting AIAKOS, a [two-week exchange programme for new judges and prosecutors](#) managed by the European Judicial Training Network (EJTN). It will also develop complementary measures, by promoting the supporting role of the European e-Justice Portal and drafting practical guidelines, e.g. on training methodologies and evaluation processes.

In 2013-2014, the Commission carried out a [pilot project](#), originally proposed by the European Parliament in 2012, to identify best practices in training legal practitioners in EU law and national legal systems and traditions. The project also aimed to find the most effective ways of delivering training at the local level and to promote the dialogue and coordination between EU judges and prosecutors; to encourage EU judicial training providers to share ideas on best practice and disseminate them across the EU; and to improve cooperation between the EJTN and national judicial training institutions. This involved training providers such as the [Academy of European Law \(ERA\)](#) and [EIPA's European Centre for Judges and Lawyers](#), and European-level professional organisations such as the [European Network of the Councils for the Judiciary](#), the [Network of the Presidents of the Supreme Judicial Courts](#), the [Association of the Councils of State and Supreme Administrative Jurisdictions](#), and the Network of the General Prosecutors of the Supreme Judicial Courts of the EU.

The project has been organised in three parts. Lot 1 concerns training of judges and prosecutors, lot 2 covers training of lawyers, and lot 3 looks at training of court staff, to build up a complete picture of judicial training in the EU. In June 2014, the Commission organised a [workshop](#) titled “*Building upon good practices in European judicial training*” to disseminate the results of the pilot project, and enable trainers to share good practices and exchange ideas.

The pilot project on judges’ and prosecutors’ training invited submissions from judicial training institutions across the EU³⁴, with factsheets that can be found on the [European Commission’s e-Justice portal](#). An expert panel, overseen by internal and external steering committees, identified 62 initiatives that considered to be examples of ‘best practice’ (29), ‘good practice’ (16) or ‘promising practice’ (17). Best and good practices have elements which should be fully transferable to other national contexts within the EU, while promising practices by their nature are still at a developmental stage. These practices are classified below in five categories: training needs analysis; curricula and training plans; training methodology; training tools to apply EU law; and training assessment. Further factsheets can be found on the e-Justice portal on [national training of legal practitioners](#).

All parts of the pilot project also contained recommendations how to advance European judicial training further. In 2015, an expert group of the Directorate-General Justice and Consumers

³⁴ The judicial training institutions of all 28 EU Member States, plus three European training institutions: Academy of European Law (ERA), European Institute of Public Administration (EIPA) and the EJTN itself. Responses were received from 23 training institutions, and 157 practices put forward for consideration.

collected the recommendations from these and other sources, covering all areas discussed under the following subheadings.

7.4.1 Training needs analysis

Training needs analysis (TNA) is the first phase of the training cycle, and is a structured and systematic process that can be applied to organisations, functions (e.g. civil judge, court president, mediator) and/or individuals. TNA evaluates skills requirements, by comparing the current competences against the desired state, and determining the gap in knowledge to be closed.



Many of the techniques used for assessing customer expectations of service delivery (see [theme 5](#)) or citizens' experience of the justice system (see [topic 7.1](#)) can be used for TNA: surveys (face-to-face, telephone, written, online), panels / focus groups, and feedback on previous training events. The analysis of individual responses from potential participants can be placed in a wider analytical context by talking to representative associations, studying 'live' professional practices in courts and administrative offices, and/or anticipating legal and technological developments (such as the rise in citizen engagement, communication and use of ICT) to stimulate new thinking on skills development.

The TNA should form the basis of designing customised training programmes, including objectives, content and format (duration, content, modality, etc.) and provide criteria for their evaluation. Over time, it should be regularly reviewed to ensure the programme remains relevant or is updated.

Two best practice examples identified by the pilot project come from Europe-wide training institutions - the Academy of European Law (ERA) and the European Institute of Public Administration (EIPA). Both use pre-training questionnaires to identify needs, to customise the programme, and to perform mid-term evaluations of the training's impact.

Inspiring examples: TNA in Europe-wide training institutions

The **Academy of European Law (ERA)** has implemented an Evaluation and Impact Assessment system of training that was developed for the workshops implementing training modules in EU family law for the European Commission. Two to three months before the implementation of each workshop, an initial needs assessment questionnaire and a registration form are sent to interested participants. By means of this short questionnaire, the applicants provide an overview of their professional background, their experience in EU law and more concretely in the area of EU family law. The questionnaire also includes questions on why judges registered for the workshop and what they expect from their participation in the workshop. By evaluating this information, the training organisers can assess which applicants are in the training target group and whose training priorities best match the objectives of the programme. This preliminary TNA assessment has a dual effect on the efficiency of training: it leads to more precise selection of future applicants for training, while at the same time providing a stronger focus on their individual professional training needs. It also represents a good example of the inter-connection between TNA and training evaluation, since it is coupled with a two-fold process of immediate and mid-term evaluation of the effect of the training.

For further information: Academy of European Law (ERA), jrageade@era.int, <http://www.era.int>

The **European Institute for Public Administration (EIPA)** has introduced an Individual Learning Needs Analysis system. Once a given topic is identified as a general training need, a training programme is designed to meet the need in question and finally the programme is opened for registration. Two to four weeks before the training, the registered participants are asked to complete a tailor-made questionnaire with a two-fold objective: a) to assess the participants' current level of knowledge and experience on the topic, and b) to inquire about specific issues of interest or concern. Currently, consideration is also being given to making the questionnaires available as online surveys. The practice increases the efficiency of training in many ways:

- ✓ The training is fine-tuned to the audience level.
- ✓ Practical information and knowledge of immediate interest to the participants is provided.
- ✓ Answers to pre-posed questions related to the everyday work of participants are given, and if necessary, the programme is adapted to meet specific and/or unforeseen individual needs.

It also presents a good example of the inter-connection between a TNA and an Evaluation of Training as it is coupled with a mid-term evaluation of the effect of the training through a web-based survey tool or telephone interviews.

For further information: European Institute for Public Administration (EIPA),
<http://www.eipa.nl/en/antenna/Luxembourg>

7.4.2 Curricula and training plans

Having identified needs, the next phase of the training cycle is to convert them into content, including scope, structure and sequencing of activities, combining theory and practice, legal and non-legal aspects (including leadership and ICT skills). Increasingly, judicial training is drawing on **multi-disciplinary techniques** (taken from economics, medicine, psychology, etc.) to accentuate the core components of the programmes, and to provide a



wider socio-economic and cultural context, in line with the Council of Europe's Recommendation 12 for judicial training, published in 2010. This is exemplified by initial training of judges in Italy, which also incorporates placements ('externships') in bodies with some role in the legislative process.

Inspiring example: Combining disciplines in the delivery of training (Italy)

In Italy, a training programme has been devised that seeks to extend the initial training of judges to include an in-depth analysis of the social, political and economic context in which the justice system operates. This practice aims to introduce into the initial training curriculum content that should make young judges and prosecutors better aware of the economic, social, political and cultural context in which their judicial activity will take place.

The rationale for this approach, which has been incorporated directly into Italian guidelines for initial training, is that it is important to use training to develop economic, social, and cultural awareness amongst the judiciary in an epoch in which for a number of reasons (e.g. development of media and social media, multiculturalism and multi-ethnicity, economic crises, and rapid developments in biology and medicine), the application of the law cannot be separated from knowledge of social sciences and other related disciplines.

The training practice involves the preparation of materials and organisation of discussions between newly-recruited judges and prosecutors and experts (social scientists such as sociologists, statisticians, journalists and media experts, philosophers of the law).

Topics covered include:

- ✚ The image and perception of justice and judges in society,
- ✚ The characteristics of social demands on the justice system,
- ✚ Political discussions about the reform of justice,
- ✚ The history of the judiciary,
- ✚ The position of disadvantaged groups in society,
- ✚ Judicial ethics.

In some sessions, discussions are triggered by showing a film dealing with aspects of justice, which is then analysed with the assistance of a cinema expert. The practice also includes the organisation of ‘externships’ for trainees in external agencies active in social areas linked to justice. Such agencies included penitentiaries, the Bank of Italy (i.e. the banking and financial intermediation supervising authority) and the State Attorney’s offices (i.e. the agency responsible for representation of the State and some public entities in legal disputes, as well as for the provision of legal advice to such agencies). Externships have also been organised in the clerking and secretarial services of courts and prosecution offices, so that trainees can gain a grasp of justice from the perspective of those who work with judges and prosecutors.

Appraisal of the programme has been conducted by a combination of detailed feedback questionnaires within the School and some of the co-operating agencies (e.g. the Bank of Italy) have also carried out their own independent assessments. There was some initial resistance to the introduction of these practices. For example, there were objections to judges and prosecutors spending two weeks within the penitentiary circuit in case it encouraged too much subjectivity in their approach to justice. The programme has, however, received a generally positive response from both the expert trainers and the trainees, who particularly appreciate the fact that the exposure of initial trainees to the ‘external world’ is systematic rather than occasional. In this way, judges and prosecutors in the early stages of their training can acquire a deeper understanding of the realities of criminal sanctions; of the fiscal crisis, financial governance and banking supervision; of the ‘deep’ reasons for the inefficiencies of justice, and of the social consequences of multiculturalism, of multi-ethnicity and of poverty.

Source: [European e-Justice Portal](#)

Member States have also sought creative approaches to **large-scale training**, for example when there has been a major legislative development which needs to be communicated quickly, effectively and efficiently. The case of **Romania’s** retraining of the judiciary in four new legal codes is an example of making effective use of a combination of training modes.

Inspiring example: Large-scale structured training using multiple delivery modes (Romania)

A good example of this approach is to be found in Romania, where it has been necessary to retrain the entire judiciary in four new Codes: Civil Code, Civil Procedure Code, Criminal Code and Criminal Procedure Code. This approach began in 2011 with the creation by NIM of a continuous training strategy. This major training challenge had to be organised in such a way as to follow a logical order, via a structured training strategy with clear steps and stages. Bearing in mind the fact that the new provisions contained huge volumes of information that had to reach every judge and prosecutor, and also taking into consideration the importance of finding the right learning process, NIM drafted a unitary, centralised strategy.

The first step was to identify trainers who could deliver seminars on the new Codes. Once established, the network of trainers organised concentric circles of decentralised seminars that were continuously enlarged. The training curricula were continuously updated. In total, 23 national and international conferences were organised at the central level up to October 2014, with online broadcasts and video recordings (the number of people connected for each day of the conference being 6,428 – 8,415, with maximum 1,855 simultaneous users/each day of conference). Training materials were simultaneously developed and enlarged, based upon the lecturers’ presentations and the debates that took place during the conferences. As at 30 October 2014,

the video recordings posted on the NIM website had the following number of unique users for each page dedicated to the New Codes:

| Webpage | Unique users |
|--|--------------|
| New Civil Code Conferences | 57,443 |
| New Civil Procedural Code Conferences | 28,542 |
| New Criminal Code Conferences | 7,385 |
| New Criminal Procedural Code Conferences | 17,536 |

The debates were transcribed by NIM staff and included in handbooks that – with each lecturer’s permission – were published on the NIM’s website. The Handbook on New Civil Code was downloaded 8,036 times and the one on New Civil Procedural Code 10,376 times. The other two handbooks in Criminal Code will be made available in the next year. Four guides with procedural templates/documents were developed as well as two new guidelines on templates of the petitions, complains and judicial actions on civil, commercial, family and labour matters and criminal matters. These guidelines will be made available online, free of charge for the public. 30 e-Learning modules for the new Codes will be developed by the end of 2015. In addition, NIM also organised ‘train the trainer’ activities. These trainers were then used in over 350 seminars also organised by the NIM that resulted in more than 4,980 judges and prosecutors (73%) engaging in at least one training activity at decentralised level. Taking account of the results so far (the high number of judges and prosecutors familiarised with the new Codes, the training carried out by both judges and prosecutors and by other legal professionals) and the general availability of the information gathered in these programmes, in the team’s opinion this represented a best practice example.

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As well as the ever-evolving legal base, judges and court administrators face a changing workplace environment, given the developments in performance monitoring, user consultation, quality management, more effective communication and the digitalisation of court processes. This places a premium on **leadership skills and the management of change**. As with many other professions, technical proficiency in a position does not automatically translate into managerial ability. Excellence in court does not necessarily make a judge a natural manager of projects, people or finances. The progressive series of management training course for judges in France was deemed by the EJTN assessment to be an exceptional case of best practice.

Inspiring example: Leadership and management training (France)

Relatively few in number for the size of country, judges play a significant role in running and managing the court systems, and have seen their functions evolve significantly over the last 15 years. Prior to 2008, training modules were seen as disparate, poorly defined and lacking in any clear relationship to one another. The National School for the Magistracy (ENM) responded by overhauling the training offer, and creating a complete and comprehensive suite of training activities across a range of interrelated courses, aimed at ensuring that judges are equipped to carry out their management functions effectively.

Judges in France are expected to engage in five days of continuous training every year. They select their courses from the training prospectus published annually, covering eight general themes. One theme is the administration of justice, and includes such topics as:

- ✚ The tools of management (including running budgets);
- ✚ Change management;
- ✚ Human resources and risk management;
- ✚ Managing stress;
- ✚ Techniques of evaluation;
- ✚ Measurements of efficiency; and

- ✦ The interface between judicial and public policy.

Courses typically run for three days, although one course runs for 21 days, spread over seven modules. These courses are available to all French judges on a self-selecting basis. In addition, further programmes are offered, designed for specific managerial purposes. The first programme is a bespoke series of courses designed to assist judges appointed to a specific management post and includes management training for:

- ✦ New Secretary Generals;
- ✦ Judges as Departmental Heads within a Jurisdiction;
- ✦ New Heads of Jurisdiction;
- ✦ New Heads of Jurisdiction: One Year Later; and
- ✦ A Training Plan for Heads of Jurisdiction (addressed to judges with at least three years of seniority in their role as head of the jurisdiction).

Judges have responded with enthusiasm to the courses on offer. For example, in 2013, 928 judges were (voluntarily) enrolled on judicial management courses, which amounts to 11.5% of the country's serving judges.

Source: [European e-Justice Portal](#)

Management training is also delivered in some Member States through coaching and mentoring, which may suit better the style of some judges, prosecutors or administrators, as identified in the TNA. Other management training focuses on specific responsibilities or tasks, for example, project management, which is useful when planning complex ICT investments or the introduction of quality management systems.

7.4.3 Training methodology

Alongside training content, Member State judiciaries can be creative with training style and methodology when designing programmes. Many courses are deploying new styles of face-to-face training where personal contact is integral to the learning outcomes (for example, train-the-trainer, investigation, mediation, sentencing) and/or online and distance learning techniques (such as pod-casting, video-conferencing) that are cost-effective, flexible and can be tailor-made to suit the individual's training needs and circumstances. A best practice example of the latter is **Bulgaria's** online e-Learning strategy, which has enjoyed a massive rise in take-up over the last 6-7 years.



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Inspiring example: Comprehensive online e-Learning strategy (Bulgaria)

Since 2009, Bulgaria's National Institute of Justice (NIJ) has been providing e-Learning through its Distance Learning Portal and Discussion Forum, in addition to its Extranet. The first pilot e-Learning course was delivered by NIJ in 2007 under a twinning project with the Judicial School of Spain, using the Distance Learning platform of the latter. The distance learning courses usually last three to four months. During that time the participants are in online contact with one another and with the trainers. They can access the information from any convenient location, allowing them to better manage the time they are willing to dedicate to training and exercise more control over the learning process. Courses usually contain reading materials, presentations, case studies and short video clips. Assignments and tests are given by the trainers and submitted by the participants exclusively online. The Discussion Forum is an integral part of the distance learning training and

provides for discussion of topical questions referring to the subject matter of the course. Where necessary, the Forum may be used as the place for further discussion of the case studies and practical examples dealt with in the training modules.

Active participation in the Discussion Forum during the training is among the criteria for the award of the Certificate of Completion. The practice was initially combined with a meeting of the participants and the trainers at the beginning and end of the training, but this has been suspended for financial reasons. Cost-effectiveness is one of the main advantages of this practice and it is estimated that, once established, it costs three to four times less than face-to-face training. The Distance Learning Portal and Discussion Forum are both based on open-source free software (Moodle 2.6). Two full-time IT staff members are in charge of the adaptation, providing regular software upgrades and maintaining the whole system, including the Extranet. The only other costs are those incurred by the development and delivery of the training courses, which are comparable with those for face-to-face training sessions. The latter are in fact much more expensive because of the additional costs for transportation and accommodation of participants and trainers.

Distance learning is rapidly gaining popularity among Bulgarian judges and prosecutors and currently between 12% and 15% of their training is delivered online. The number of training courses and participants has been growing steadily over the years from one training with 25 participants in 2007 to a planned 25 trainings with 1000 participants in 2014.

One Bulgarian judge who has taken several such e-Learning courses reported as follows: *“I took part in e-Learning, once on the topic of Waste Management, and the next one was about Environment Impact Assessments. Both were very interesting and helpful. With each of them you can learn everything you need to know about the subject without leaving the office. This kind of learning saves time and efforts, and there is another very special benefit – you can directly ask the teacher questions on which you are especially interested and get the most useful answers which are possible in practice. So, in general it is a great idea. I know that many of my colleagues have used such training on various matters that are of interest to them.”*

Another judge who has taken six such courses also reported positively: *“Some of the courses have online discussions which are used by judges to standardise practice through exchange of ideas. We appreciate the ease with which we can ask course tutors questions by email. Judges outside the capital have found it useful as they do not have to travel to the National Institute of Justice in Sofia.”*

Source: [European e-Justice Portal](#)

The Judicial College of **England and Wales** has developed the Snowball Technique, a highly innovative method to enable large groups to distil complex thinking or collaborate to identify a common set of options or ideas.

Inspiring example: The Snowball Technique (England and Wales)

A practice being used by the Judicial College in England and Wales is the Snowball. The method has been designed to enable groups to distil complex thinking or collaborate to identify a common set of options or ideas.

The shape of the exercise and the time taken depends on the number of people involved: e.g. for a group of 24, one may start with four groups of six participants. The four groups discuss the topic and identify their thoughts on the subject and, after a period of time, dependent on the complexity of the subject (anything from 20 – 40 minutes), the groups of six join together to form two groups of 12, who will collaborate for 15 – 30 minutes to share their ideas and come up with a collective view. The final stage sees the two groups of 12 joining together, for up to 20 minutes, to identify the common themes and/or a collective set of ideas. The final set of ideas is then reviewed in plenary. All stages of the exercise take place in one large room. Initially, groups sit around tables or gather around flip charts. As the groups expand, the participants find their own ways of gathering together and collecting their ideas. They are facilitated by one or two people who act as timekeepers and manage the various stages of the exercise.

This method has been adopted to encourage creativity, shared learning and to produce high energy during the session. According to its designers the method has been successfully used as a means of consolidating learning and encouraging collaboration in the development of new ideas (e.g. to enable a group of judicial tutors with senior judges to identify the relevant core skills and begin the process of design for a new, cross-jurisdictional leadership development course). The methodology was used in 2015 by the European Judicial Training Network (EJTN) as the starting point for the development of their current strategic approach. This example involved over 60 participants in the grounds of the Judicial College in Thessaloniki.

The main advantages of this method are that:

- ✓ It promotes a high level of shared analysis of a problem, including the opportunity to listen to the views of all participants and developing the capacity to summarise the views expressed to achieve a common vision.
- ✓ It asks participants to demonstrate creativity and imagination by creating a framework for dynamic discussion.
- ✓ It promotes a better recall of information due to the active participation that demands the attention of all participants.

The exercise is also very cost-effective, as the participants in the group do the work themselves, with the aid of one or two facilitators. A good facilitator will encourage the group to work collaboratively. The logistical requirements are small – a room large enough for the groups to work together and materials for them to capture their ideas (flip charts, white boards, paper and pens). This methodology is easily transferable, and may be applied to continuous or initial training alike.

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7.4.4 Training tools to apply EU law

It is widely accepted that national judges and prosecutors need to be knowledgeable about EU law within the European judicial space, and acknowledged as a major gap to be filled. Many Member States are now using networks of coordinators, and several have access to comprehensive databases, to ensure there are reference points on EU law, and ideally also the



legislation of other Member States, that can be accessed across their countries' court systems (see [topic 7.2](#)). These daily mechanisms for disseminating information are best backed up by judicial training, to gain broader awareness and deeper understanding, as promoted by the European Commission and its 2020 target (50% of legal practitioners trained in EU law).

The pioneering **Dutch** Eurinfra model in the early 2000s is echoed in the practices of other countries. Inspired by The Netherlands' experience, the European Gaius system in **Italy** is built on a similar mix of coordinated network, judicial training and databases through the website 'e-G@ius', to provide quick and easy access to training materials and European law sources.

Inspiring example: GAIUS (Italy)

Within the context of decentralised training, the Italian School for the Judiciary, as the successor to the Italian

High Council for the Judiciary, uses a network of local trainers who are competent to address training needs in European law and to organise training activities in the several judicial districts. In each judicial district, one or two specialised contact points are appointed and integrated into the network of local trainers. They have the task of satisfying the training needs in European law (both EU and ECHR law) that cannot be addressed at central level. The system also provides databases, data collection and indexes of case law of the ECJ and ECHR. The European Gaius trainers also organise training activities in the various judicial districts that have the same training needs and ensure they integrate European law perspectives into all other training sessions. In embryo, this network is a subnet of the European training networks, of which the EJTN is the most important. *“Our aim is to allow national judges to become true European judges”*.³⁵

The full European Gaius project of the Italian CSM aims to achieve three types of results. The first is to increase the number of centralised and decentralised courses on European law; the second is to provide specific training for judges who exercise jurisdiction in areas connected with European law; and the third involves the creation (as part of the COSMAG website) of a web page (electronic Gaius) capable of providing quick and easy access to past and ongoing training courses, teaching materials and national and European legislation.

Source: [European e-Justice Portal](#)

Increasingly, EU law is not taught in isolation as a separate subject, but as an integral component of national law, cross-referring to EU directives and regulations. Various techniques have also been tried to integrate judicial training across borders, through joint programmes with neighbouring countries or regions, and to combine legal with language training, originating in Spain, to make it easier for judges, prosecutors and lawyers to understand other Member States’ laws and traditions.

7.4.5 Training assessment

The evaluation of beneficiaries’ experience of the training and/or the effect of the training activities completes the training cycle. It allows the trainer to check whether objectives have been met, competences improved and initial needs addressed, levels of satisfaction, what has worked well or not so well, and what could be done differently next time, including revealing new training needs. The ERA and EIPA examples of TNA include elements of follow-up and reflection on the findings. The pilot project cites the Kirkpatrick model, which classifies four levels of training evaluation, and particular tools and methods that are suitable to their application:



1. Reaction of trainees: what they thought and felt about the training
2. Learning: the resulting increase in knowledge or capability
3. Behaviour: the extent of improvement in behaviour and capability and its implementation/application
4. Results: the effects on the business or environment resulting from the trainee's performance

Evaluation contributes to continuous improvement (see [theme 1](#)). The first step is to ensure feedback as represented by the example of the rapporteur in **Belgian** judicial training.

³⁵ <https://www.rechtspraak.nl/SiteCollectionDocuments/PowerPoint-presentation-Italy.pdf>

Inspiring example: The rapporteur (Belgium)

In Belgium, a rapporteur is appointed amongst the participants especially in long (several day) training sessions with several presenters/trainers and a large number of participants. The task of the rapporteur is to summarise participants' opinions on the content and quality of the training session and to prepare a draft report. At the end of the training session the draft report is submitted to the participants for approval and then sent to the Judicial Training Institute. The described method performs level 1 of the Kirkpatrick training evaluation model. It also enables the receipt of real time summarised feedback information from participants about the quality of the training, along with suggestions on how to improve it.

Source: [European e-Justice Portal](#).

Several Member States have devised innovative evaluation tools to test the behavioural change and actual impact of training, which again can feed into needs analysis for designing future training programmes. One such example is **Estonia's** Case Law Analysis (CPA) which is still being assessed, but has potential learning points for other EU judiciaries. The primary objective is to encourage uniform application of the law by providing judges with practically oriented and concise analysis of case law and decision-making.

Inspiring example: Case Law Analysis (Estonia)

Case Law Analysis (CLA) in Estonia is a process of studying court decisions (and if necessary, other court-related documents) in all their relevant aspects, to identify problems in the uniform application of the law by courts. During such research, one or more analysts (staff members of the Supreme Court Administration) ascertain the scope of problems that may exist in the application of legal norms. It is focused primarily on the application of the law via judicial decision-making (both material and procedural), with very limited use of any statistical analysis and no analysis of court management or the administration of justice. It is performed by a small team of legal analysts who form a part of the Supreme Court administration. The results of this analysis, along with the conclusions drawn on how courts apply certain legal statements and how they construe them, is presented in a written document, which is published and disseminated to judges as an unbinding source of information or reference and are used as training materials.

The CLA is not used for individual evaluation of judges nor for their performance evaluation or any disciplinary procedure. The CLA is also used in TNA as an additional source of information to supplement the standard procedures (such as surveys, focus groups, formal and informal consultations with judges and stakeholders) and for cross-checking them. Based on the CLA results, it is decided which of any systemic problems identified could be addressed through training. The topics and training activities selected are subsequently included in the annual training plan. On average between 10-20% of the training topics in different years emerge via the CLA.

- ✚ A CLA on compensation for non-patrimonial damage was conducted and published in 2007. In the following two years three training sessions were delivered and one legal article was published on the topic. In 2009, a second CLA was conducted. It was found that in several decisions judges referred directly to the first 2007 CLA. It was concluded that the first analysis and the training conducted had had a direct impact on judges' performance and case law. A third CLA on the same topic was researched in 2014.
- ✚ In 2014, the Supreme Court conducted a second CLA on violations of administrative procedure, following the first one conducted in 2013.

For further information: <http://www.nc.ee/?id=1438> (you will find there the [methodology, development principles and abstracts of analyses](#)) or contact Maarja Aavik (case law analyst): maarja.aavik@riigikohus.ee

7.5 Conclusions, key messages and inspiration for future action

Effective justice systems play a key role in strengthening a business- and investment-friendly environment by instilling confidence throughout the entire business cycle. It is also crucial for the implementation of all EU law, especially EU economic laws, for the strengthening of mutual trust and the fight against corruption, which has a direct impact on public budgets and the business environment. It is against this background that the improvement of the effectiveness of justice systems in Member States has been identified as a key component for structural reforms in the European Semester, the annual cycle for the coordination of economic policies at EU level. For the same reason, national judicial reforms have also become an integral part of the structural components in Member States subject to Economic Adjustment Programmes.

Whatever the model of the national justice system or the legal tradition in which it is anchored, efficiency, quality and independence are key parameters of an effective justice system.

Functioning of justice systems can only be improved if it is understood first. **Performance assessment** is now ingrained in the culture of the judiciary throughout the EU, by capturing data on court activity. The major differences between systems across Europe concern three aspects:

- A. **What is measured?** Experience across the EU and beyond shows there are many individual KPIs that judiciaries can draw upon, some of which can form composite metrics (clearance rates, productivity, etc.).
- B. **How is it monitored?** Increasingly, judicial administrations are using their ICT investments to make performance metrics more accessible and meaningful.
- C. **How are the findings utilised?** Ready access to good quality information enables rapid intervention where there are bottlenecks in the service of justice.

In planning advances in performance monitoring, **the logic should flow from C**: decide how the information will be used, and design metrics and mechanisms accordingly, using the capabilities of ICT to ensure efficient collection and effective presentation.

Dynamic measures of court throughput (incoming cases, disposition times, etc.) rely on hard data, but they need 'softening' with more qualitative measures, which is where **quality criteria** can play an important part in TQM.

But quality is not just a matter of numbers and benchmarks, it is in the eyes of the beholder. For this reason, **regular consultation** is critical to enhancing performance, both within the judicial administration and with the system's customers (legal professionals, parties and public), through techniques such as quality groups, surveys, panels and mystery shopping. Service charters can complete the feedback loop by setting out the standards that judiciaries will be measured against and held accountable for (see also [topic 5.5](#)).

All these inputs need an outlet, which should be an upgrade (where needed and appropriate) in capacity, capabilities and competences. This chapter has set out several components, which relate to

different phases of users' exposure to the justice system, and which could form initiatives for TO11 funding within a comprehensive strategic framework:

- ✚ At the **point of entry** to the justice system, parties are entitled to clarity about how the system operates, including explanations in advance of how the court functions, and the roles, responsibilities, procedures and timeframes. They should also be able to expect user-friendly access to forms (documents) and facilities (including signage). In the wider sense of access to justice, they should have a choice of dispute resolution mechanisms (including mediation and other alternatives to trial), effective small claims procedures, and ideally their legal representatives should have the option of electronic communication and filing of cases.
- ✚ **During the judicial process**, judges, prosecutors and legal professionals should be fully cognisant with European law, making best use of ECLIs, databases and networks of court coordinators, complimented by training and development. Judges and court administrators should be supported by e-Justice systems that enable case registration and management, as well as performance monitoring.
- ✚ At the **case's conclusion**, courts should be capable of communicating judgements with court users in a language which is readily understandable, and to put decisions in the public domain by placing rulings online.

To achieve effective justice, strengthening this 'cycle of justice' should be **underpinned** by ongoing media relations, user-centric processes, and continuing professional development, through the analysis of training needs, development of curricula, plans, methodologies and tools, and assessment of training benefits.

In seeking to improve the effectiveness of the justice system, the reader should also **consult** the conclusions on monitoring and evaluation (within [theme 1](#)), promoting ethics and tackling corruption ([theme 2](#)), organisational development ([theme 4](#)), and process re-engineering for service delivery ([theme 5](#)).

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