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EUROMED JUSTICE III PROJECT

Component I Access to Justice and legal aid

WG 1.2

HANDBOOK

Handbook describing approaches and best practices in the use of new technologies for case management, circulation of documents, data collection in the legal field and communication of case law to the public

Xavier MONSÓ BRIÑARDELI
Expert

Implemented by:



Lead Firm



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Justice and the new technologies

BEST PRACTICES HANDBOOK

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“This publication has been produced with the assistance of the European Union. The contents of this publication are the sole responsibility of EIPA and can in no way be taken to reflect the views of the European Union.”

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Introduction

As in other areas of public administration, justice is also faced by the challenge of the new technologies. The organisational revolution that assumes the application of ICT in any sector has major repercussions when analysing the world of justice. The impact of the new technologies affects both material means and the human resources working in the public service of justice. Besides this, it also affects all professionals whatever their relationship with the administration of justice, and, of course, it affects the final user of justice, that is, the public.¹

Aware of the diversity of factors and elements that are part of introducing new technological means to the justice sector, we have tried in this study to adopt the approach of access to justice from the ICT point of view in the following ENPI South countries:

- The Democratic Republic of Algeria
- The Arab Republic of Egypt
- Israel
- The Hashemite Kingdom of Jordan
- Lebanon (Lebanese Republic)
- The Kingdom of Morocco
- Palestine
- The Republic of Tunisia

The final result of our work appears in a list of seventy nine (79) best practices, the result of our discussions and agreements reached in the three work group meetings.

Acknowledgements

I must express my warmest gratitude to the representatives of the delegations who took part in the work group for their valuable contributions, all a great help in producing this handbook. I thank them more particularly for their tremendous efforts and the great interest they showed in replying to the exhaustive questionnaire submitted to them during the working meetings and which served as a basis for drawing up this document.

Besides this, I would also like to stress the high level of participation, evidence of which was shown by the members of delegations present during the discussions, during which they expressed their different points of view, revealing their excellent level of preparation in the subject as well as their decided commitment to the final result of the project, that is, the production of this handbook.

I must explain that this handbook is in no way an isolated, individual task, but the result of very intense work to which each participant has contributed towards enhancing the content. Personally, I would like to express my gratitude to all the members of the work group for giving me such an enriching experience in sharing with me their ideas and concerns.

My sincere thanks also go to the members of the team responsible for implementing the project for their constant support throughout the whole process of preparing the handbook, and more particularly, for their comments and advice that I found so valuable.

Lastly, I would not wish to overlook the interpreters and their tremendous professionalism, of which they gave proof in highly intense working meetings, and for which I thank them.

Description of work and methodology

In the pages that follow, the reader will find a description of best practices, a descriptive summary of the discussions that helped identify these best practices, and a brief final commentary by the author.

It is important to mention that the characteristic that seems most remarkable in this work is that the best practices described in this handbook reflect the majority consensus observed during discussions among the participants at the preparatory meetings on each of the topics dealt with.

These are not best practices conceived in an abstract manner, tacked on to other considerations; nor are these ideal practices dreamt up in an abstract or utopic scenario, and they do not put forward a complete and exhaustive list of best practices. These are rather more practices that correspond to the level of agreement achieved during the meetings and discussions with the delegations of countries participating in each meeting.

These best practices reflect what the delegations of the beneficiary countries taking part in the meetings consider to be acceptable best practice, worded in such a way that it appears adequate at the moment, practical, adapted to the context and reality of the country, and able to be assimilated from the point of view of the law in force and the institutional and situational framework. These best practices also corresponded to foreseeable progress and can be implemented in technical terms and with realistic margins, in the short and medium term, even if they are not restrictive in nature.

These are best practices and discussions related to the regional context in which they are adopted. Certain countries have already implemented fully or partially what these best practices recommend or indicate, but their approval reinforces this trend and expresses their merit.

The best practices that have been listed and the information included in the summary of discussions, also provide us with a snap shot of the situation and the principal traits of

the topics dealt with.

The discussions, which are summarised after the description of each group of best practices, provide not only condensed information which is felt to be of interest, in fact of great interest, but also reveal where the strong and weak points of the topic addressed lie and the situation in the region. In certain cases, they reveal areas where progress can be more complicated or slow, or areas where it can be easier and faster.

Besides this, in legal terms, they provide an idea of certain specific success areas and reveal deficiencies and shortcomings compared to what could be considered as a standard, desirable situation between the EU and the beneficiary countries in the project.

To reach this point, a questionnaire was used that had been previously prepared. The questions, as well as the reference documentation from each meeting, were given to participants beforehand so that they could be better prepared for the discussions. This workgroup had 3 meetings, each one lasting three days. The first was held in Athens from 10 to 12 July 2012; the second in Paris from 27 to 29 November 2012; and the third in Madrid from 12 to 14 March 2013.

All the beneficiary countries were invited to take part in the meetings and each of them could send three experts appointed beforehand by the National coordinator in each country. Not all of the beneficiary countries took part in all of the meetings, and that for different reasons. We did ascertain that the participants from each country were the same at each meeting, or at least that there was a degree of continuity in the composition of the delegation.

During each meeting, different topics were dealt with according to the programme for the project, and agendas were prepared by the team responsible for implementing the project in coordination with experts, and each time submitted for the prior approval of EuropeAid. This meant that the expert was able to gather the information that helped to describe the essential elements of the discussions and to draw up the best practices based on the level of consensus observed and expressed in each case. After each meeting, the expert prepared an outline of the work done, including the opinions and ideas of participants and the proposals for best practices relative to conclusions. After

that, the expert once again sent his outline report to the beneficiary countries by way of information and verification for further discussion and, if necessary, for the outline to be corrected, amended or validated at the following workgroup meeting. This cumulative way of working facilitated further progress at each meeting and helped arrive at the final result, which is the result of the work done at the time of the last meeting of the workgroup.

Furthermore, and to guarantee to the extent possible that the result is faithful to the method, the final text was sent once again sent to the countries concerned after the results of the last meeting were incorporated, so that these countries could, through their national coordinator and with the support of the participating experts, make their final suggestions, corrections or proposals. These were then included in the final version of the handbook once the author had duly received them.

This document is therefore the result of detailed work done by the expert and author of this handbook, working as a team, the protagonists being all the participants who took part in the different activities required in preparing the handbook. Without their work and their commitment this handbook would never have seen the light of day.

Best Practices

A. ICT steering and strategic development

Strategic Plan

- 1. A strategic plan is required in which details can be given on the stages and terms of bringing information systems into the courts. This plan should cover how justice is being administered in each country, and be adapted to the needs and characteristics of these countries.**

Centralised management

- 2. Management should be centralised with a channel open to the public so that services provided can be defined, but the Ministry of Justice should have the final word.**

Budgetary line

- 3. A specific budgetary line is recommended. The duration of the information system plan should be adjusted to the budget.**

Multi-disciplinary experts group

- 4. There needs to be a group of multi-disciplinary experts, composed of judges, magistrates, prosecutors, clerks of court, court staff and information systems technicians, who will add their experience and opinions. These committees should intervene in the planning conducted by administration.**

E-Government

- 5. The strategic plan should be linked to a global on-line administration strategy (electronic administration).**

Collaboration

6. Collaboration agreements need to be established with donors and the private sector.

Summary of discussions

The work began with a discussion on what strategic plans exist in this field, their characteristics and the stages of their development. Using the methodology designed for this workgroup the subject was introduced by raising a number of questions. The project team introduced the subject by raising a number of questions.* We began our work by noting the need for a transversal, coherent global plan coordinated with the other global plans of Administration.

Thorough discussions revealed that in most of the beneficiary countries there is no such plan. All the countries, or practically all the countries, have plans for this, but they do not have the required characteristics in all cases. A number of interesting examples are given below:

Algeria began introducing ICT to the courts based on a strategic steering plan covering 2003-2008, and this plan was completed by the programme included within the framework for reform of justice.

This action plan required a sectorial network to be set up so that all the courts could communicate one with another reliably and with guaranteed security. In parallel to information systems, professions have been developed (Management System and Follow-up for Judicial Files – Court Records – Warrant for Arrest – MANAGEMENT System for Prisoners) as well as decision-making tools (instrument panel, map of court distribution, management system for human resources, justice auxiliaries).

* Is there a steering plan, a strategic plan or a plan for global or specific modernisation for the new technologies in the field of justice? If there is, what are its main characteristics? What are the different stages and where has it reached in its implementation?

The success of the strategic plan to modernise the sector rests on a general department for modernisation created in 2002.

Web sites:

Ministry of Justice <http://www.mjustice.dz> The public can consult the cases that concern them by accessing the site of the Ministry of Justice.

Algerian Law Site <http://www.droit.mjustice.dz>

Legal and Judicial Research Centre <http://www.crjj.mjustice.dz>

Supreme Court <http://www.coursupreme.dz>

Council of State <http://www.conseildetat.dz>

Egypt said it had a strategic plan the main features of which are judicial electronic identification, e-Court (the court on-line), the date of judicial integration, a cloud computing system and a website offering services to the public. Currently implementation stages have reached 20% development in e-Court application, 30% network communications between all courts in the country and 60% adaptation of staff for working in a computerised environment. The electronic signature is not yet in use. The e-Court programme deals with electronic identification, the integrity of judicial data and the justice website. This project concerns not only judicial matters, but also an integral system that covers the whole judicial system (police, Public Prosecutor's Office, the documentation office and also the courts).

Web sites:

Ministry of Justice <http://www.moj.gov.eg>

In Israel, the courts are highly computerised. The judicial information system interacts with the interfaces of other administrations. 300 professionals are dedicated to ICT within the Ministry of Justice. Israel explained that a new position had been created recently within the government and that the person occupying it would be responsible for preparing strategic steering plans for all ministries and governmental departments. Strategic plans are currently being prepared and are expected to be ready within the next 12 months.

Web sites:

Ministry of Justice <http://www.justice.gov.il>

Decisions of the Supreme Court <http://elyon1.court.gov.il/verdictssearch>

Currently in Jordan the courts are in a network and they are equipped with 4000 computers. 1500 employees have e-mail. All files are scanned and proceedings computer processed. The information system is connected to the police and to other administrations. There are also information desks for the public. Jordan has a strategic plan 2012-2014 to modernise the administration of justice, which is available on-line on the Internet site of the Ministry of Justice. This plan contains an e-justice component in a global context that affects not only the Court and the Ministry of Justice, but also other ministries, directorates general and authorities that can be linked to the administration of justice. There is also a sub-plan for renovating structures, system security, electronic signature, video-conferencing for cases involving minors and e-services. In view of the current state of development, implementation should take around three years.

Web sites:

Ministry of Justice <http://www.moj.gov.jo>

In Lebanon there is a specialised government office. There is a steering plan to give all the courts with information system material in order to include all records and files in the system. The first phase of this plan concerns three major courts that account for 60% of court activity. The main features are total automation of records and files in use as well as archives and the installation of an intranet network exclusively for judges and court staff. A call for tender had been opened to equip the courts with the necessary data processing material as well as the software used in agreement with the EU, the budget for which is 10 million euros. It is estimated that implementation will be slow because in many cases they will have to review their needs.

Web sites :

Ministry of Justice <http://www.justice.gov.lb>

Council of State www.statecouncil.gov.lb

Site of the Legal Information System Research Centre at the Lebanese

University www.legallaw.ul.edu.lb

Morocco introduced an information system to its courts in the nineties. General Management of Modernisation and Studies is the body responsible for installing ICT in the courts. In the case of Morocco, there is a 2012-2016 plan, the main features of

which are the improvement of processing applications, legal training, judicial assistance, improvement of infrastructure, quality of information system service, changes to introduce the electronic signature in the civil courts, administrative and court management, security and management of files and maintenance of information system use.

Web sites :

Ministry of Justice www.justice.gov.ma

Court of Casablanca www.tscasablanca.ma

In the case of Palestine special stress is laid on ICT in the National Strategy for Justice, which includes a range of strategic objectives the most important of which is the creation of information system departments in the court system and the Ministry of Justice. The National Justice and Rule of Law Strategy (2011-2013) was prepared with the cooperation of three key stakeholders (Ministry of Justice, the High Judicial Council and the Office of the Attorney General). Each of these stakeholders considers the stages required to enable the strategy for implementing the new technologies, and according to their respective competences. The budget ear-marked to implement this strategy is allocated under the general State budget, which is approved by the Council of Ministers. However, implementation usually depends on external support from donors.

There is an e-government programme conducted by the Ministry of Telecommunications and the Information Technologies in collaboration with Estonia, with a view to adopting aspects applicable to the Estonian e-government model and applying it in the Palestinian context.

Web sites :

Ministry of Justice : www.moj.pna.ps

The computerisation of the judicial system in Tunisia began in 1985. All the courts (court of cassation, court of appeal, real-estate court, court of first instance and cantonal courts] are all interconnected through a RF network, except some of the cantonal courts, and use two main applications (civil and criminal), as well as the trade & companies register at the first-instance court and a real-estate application at the real-estate court.

Tunisia does not have a strategic plan for a road map for modernising the judicial system for a three-year period (2012-2014). However, the Ministry of Justice has initiated several actions with sponsors (EY, UNDP, etc.).

A justice portal including several elements such as on-line services, the library, case law and online training has been set up, in order to reinforce the use of electronic means in the courts' activities, by reducing manual tasks.

They think the strategic plan should be prepared jointly with the Ministry of Justice and technical specialists.

Web sites:

Justice web site <http://www.e-justice.tn>

High Judicial Council <http://www.ism-justice.nat.tn>

Almost all delegations underscored the use of having a strategic plan for incorporating ICT in the courts. One aspect that was particularly evident from the discussions was the need for the strategic plan to be open to society, so that the services provided by Administration of Justice to the public are identifiable.

Discussions continued on the practicality of having management centralised in the Ministry of Justice that would indicate the major guidelines. We discussed this issue convinced that centralised management is an example of best practice.

The expert and the team responsible for implementing the project introduced the subject by raising a number of questions*. Below is the situation as described by the different delegations.

Algeria said it had a general management department for modernisation. This department includes mainly magistrates and specialist technicians, so that this structure can handle modernisation projects in the two phases for study and implementation. This

* Who is responsible for introducing the new technologies in the field of justice (Ministry of Justice, Supreme Court, Council of Judicial Authority)? Who is responsible for executing the plan? Is there a specific service or department dedicated to the use of the new technologies in the Ministry of Justice, the Council of Judicial Authority or the Supreme Court?

general management is sub-divided between the courts and information services that depend on the general prosecutors, and both are responsible for executing the information system plan. A central piloting committee is set up to prepare the implementation of programmes.

Egypt said that the Ministry of Justice is responsible for introducing the new technologies with a judicial information centre that is structured as an information technology sector and that has around 100 technicians.

Israel reports that each justice agency has its own information system department. The courts are an autonomous authority and do not come under the surveillance of the Ministry of Justice. They have their own information system department and their own budget. The national Bar Association, the offices of the public prosecutor's office and legal aid come under the Ministry of Justice. The government is responsible for implementing the information systems plan. Some hundred ICT specialists are employed in the different justice information systems departments.

Jordan reported that the Ministry of Justice is responsible for introducing the new technologies through a general management department that has a staff of 100 between the central service and decentralised services. Each court has an information systems department. There is an information systems office that comes under the Ministry of Justice. This office has several sub-departments (technical security, information system and call centre – helpdesk. There are software specialists.

Lebanon reported that the Information Systems Office of the Ministry of Justice is responsible for providing the information system for all the Lebanese courts. A judge supervises this office. At the same time, work has been done in certain courts to introduce ICT. A judge supervises the office, which has information systems specialist technicians and 20 auxiliaries. The Lebanese representatives made special mention of the fact that, despite the specialist office in the Ministry of Justice, a personal effort is made by many judges to give their courts the necessary resources to make up for the State's lack of investment in resources.

Morocco indicated that the Ministry of Justice, through the Department for Modernisation and Studies, regulates the information systems in the district courts and the court of cassation. Personnel include engineers, magistrates and secretaries.

In Palestine, each of the main stakeholders in justice, that is the Ministry of Justice, the High Judicial Council and the Office of the Attorney General, has implemented a general department for ICT that acts as a link between the different departments with each institution. Each general department is responsible for developing plans addressing technology. It is interesting to note that there are no legal provisions limiting the use of modern technologies in any justice institution.

Tunisia has a General IT Department (GID), whose main objective is to introduce information and communication technologies and reduce the number of executives employed supervising the criminal, civil and real-estate systems. The people working at the GID of the Ministry of Justice are engineers, analysts and technicians in ICT and at each court there is a computer technician. There is also the e-justice unit tasked with the Ministry's website.

There is also a steering committee within the Ministry of Justice, which is tasked with introducing the new technologies. This steering committee is made up of administrative executives and judges. There is also a prison information service composed of IT specialists, analysts and engineers.

All delegations, apart from the special case of Israel, have chosen to maintain a centralised organisational structure, managed by the Ministry of Justice through specialist offices or departments.

The work group then went on to discuss best practice in having a specific budgetary line to provide the courts with the means required for information systems to develop. This budget would also cover the main aspects from acquiring materials to training. The project team introduced the subject by raising a question.*

* Is there a centralised budget or a specific budgetary line?

Algeria said that there was a centralised budget, part of which was allocated to modernisation projects.

Egypt does not have a specific budget although there are administrative services dedicated to this subject.

Israel said that each information system department had its own framework budget.

In Jordan, the Ministry of Justice controls the budget, containing all the details on developing justice, including the wider use of ICT to ensure development.

Lebanon said that there was a single centralised budget of 10 million euros fully funded by the European Union.

Morocco said that there was the centralised budget of the Ministry of Justice, of around 23 million dirhams for 2012 and renewable credit.

In Tunisia there are three funds, the first being an annual budget supplied by the State as an investment and an operation, part of which is intended to modernise the courts. The other is the contribution from the EU and UNDP.

Almost all the members of the work group expressed the importance for the authority or body responsible for implementing an information system plan to have a specific budget. Israel, because of the budgetary autonomy that the courts enjoy, is the only case distanced from the suggested model. However, the delegations emphasised that the duration of the strategic plan is an important aspect to be associated with this budget.

Comments

From what was said by the delegates in the work group, it is clear that situations differ in comparing the extent to which ICT is used in the field of justice. Each country has its own characteristics, which leads us to reflect on the way to prepare a strategic plan for information system implementation. In this sense, caution must be used in analysing

and comparing with other models, such as European models, because although providing rules for the beneficiary countries, that cannot always be transposed in their entirety to the reality of these countries.

Furthermore, the strategic plan for implementing ICT should be included within the framework of the global policy for e-administration prepared by the State, making justice a public service available to the public. By way of information, there is the Multi-annual Action Plan 2009-2013 on European e-Justice² related to the European Action Plan 2011-2015 for on-line administration «Using ICT to promote an administration that is intelligent, sustainable and innovative»³.

The scenario currently observed in most of the beneficiary countries is one in which relatively modest attempts to implement information systems in their courts have been centralised. In most cases, within the structure of the Ministry of Justice there is a department responsible for preparing the guidelines for an information system plan. Having a centralised strategic plan does not necessarily imply inflexibility in implementation, but the choice between centralised or decentralised management will depend essentially on the administrative and judicial structure of the country concerned. What is important is to guarantee in all cases a service that is both adequate and efficient. During the process of introducing an information system, certain circumstances may arise that will lead to altering the planning established initially. The plan should contain adaptation mechanisms that take into account unforeseen circumstances. This may entail a delay in integrating the information system tool in the courts, and lead to the negative consequences of the different user groups becoming frustrated. Having a multidisciplinary team of experts to steer the plan, seen as an example of best practice, can be an important element in adapting the plan to deal with unexpected events or aspects that must be changed. In fact, it is easier for the experts, who witness daily reality and who are in contact with the courts, to detect defects in the initial strategy.

Having a specific, centralised budgetary line for ICT is a prior condition for managing public resources adapted to the needs of the courts. In this regard, administration must guarantee this support in resources, installations and equipment, if the aim is to guarantee that justice functions correctly in line with international standards⁴. Access to

justice through the use of ICT requires a considerable funding effort (Art. 15 Opinion n°14 (2011) of the CCJE) ⁵. This budget must take into account the different steps or stages required to implement the information system in each country. It is important to establish investment percentages that are adequate for the estimated cost of the information system material required at the different stages of ICT implementation, as well as initial and on-going training plans.

It would be practical to have the process of introducing ICT in the courts accompanied by the continued assistance of teams of experts in order to make more improvements and bring the information system into use. The reference here is not only to optimise the technical aspects of the system, but also a number of other pertinent aspects. Within this context, we can include: improving the administration of justice, facilitating the access of litigants to the courts, impartiality, independence of the judge, a fair trial and a reasonable timeframe for proceedings. It is important for the representatives of the different user groups to participate in these committees of experts.

Furthermore, the role of the private sector is important in introducing ICT to the courts. Companies and institutions in the private sector have resources and experience from which the public sector could no doubt benefit. To this end, there is an interest in establishing collaboration agreements leading to management of services, maintenance of the system, participation in training plans, etc. The intervention of the private sector should guarantee secrecy and confidentiality in its work, in view of the special nature of the information contained in judicial data.

B. Extent to which ICT is used

Verifying use

- 7. Set up mechanisms to verify use that will help detect the characteristics and needs of each court in terms of ICT. A study group in each court is recommended.**

Encouraging use

- 8. Encourage use in order to improve the aspects of the information system that have an influence on the work of court staff.**

Access parameters based on the user

- 9. Promote access according to the needs of the operator, bearing in mind the opportunity to establish uniform access depending on the unit to which the user is assigned.**

Level of use

- 10. The installation of information system modules providing information on the level of use is recommended in the tribunal or court. Whatever the case, access to this information will be restricted to whoever is responsible for court employees, in consultation with technical staff.**

Gradual introduction policy

- 11. In cases where the installation of ICT is still in the early stages, imposing a gradual introduction policy is recommended, particularly in court activities that do not involve decision-making.**

Summary of discussions

The following point, discussed by the work group, is the extent to which ICT are used and the factors that could lead to optimum use. The project team introduced the subject

by raising a number of questions.* This point was discussed because court staff members will certainly be able to indicate the success rate of introducing ICT. Without a minimum degree of use of information systems, it will be impossible to obtain the yield that ICT offer, whatever the working environment.

In Algeria, each user (magistrate, clerk of court or court official) accesses the information system through a PC connected to the system. All magistrates have a professional mailbox *mjustice.dz*. Magistrates also access an intranet site to communicate among themselves.

Furthermore, all magistrates have been given lap-tops for preparing their files.

Case law is accessible through a site dedicated to the law available to all Internet users including justice personnel.

The intranet network for justice is a private network separated from the Internet network for reasons of security. However, in all courts, an Internet space has been created in the library open to all personnel working in justice.

As part of the framework for integrating ICT in the courts, all personnel have been given initial training in the use of the information system.

In the case of Egypt there is regular use of ICT to handle proceedings, mainly in the civil court. The judge does not have a laptop or an office computer, nor does he have access to judicial databases. The Ministry of Justice wants judges to have Internet access and to receive financial support to pay the subscription to specialist legal Internet sites. The Ministry of Justice is also working to equip all court staff with a computer. The judge is not held to drafting documents electronically. In December 2012, an agreement was concluded with the Ministry of Communication for the technical support

* Is there a maximum or regular use of ICT for managing proceedings? If there is, in which court is ICT most used? Is a lap-top made available to the judge? Does the judge have access to legal data bases when they exist? Does the judge benefit from the same services in his home? Does he receive financial assistance to pay the subscription to specialised legal Internet sites ? Is an office computer made available to the judge? Does the judge have Internet access? Do other members of the courts and personnel have access to a computer? Does the judge draft documents electronically? Is he obliged to do this? Do judges and other staff members have an official e-mail? Can they communicate with other judges and members of staff via this account, or is it only an in-coming account?

required to implement the e-Court. An Internet services site is being developed for judges, lawyers and professionals as a whole, through which the information services concerning the courts can be accessed and the electronic signature applied. The services of the Ministry of Justice are fully integrated in the information system. Integrating a real estate registry into the information system is another project. The Egyptian delegation said that there are limitations due to budgetary and technical problems. The judicial information centre administers and manages tasks according to the level and type of the case.

Israel noted that all the bodies involved in justice are fully equipped with information systems and the use of ICT is common. Each judge can choose between a lap-top or an office desktop computer for personal use. The judge has access to the Internet and to legal databases, and benefits from the same services at his home. *The Courts Management* provides subscriptions to all court staff so that they can access specialist legal Internet sites. All judicial and administrative heads of staff have personal computers connected to the court network, including Internet connection. All documents are dealt with electronically. Interactive communication is fully available.

Jordan reported that there is major use of ICT to manage proceedings and that there is no difference in use among the courts. A lap-top is made available to the judge. The latter cannot access the databases of his court but he can access general databases, which are public. The Ministry of Justice pays for judges to access legal specialist databases and legal databases. Other members of the courts and staff have a computer when this proves to be necessary. The judge must draft documents electronically. There are 1500 official accounts in total for court staff. Judges have access via the information system to all cases that concern them. The programme used aims to supply judges and researchers with all case law concerning the Judicial Council. There is collaboration with the private sector for staff training, and special attention is given to the aspect of confidentiality in the transmission of intelligence. The Judicial Council has created a forum for judges, and this is currently under construction.

Lebanon reported that the use of ICT is currently limited to trade registries. A plan to upload records is currently being implemented. One small claims court has already put its records on the system and has an Internet blog. In this same court, files are still in paper form. The benefit fund for judges has already obtained a price reduction from a

services company for judges who wish to purchase a lap-top. The judge has no office desktop computer. Judges have free access to the on-line library of the Ministry of Justice that has several Lebanese and French case law databases. Two of the Lebanese judicial databases belong to the private sector. The judge can benefit from access to two legal databases from his home if he has a personal subscription for an Internet service. He receives no funding to pay for a subscription to specialist legal Internet sites. The judge has no Internet access from his office. However, several judges personally pay for Internet access from their home. Other members of the courts and staff have no access to a computer. The judge is not held to drafting documents electronically. The judges and employees of the Ministry of Justice can benefit from an official e-mail account but it is an in-coming account only.

Morocco reported that their procedures are managed to a great extent by using ICT, but mainly in the Supreme Court, the trade and administrative courts and the district courts. An office desktop computer is available to the judge as well as a lap-top on the condition that judgments are drafted using it. The judge has access to public legal databases. However, he has to pay for access to private bases. He receives no financial support to pay for subscription to specialist legal Internet sites. In most cases the judge has Internet access. However, the other members of the courts and staff have no access to a computer. If the judge has access, he must then draft his judgments using the computer. Only judges have an official e-mail account and they can communicate using this e-mail account with other judges and staff members.

Tunisia said that there is an average use of the ICT and it is the courts and the CFIs and, in particular, the Court of cassation that use them most with the other courts which use two main applications (civil and criminal), the Trade and Companies register at the courts of first instance and the real-estate application at the real-estate courts. The GID is in the process of providing email accounts for all judges and Internet access to all court clerks and judges. In Tunisia, all the courts are connected with each other except some of the cantonal courts and they are equipped with 5000 units and several hundreds of people having email. Each court has an IT system connected to a local data base and which is supplied with computer equipment: computers, printers and Internet connections.

Each judge occupying an office is provided with a desktop computer. The judge is also supplied with a laptop (1,500 laptops made available to judges for internet access), writing judgements and sending and receiving messages with access to legal data bases such as Dalloz, although no financial aid is provided for paying subscriptions to specialised legal websites). Only court presidents, judges at research centres and administrative judges have access to the Internet. The other court judges and staff have access to a computer. Some judges draft documents electronically but they are not bound to do so.

Almost all delegations underscored the pertinence of demanding a minimum level of competence in the use of ICT. The work group thinks that too high a level should not be demanded at the start, but that skills in ICT for public services should be acquired gradually. It was also suggested that the introduction of ICT should be adapted to the characteristics and needs of the different user groups. Furthermore, the work group thinks that a minimum amount of equipment needs to be established and an infrastructure adapted to user needs.

Comments

We believe that the authorities should do a follow-up into the extent to which information systems tools are used. To this end, we recommend that the information systems used in the courts should have modules that analyse the level of user participation. Users should not view these modules as coercive. On the contrary, these utilities could be a valuable element in introducing the necessary changes in information system applications, so that users can make even more use of these information tools in their daily work. In no case whatsoever should the level of control over the use of information systems affect the independence of the judge.

Furthermore, we should not forget that one of the advantages of introducing ICT to the courts is to study data and information provided by those using the information system. The judicial authorities have on hand pertinent information the study of which will lead to drawing conclusions on how the administration of justice functions. As a result, if the quality of the data and information in the system is good, the analysis referred to

above will be all the more precise. To achieve this objective, the good use of information system tools is to be encouraged among users.

Although the work group did not fully agree on this matter, we feel that certain obligatory mechanisms could be established for the use of information systems tools. We think that the personal element in running the courts is fundamental but it would be neither fair nor advisable to leave the use of system tools up to the free choice of each user. However, this does not mean that personal effort or user initiative should be ignored. By way of conclusion, we suggest that it is not a question of obliging, but rather of encouraging ⁶.

In this regard, training for users becomes particularly important in order to promote and facilitate the use of ICT. From this point of view, it would be practical, as indicated in best practice n° 17, to ensure that professional training plans involved in the administration of justice contain training modules to guarantee a good initial understanding and the introduction of the tools required for the correct use of ICT. The generation factor has an influence on ICT training and this should be taken into consideration in training plans.

C. Training level in ICT

Skills

- 12. In the announcement of public job offers in the courts, the applicant's knowledge and understanding of ICT should be given preference.**

Initial and on-going training

- 13. Initial and on-going training is one of the pillars for successfully setting up ICT. The initial training given to court staff should be completed by on-going training plans.**

Specialised training

- 14. The increasing complexity of certain court work, in which ICT plays an important role (for example, recording judgments), demands specialised training.**

Training for trainers

- 15. The role of the trainer of trainers will help speed up the training process for court staff and ensure the uniform transfer of knowledge. The recommendation is to encourage the introduction of the trainer of trainers in the midst of court staff, monitoring staff characteristics and needs.**

Incentives

- 16. Training in ICT should be considered an important added value in preparing court staff. To this end, best practice would consist of creating incentives to « compensate » the work of the user.**

Training judges

- 17. Technical training for the judge should be completed by an apprenticeship in ICT adapted to the work he is called upon to do in his job. ICT should be seen as a training factor in the work programme of the Judiciary College.**

e-Learning

- 18. On-line training and remote learning (e-Learning) provide flexibility and continuity in training users. It would be practical in the training plan to design e-Learning modules.**

Technical assistance

- 19. Access to technical assistance helps clear up doubts regarding the use of modules for the information system and resolves technical problems.**

Virtual forums

- 20. Communication in forums and networks helps exchange ideas and brings in new understanding.**

Summary of discussions

There was a lively discussion on the question of training. On the whole, the thought is that training is an essential basis for the successful introduction of ICT to the courts. Following the methodology designed for the work group, the subject was introduced by raising a number of questions.*

Algeria said that in almost all cases, particularly in court administration, a diploma in elementary information system use is demanded on applying for a job. There are regular training courses for staff, initial training for trainee magistrates and on-going training cycles on information systems for practising magistrates. The average level of knowledge in the new technologies for judges, prosecutors, clerks of court and staff varies, and some magistrates even have an engineering diploma in information systems. Skills are fairly good among clerks and other staff members.

In Egypt there is no need to give accreditation for information system knowledge or to pass tests to gain access to public service employment. The Ministry of Justice offers a supplementary salary to all salaried employees who can prove their skills or knowledge

*Should information system skills be accredited or tests passed successfully to gain access to public employment? Are there regular training courses for staff members? Do judges require specific training to be able to use the new technologies? What is the average level of understanding of judges, prosecutors, clerks of court and court staff of the new technologies?

of information systems. There are regular training courses for members of staff. There is no specific training for judges. Judges, prosecutors, clerks and staff have, on average, insufficient knowledge of the new technologies, but generally those among them who are younger have a good understanding of systems.

Israel explained that to gain access to public service employment there was no need to prove skills in information systems, but this was usually part of basic training and university studies. There is regular training for staff members and those who want to improve their skills and understanding can attend courses. Judges benefit from specific training in information system technology. There has been a considerable increase in the use of the new technologies over the past decade, which means that now the level of understanding is high.

Jordan said that accreditation in information system knowledge was a requirement for gaining access to the public sector, but most court staff had received prior training in information systems. There is regular training for staff, and judges have specific training targeted for them. For example, handbooks have been prepared on the subject of hearing minors. On the whole, court staff members have sufficient knowledge but they can attend refresher seminars.

Lebanon said that some information system knowledge was required to gain access to public service employment. Information systems are covered in the entry competition for the job of clerk of court. There are regular training courses for staff members. Judges do not need specific training to use the new technologies because most magistrates have a good command of the new technologies.

Morocco said that there was no need to accredit knowledge of information systems or to pass tests to gain access to public service employment. There are regular training courses for staff, in collaboration with the vocational training institute. There is ongoing, specific training for judges. On the whole, the average level of understanding of the new technologies is good for judges, prosecutors, clerks and staff.

Tunisia said that there was no need to give accreditation in information system knowledge or to past tests to gain access to public service employment. Since 2008, there has been regular one-off training for civil servants and a specific training for

judges if they require it. The level of knowledge of the new technologies among judges, court clerks and staff is average. IT has also been integrated into training for judges at the *Institut Supérieur de Magistrature* (Higher Institute of the Judiciary) and forms part of the continuous education of court clerks.

All delegations stressed the need for Administration to make the necessary investment in training so that information systems can be used to the desirable level. Almost all members of the work group also stressed the need to pay particular attention to training judges, in view of the importance of their work. Consequently, stress is laid on the importance the Judiciary Colleges have in the process of training judges and the fact that ICT must be part of the syllabus in their academic courses and activities. The work group thought that training should be on-going in view of the diversity of information systems modules and their constant evolution. It is only thanks to on-going training that the use of information systems can be optimised. (Art. 38 Opinion n° 14 (2011) of the CCJE).⁷

Comments

All importance must be accorded to the training process and to providing it with the required budget, always adapting it to the reality of each country. A strategy to implement ICT that does not dedicate a large part to training is doomed to failure, particularly in the introductory stages. There is little point in having the means and equipment if training has not been provided beforehand. A lack of adequate training causes frustration and indifference in users of ICT, because they cannot see the practical effects of using these technologies in accomplishing their work. A good number of beneficiary countries demand knowledge of ICT to gain access to public service employment. Besides, it is advisable to give preference to accreditation in information system knowledge, without however reducing equality of opportunity. Training plans should adapt to the profile of users and to the accomplishment of their work in the courts. To this end, specialised training courses should be scheduled that cover the specific needs of user groups.

Learning programmes should be designed that contain on-line training as well as e-Learning modules providing interaction with the learner.

The importance of training procedures and their continuity over time make it practical to create the role of « trainer of trainers ». This role is a key item for training, because it unifies teaching criteria and content. Also, recruiting a group of trainers from within the different user groups is to be encouraged (judges, clerks of court, office staff, etc.), because like this they can share the experience and problems faced by users. In parallel to the internal training process, that is, staff working in the courts, the public authorities must also promote the use of ICT in the dealings judicial administration has with the public. Here it would be interesting for the court authorities to attend the training programmes in ICT that Administration is preparing for the public.

D. Legal framework for ICT

Legislative review

- 21. The new social scenario brought about by ICT assumes a change in managing the public service that provides justice. This is why legislation referring to the judiciary requires an up-date to include ICT as well. Hence the importance of recognising the efficiency and guarantees of e-communication in the field of justice.**

Obligatory or voluntary nature

- 22. It is essential to up-date the legislative framework in order to implement ICT. Mention should be made in the regulation on substantive and procedural codes of the use of information system tools and means. Initially, a change is recommended to introduce the possibility of using ICT, but without making this use obligatory.**

Coordination

- 23. Specific legislation on ICT in the field of justice should align with general legislation on e-administration, in that it establishes the criteria to be observed by any public service.**

Handling cross-border cases

- 24. Developing policies that encourage an international legal and legislative framework is also advisable; in this way the use of ICT will be more effective in dealing with cross-border matters.**

Equal access

- 25. The definition of the legal and legislative framework for ICT should ensure equal access to justice, because certain population groups do not have the means, or find it impossible, to use ICT in their relations with the courts.**

ICT training for the public

- 26. The legal and legislative framework must take account of the different level of ICT training for the public in order to avoid inequalities in access to justice.**

Publication of information system tools

- 27. The public is often unaware of the means of ICT they could use in their relations with justice. In answer to this, the legal and legislative framework must publicise the use of data processing applications that are available to the public.**

Level of use

- 28. The legal and legislative framework should contribute to establishing mechanisms that measure the extent to which information tools are being used to be able to understand the average level of understanding the public has of ICT.**

Summary of discussions

Part of the working session was dedicated to assessing the impact of the legal and legislative framework in force for the development and definitive use of ICT tools in the provision of justice. No doubt the legislative scenario should be adapted to the new reality of the information society. Justice does not escape this phenomenon and, consequently, must modify the legal and legislative framework while recognising and protecting electronic records and all their components as well as tele-communications. Using the methodology designed for the work group, the subject was introduced by raising questions.*

*What is the legal framework in force regarding the use of new technologies in judicial proceedings? Are the current substantive or procedural codes appropriate for the use of new technologies? Is any reform underway or in the pipeline? Could you explain the existing differences, if any, between the various jurisdictions? Is the use of new technologies possible in cross-border conflicts and in case of request for international cooperation?

In Algeria there is a legal and legislative framework for integrating ICT. In the field of justice, and by way of example, in implementing the national automatic database of court records, a change was made to the Criminal Procedural Code to deal with the remote edition of records. Similarly, for handling civil cases going to appeal, civil and administrative procedural code has undertaken this electronic exchange. In criminal cases, a whole battery of legislation has been introduced for the use of ICT in criminal cases.

Egypt reported that within the legal and legislative framework and in addressing the use of the new technologies in court procedures, legislation is already in place in Egypt that will be developed further in order to complete the system. Certain legislation in force is appropriate for the use of the new technologies. They do have a certain vision or an idea on conducting the necessary reforms within the legal framework and are ready to accept the use of the new technologies in cross-border disputes and in cases where international cooperation is demanded, on the condition of having an adequate system. A law on the e-court, concerning the use of technology in justice, is currently being prepared. This law will make the use of information services and the use of the e-file possible. However, the intention is not to replace the current system, but rather to have the two systems run in parallel for a time.

Israel said that laws concerning legal procedures have been adapted to the use of technologies. Examples are the electronic signature, the privacy protection act, etc. Procedural codes have already been adapted and substantive law is currently being discussed with a view to making the necessary adaptations. Reforms have been partially implemented, but some are still being prepared. There is no on-line interface with other countries, even if basic communication is possible by e-mail (but not for court procedures).

Jordan explained that Article 179 of their criminal procedural code regulates the use of the new technologies in court procedures.

Lebanon explained that there was no legal and legislative framework for the use of the new technologies in court procedures. Substantive and procedural law in force is not yet appropriate for use of the new technologies. There is a draft bill on the electronic

signature and e-evidence. The new technologies cannot be used in cross-border disputes or in a demand for international cooperation.

Morocco pointed out that the legal framework for the use of the new technologies is regulated by civil procedural code. There is a bill addressing the electronic legislation and the electronic signature. Substantive and procedural codes in force are appropriate for the use of the new technologies, particularly when the draft electronic code is applied. Reform of the civil code is planned to address electronic notification and signature. The use of the new technologies is possible in cross-border disputes using e-mail, but this does not apply to legal procedures.

Tunisia replied that the legal framework used is the general framework for civil servants developed by the office of the Prime Minister.

All delegations consider that substantive law and procedure should be up-dated for use with ICT in the courts. Although in some cases certain adaptations have already been introduced or are in the process of being made, most countries have not yet fully reformed their legal framework.

Comments

The social reality brought about by the new technologies demands that Administration prepare a legislative framework that will help adapt the work of the courts to this new reality. Progress in developing the use of the new technologies requires an on-going effort to be made by the legislator to provide constant legislative backing for the use of these tools. To this end, a multi-disciplinary approach is recommended in which all professionals involved in justice may be heard.

The use of information system tools should take account of the technical training level of personnel. As the factors referred to above gradually develop, greater use of ICT by the courts can be demanded. However, specific regulation of ICT used in justice should globally be in line with the electronic administration implemented in each country.

Twenty first century society is in a state of constant change. Current demographic migration causes the number of cross-border disputes to rise. This requires special treatment in the use of ICT in that it must be considered an essential means in facilitating and accelerating the handling and settlement of these disputes, as well as international cooperation, on condition that national and international standards authorise this. By way of example, many tools already exist in the European framework, such as the forms used in cross-border matters and that are derived from the following instruments: Regulation (EC) n° 1896/2006 of the European Parliament and Council of 12 December 2006 creating a European order for payment procedure, Regulation (EC) n° 861/2007 of the European Parliament and Council of 11 July 2007 establishing a European small claims procedure. Documentation on this can be found on the European Union website ⁸. Besides this, there are other instruments, among them E-CODEX ⁹ or ECRIS (European Criminal Records Information System) ¹⁰

E. Access by the public

Electronic access policy

- 29. Administration should provide electronic access by adopting policies that help the public interact with the courts. Administration and court sites should make for easy, adapted access for both information seekers and for on-line operations.**

Catalogue of services

- 30. A catalogue of services provided by the information system must be made available to the public, indicating those responsible for running services and implementation.**

Information points

- 31. In the buildings or judiciary centres computers must be installed for public use that will provide general or specific information on procedures. Apart from this, modules should also be installed that notify the public of the date and time of hearings.**

On-line legal guidance

- 32. It would also be practical to design an on-line judicial guidance module to provide general information.**

On-line measures

- 33. The number of procedures that professionals and the public can conduct on-line should also be increased. On-line procedures speed up the whole process and, to a certain extent, smooth the way in which the public is dealt with. Here priority is given to implementing an e-mail notification system.**

Consultation of case law databases

- 34. As the cultural level of the public rises, the frequency with which databases on jurisprudence are consulted increases. This is why access should be provided that protects personal data.**

Communication with the courts

- 35. Once a member of the public or a professional has opted to use on-line means to communicate with the courts, these means cannot be relinquished, except in the case of errors in the information system.**

Summary of discussions

Part of the discussion was dedicated to discussing ideas on public access to services provided by justice administration thanks to the use of ICT. Using the methodology designed for the work group, the subject was introduced by raising questions.* Strongly convinced of the need to provide and increase public access to these services, the delegations described the following in referring to the situation in their own countries.

Algeria said that there was an electronic desk available in all courts open to the public, lawyers and vulnerable persons through spaces dedicated to each category. Connected electronically to all court services, the desk allows the public to:

Obtain information, in real time, on the progress of their case;

Register petitions;

Request and/or extract all practical items: judgments/decisions, court records, nationality, driving license, etc., in record time;

Register cases going to appeal remotely;

Consult files registered with the Supreme Court.

Egypt said that information can be requested from the courts or the Ministry of Justice and that written documents can be submitted directly. The public can follow the stages and the state of proceedings concerning them, but they cannot get information on the law in force or of any amendments to the same. The public cannot yet be informed of possible approaches to justice, and how to gain access to them, nor can it receive

*Can they request information from the courts or the Ministry of Justice? Can they submit written documents directly? Can they follow the stage and situation of proceedings concerning them? Can they get information on the law in force and amendments? Can they be informed on how to approach justice and gain access to it? Can they receive notifications with legal merit via an e-mail address? Can they apply for certificates or other similar documents on line? Do they have access to the case law of the courts? If yes, is this access easy, complete and free via Internet?

notifications having any legal merit by e-mail. The public can apply for certificates on-line and there is free public access to the case law of the courts on the Internet.

Israel reported that the public could ask for information from the courts or the Ministry of Justice due to the Freedom of Information Act. The public can submit written documents directly, follow the stages and the state of the proceedings concerning them, get information on the law in force and any amendments, as well as information on possible approaches to justice and access to it, receive notifications of legal merit via their e-mail address and ask for similar certificates on-line. There is public access to the case law of the courts if whoever is seeking access is party to the case concerned. University researchers may access files for specific research work projects. Any person may gain access to the public files of the courts.

Jordan explained that the public can ask for information via the website of the Ministry of Justice or the Council of the Judiciary. Written documents cannot be submitted directly, but the public can follow the stages and state of proceedings concerning them. Public access to information on the law in force and any amendments is available via the website of the Office of the Judicial Council. The public cannot be informed on possible approaches to justice and on gaining access to justice, nor can it receive notifications of any legal merit by e-mail. There is a specific service for requesting certificates on-line. The public has free Internet access to the case law of the courts.

Lebanon reported that there is public access to certain practical information via the website of the Ministry of Justice, but there is no on-line helpdesk to help answer questions on procedure. Written documents cannot be submitted directly. The public can follow the stages and the state of the proceedings concerning them through the clerk of court. However, litigants and lawyers have access to certain information concerning their own cases in a single small court. The public cannot gain access to information on the law in force and to amendments, but they can get information on possible approaches to justice, on the submission to court inspection, as well as on the competencies of the Council of State. Notifications of any legal merit cannot yet be received by e-mail. Certificates and other similar documents cannot be requested on-line. Access to a vast case law database is possible through the site of the Lebanese university, but this access is very limited and, although free of charge, access requires a user name and password. Access to all the case law of the Council of State is via its

website, and the case law of the Plenary Assembly of the Supreme Court is via the site of the Ministry of Justice.

Morocco reported that its citizens can ask for information via an electronic desk at the court or via the website of the Ministry of Justice or the Supreme Court. Written documents cannot be submitted directly, with the exception of documents addressed to the Ministry of Justice and the Supreme Court. The public can follow the stages and state of proceedings concerning them in the Supreme Court via an electronic desk and by Internet (by using the case number and the name of the presiding magistrate). The public can gain access to the law in force and to amendments introduced via the site of the Ministry of Justice and the site of the General Secretariat for Home Affairs. There is information available on possible approaches to justice on the site of the Ministry of Justice or the site of the Supreme Court, which is the most up to date. Notifications of any legal merit cannot be received via a citizen's e-mail address and certificates cannot be requested on-line. There is access to the case law of the courts, via the website of the Ministry of Justice or the Supreme Court. There is also a private Internet site that can be accessed against payment.

Palestine reported that the public use of technology is still limited. Currently, the public cannot file a petition on-line nor can it receive an opinion or notification on the Internet sites or via e-mail from the Ministry of Justice or from the High Judicial Council. Applications on paper support are still the standard practice. However, efforts are being made currently to make certain limited public services available to the public on-line. To this end, the work of the Public Services Department has been reinforced with the creation of an Information Department. The two departments work to give the public access to judicial information that introduces a form of protection for public rights and fundamental freedom, in this way making the public aware of the importance of the administration of justice. However, the Ministry of Justice or the High Judicial Council have made access available via the Internet. This site provides all general information and statistics. Besides that, the Ministry can be contacted via the site of the Information Centre of the Ministry of Justice.

Tunisia reported that the public can request information from the courts or from the Ministry of Justice, and it can submit written documents directly. The public can follow the stages and state of proceedings concerning them and get information on the law in

force and amendments introduced via the site of the Ministry of Justice. There are some specific e-mail addresses through which the public can get information on possible approaches to access to justice. Notification of legal merit cannot be received via an e-mail address. The public has Internet access to the case law of the Supreme Court, but this access is only partially free of charge.

A variety of situations can be detected from the presentations made by each delegation of the work group. Although in most countries the public can consult proceedings relating to them, all countries have not yet implemented global, complete measures on-line for the public to interact with the courts.

Comments

Administration should encourage approaches that allow the public to contact the courts by using information system tools. To this end, a catalogue of services should be drawn up to inform the public of the steps they can take electronically ¹¹.

The use of electronic access has proved to be an extremely useful tool in giving the public electronic access to justice. By way of example, there is the Latin-American electronic justice site (Ibero-American E-Justice Site)¹² or the European site (e-Justice) already a reference. In the ENPI South countries, the level of development and the content of these sites vary considerably. In the work group discussions participants were sensitive to this point, which does ensure there is a concern for improving the situation.

From the technical and functional point of view the main problem lies in the commitment to provide the human and economic resources required to guarantee the upkeep and maintenance of these sites.

This being practice n° 31, in installing information system information points, the fact that not all members of the public have the skills required to use these technical means should not be overlooked. This is why traditional information points should be maintained in parallel ¹³.

Regarding best practice n° 34, it has not proved easy for many members of the public to consult court databases; this is why easy, user-friendly access should be a concern in designing these databases.

F. Access by professionals

Use of information system tools

- 36. Several groups that could contribute to promoting ICT are involved in the judicial work of the courts. In many cases, these groups are showing a growing interest in the use of IT tools. It would be practical, therefore, if Administration and the judicial authorities were to establish agreements or conventions with these groups to cover and provide the link between professionals and the administration of justice and the use of ICT.**

Professional conduct

- 37. The conduct of professionals in using ICT should respect the organisation determined by administration and adapt to it.**

Professional associations

- 38. Professional associations should contribute towards training their members and encourage the use of ICT.**

Positive attitude

- 39. The professional acting before the court must do this with a positive, collaborative attitude to help make the use of ICT a regular practice within the judiciary.**

Summary of discussions

On this point the work group discussed the need to involve the professionals working in collaboration with the administration of justice in the use of the new technologies.

Using the methodology designed for the work group, the subject was introduced by raising questions.* The presentations made by the delegations are summarised below.

*Can a lawyer or a public prosecutor seize a court on line? Can they submit written documents on line? Can they receive official communications from courts through internet or their e-mail boxes or other similar mechanisms? Do

Algeria reported that prosecutors and others involved in the judicial sector may communicate and interact with the system at all levels (according to their respective prerogatives). An access point to the system installed in the courts (lawyers' offices) is provided for lawyers.

In the case of Egypt, all the answers from the Egyptian delegation to the questions were negative, but it was said that all the questions asked would be examined taking into account the resources and investments available to their country.

Israel reported that lawyers and prosecutors could refer to courts on-line and submit written documents on-line. They could also receive official communications from the courts via Internet or their own e-mails. All access to case law was public for professionals, except in the case of confidential issues (family, minors, etc.). Access was complete and free of charge via the official website of the court and there was also a private commercial database that provided advanced search options (against prior payment). Lawyers, students and the public at large commonly used this access.

Jordan reported that, on the whole, lawyers and prosecutors could submit to a court on line. They could consult the official communications of the court. Professionals had access to the case law of certain decisions of the Supreme Court. This access was free of charge for judges, but not yet for lawyers

Lebanon said that the Lebanese university site provided free access to all with the use of a password. Access to the case law of the plenary assembly of the Supreme Court was complete. The answers from the Lebanese delegation on the other questions raised were negative.

Morocco reported that lawyers and prosecutors could submit to a court on-line via the electronic desk of the court or the website of the Ministry of Justice. Written documents could be submitted on-line via the electronic desk of the court or the website of the

they have access to the courts' case law? If yes, do they have access only to the case law of the Supreme Court or the Constitutional Court? Is such access easy, full and free through internet? Is this possibility usually being used?

Ministry of Justice, but complaints could not be submitted. Lawyers could lodge complaints with the competent services of the Ministry of Justice. They could not receive official communications from the courts via Internet or e-mail. Professionals had access to the case law of the Supreme Court via the site of the Ministry of Justice but only to a selection of the case law of the Supreme Court. The case law of the Supreme Court was only available on paper. The Ministry of Justice had a selection made by a commission in providing the case law of the other courts.

Palestine said that the integrated electronic system used, MIZAN, allows lawyers to follow their cases on-line and access information from their office, without having to be physically present in the court.

Tunisia reported that lawyers and prosecutors could only consult cases on-line, but they could not submit written documents on-line. Access to this is free. They could receive communications, but not officially. They had access to the case law of certain decisions passed by the Supreme Court. This access is free of charge, but professionals did not use it regularly.

In all the countries, with their varying situations, it is clear that an effort is being made to provide professionals working with the administration of justice access to the technological resources they can use in their work.

Comments

The work of professionals should also be involved in the use of the new technologies. To this end, administration should conclude collaboration agreements with professional associations so that these can work with the courts to spread the use of information system tools. In this case, the professional associations play an important role in contributing to the dissemination and use of the new technologies among their members. By way of example, there is the site for e-Justice of the European Bar Association.¹⁴

G. Public information sites

List of services

- 40. A list of services should be defined, a catalogue prepared and conditions of access to these services determined.**

Coordination

- 41. The content of this list must be coordinated.**

Social networks

- 42. The use of social networks to advertise the websites should be handled cautiously and the services provided by these sites must be indicated.**

E-centre

- 43. Purely informative websites should be developed to provide more guarantees and security in content, where on-line procedures can be conducted. This means that sites should evolve towards the concept of e-centre, where information is available and where the user can interact and conduct on-line procedures.**

Summary of discussions

In their dealings with the courts and, as a whole, with the administration of justice, access for the public and professionals to information provided on websites is essential in consolidating the process of giving the courts an information system. Developing these sites towards being electronic centres providing ever wider ranging and interactive services lies at the heart of discussions. Using the methodology designed for the work group, the subject was introduced by raising questions*.The information provided by delegations is summarised below.

*Is there a legal page on the web site of the Ministry of Justice, the Supreme Court or the High Judicial Council? If yes, what are the contents? Is the information provided to the public adequate? What services does this page offer? Is the information provided to the public adequate? How often is it up-dated? What is the consultation rate? Are social networks used for the same purposes as the web site? Besides the web site of the Ministry of Justice, is there a different site for the Supreme Court or the High Judicial Council? Is content coordinated or does each site specialise in a specific theme? Are there other similar sites belonging to other institutions that deal with the same subject

Algeria has a website for the Ministry of Justice and for all courts, the Supreme Court and the Council of State that provides general information. Besides this, there is a site on Algerian law that provides specialised information, concerned more with the case law of the Supreme Court, the Council of State and the main laws: criminal, civil and family law, and the law on Algerian nationality, as well as international conventions ratified by Algeria. A link to the web site of the General Secretariat of the Government facilitates consultation of the whole collection of the official journal of the People's Democratic Republic of Algeria.

Egypt explained that currently it is up-dating a new window on the site of the Ministry of Justice (www.jp.gov.eg (under construction) www.moj.gov.eg (current site)). The content will cover complaints, legal library, court services to the public, information on the Ministry of Justice and the courts. The current site is up-dated daily.

Israel reported that there is a legal window on the Internet site of the Ministry of Justice, Court Management and the Supreme Court. The web site for Parliament also provides information on legislation. These sites are up-dated frequently. The Internet site of all the agencies provides complete information on citizens' rights and the possibilities for taking legal action. There is a tendency to coordinate the content of sites, but that depends on the speciality of the site. There are also the sites of several universities, private law firms, etc.

Jordan reported that there is a Ministry of Justice site and the site of the High Judicial Council. The information provided on these sites concerns procedures. The content of these sites is not specialised and the services provided give general information. The information on sites is up-dated if there are changes to the organisational chart. The rate of consultation is around 60%. The High Judicial Council uses Facebook and makes a forum available to magistrates.

Lebanon said that there was a site for the Ministry of Justice and for the Council of State. These web sites provide general information on court organisation and submission to judicial inspection. They are regularly up-dated. However, they have no statistics on the rate of consultation. Social networks are not used for the same purposes

(universities, NGOs, faculties of law, private legal chambers, etc.) that are useful in your country and that are widely used?

as the web site. The site of the Lebanese University publishes legal texts and decrees in force as well as a very large case law database on the case law of the Supreme Court and the appeal courts.

Morocco explained that there is a site for the Ministry of Justice and for the Supreme Court. One can guess that the consultation rate is high. There is access via the Ministry of Justice web site to a complaints service, to legislation and cooperation and several useful links are given. The Supreme Court web site gives access to case law, the follow-up of cases, meetings and judgments. The sites are regularly up-dated. Social networking is not used. There are also the web sites of the General Secretariat of the Government, the mediation courts, faculties of law, Parliament and to private offices.

Tunisia indicated the existence of a Ministry of Justice portal containing several useful links. This portal offers a bundle of online services (an application for the consultation of criminal, civil and real-estate cases, both at the pleadings and trial stages, reports of hearings from all the courts online, which can be downloaded in RTF format) in order to follow cases, a virtual library (containing almost all the same headings as the portal as well as other headings such as circulars from the ministry, the annual report of the ministry's activities, judicial statistics, the repertory of libraries (court of cassation, ISM, CEJJ), subscription to DALLOZ, access to the Official Journal of the Tunisian Republic), online training, legislation and case law of the court of cassation, including judgements from the court of cassation from 1959 to 2008 available online in Arabic and which can be downloaded in pdf format with an advanced search menu or using a thesaurus. It is updated daily. The consultation rate is acceptable for professionals and minimal for the public. The website is currently undergoing restructuring. Social networks are used only to publish communications and the work of the Ministry of Justice. There are some other sites, besides that of the Ministry of Justice, but they have not yet been published on the Internet. Each site is specialised (Court of Appeal, Supreme Court, prison services and re-education). There is also the Government site and the Official Bulletin.

The development and characteristics of the sites in each country are different and, to a different degree in each, information is scattered over different sites.

Comments

The administration of justice is defined as a public service made available to the public. In this sense, websites must display a catalogue of services accessible to the public. The sites of public administrations are a reference point for the public and, as a consequence of this, a whole range of services must be deployed that are accessible electronically. The current trend in creating websites is to develop towards an e-centre where the public can not only consult, but also interact on-line. Besides this, the role of the social networks, the importance of which never ceases to grow, should not be overlooked. However, if the judicial authorities and the courts choose to use them this will be strictly limited to the professional sector.

During work group discussions some interesting opinions were expressed on the possible use of social networks to advertise the existence of court websites. However, although the use of social networks is recognised in general, it was also stressed that they could only be used with caution to avoid any possible abuse.

H. Protocols

Behaviour standards

- 44. Implementing an information system requires rules and regulations for performance so as to optimise the delivery of the system. Users need to respect the rules in using the information system if they want to get the best possible results.**

Types of protocol

- 45. Defining technical protocols will involve the technical staff in charge of running the system, while performance protocols will involve court staff, professionals and the public.**

Definition

- 46. Protocols will have to be defined that regulate the technical aspects of the system and the appropriate conduct of users.**

Coercive nature

- 47. Control mechanisms are recommended for protocols aimed at users of the system. The grounds for the obligatory nature of these protocols should be the quality of the information of the system and processing of the same.**

Summary of discussions

Part of the discussion analysed the introduction of protocols in the use of information system tools and their level of development in the work of court staff. Using the methodology designed for the work group, the subject was introduced by raising questions*. The information provided by delegations on this point is summarised below.

Algeria reported that the General Directorate for Modernisation had prepared an information systems charter to regulate the use of ICT, particularly technical aspects.

*Are there any protocols to regulate the use and running of ICT in the courts? If yes, what aspects or procedural parts are covered by these protocols? Who is affected by the existence of these protocols?

These protocols cover the following aspects: organisation, network checking, backup and recovery of databases, up-dating and equipment maintenance. These regulations are made available to those responsible for technical devices and heads of court.

Egypt explained that so far there are no protocols to regulate the use and running of ICT in the courts, but in December 2012 an agreement was reached with the Ministry of Telecommunications for technical assistance in this matter.

Israel said that there are protocols on how to submit a document (in PDF format), how to use the electronic signature and how to react if the information system does not work. On the whole, professionals and the public are affected by these protocols.

Jordan said that there are protocols for the use of e-mail, for the Internet and computer protection. These protocols affect all court staff and all professionals.

Lebanon explained that so far there are no protocols to regulate the use and running of ICT in the courts.

Morocco reported that there are no protocols to regulate the use and running of ICT in the courts. According to them, introducing this type of protocol would be coercive.

Tunisia explained that they have only recommendations and rules for the courts. All court staff and all professionals are affected by these recommendations and rules.

Comments

Just as in other sectors where information systems and technological means are used, court staff should have the tools required by information systems and use them according to the rules of conduct previously defined by those responsible for ICT. It is useful to distinguish between the rules of conduct that affect exclusively technical staff and those that affect court staff. Taking account of the level of development of the information system, it is advisable to make rules of conduct obligatory gradually in order to get maximum yield in the use of the information system.

I. Harmonised documents

Harmonisation

- 48. One recommended practice is to harmonise the documents used by the courts, because this promotes uniformity of information extracted from databases, and facilitates the work of personnel.**

Type of document

- 49. It would be practical to define the type of documents for which harmonisation is even more necessary.**

Summary of discussions

The work group discussed the revision of documents used by the courts to create an adequate framework for the information system installation process. Using the methodology designed for the work group, the subject was introduced by raising questions*. The information provided by delegations on this point is summarised below.

Algeria reported that all documents have been harmonized throughout all judicial structures.

Egypt said that it has not yet harmonized the documents used by the courts.

Israel reported that it has a model document in harmonized Word format (for judgments). The user can modify it, but it has a minimum content that cannot be changed. All courts are affected by this harmonization.

Jordan said that all documents in all courts are harmonized.

Lebanon said that there is harmonization in submitting documents, for notification and a certain formality for judgments as well as for Trade Registry documents. Only Trade Registry documents have been harmonized.

*Do the courts use a harmonization system for documents? If yes, which documents are harmonized? In which court are documents harmonized?

Morocco said that all documents from all courts have been harmonized.

Tunisia reported that most documents have been harmonized. All documents dealing with court and administrative affairs have been harmonised, as well as proxies and forms for the public. This harmonization has affected all courts in a similar manner.

Comments

An adequate configuration of data demanded for the different types of document will certainly contribute to greater reliability and precision in using the information contained in the system. The task of harmonising documents used by the courts is also an excellent occasion to make legal language easier for the public to understand by ensuring clear writing, avoiding excessively complicated wording, without however losing the level of formality required for judicial deeds.

J. Electronic signature

Use

- 50. The use of an electronic identity and signature, by the courts, professionals and the public, guarantees reliability and security in telecommunications.**

Security and reliability

- 51. Security and reliability in telecommunications in which an electronic signature is used, requires modules that guarantee the authenticity of the user of e-communication as well as fixing the date and time of dispatch.**

Demand for electronic signature

- 52. For sites that function as e-centres an electronic signature is demanded to perform procedures or make judicial communications.**

Summary of discussions

Reliability of judicial communications is essential in the process of installing an information system in the courts. For this reason, the work group analysed the need to incorporate electronic signature modules. Using the methodology designed for the work group, the subject was introduced by raising questions*. The information provided by delegations on this point is summarised below.

Algeria said that there is a project underway for the electronic signature.

Egypt said that the electronic signature is not yet in use in the courts. There is a recent project dealing with the electronic identity card. The government wants to encourage the public to use the electronic signature and the electronic identity card in dealing with Administration.

*Is an electronic signature used? Is an electronic identity card used? In dealing with the public, is there a public policy for promoting the use of the electronic signature and the identity card for conducting operations with Administration?

Israel explained that the electronic signature is used in the courts to sign documents and to gain access to the information system. They have also introduced an initiative to provide electronic identification for all members of the public, but currently there is a public debate on the subject, particularly on questions of protection of private life.

Jordan reported that the electronic signature and electronic identity card are not used in the courts. Nor is there a public policy to encourage the public to use the electronic signature and electronic identity card in conducting their affairs with Administration.

Lebanon reported that a bill on the electronic signature is in preparation. A law on the electronic identity card was passed in October 2012 but has not yet been applied. So far there is no public policy to promote the use of the electronic signature and the electronic identity card.

Morocco said that the electronic signature was introduced in 2012. Law 0533 amends articles 417-426 of the Civil Code in addressing the protection of personal data. All citizens have had an electronic identification document since 2009.

In Tunisia, there is a project underway for the acquisition of licences for electronic signatures with ANCE (the National Electronic Certification Agency), which will be used to make the transfer of emails, data from the Trade & Companies Register and access to common applications, i.e. national pension funds, secure.

Comments

As the information system gradually acquires a certain stability and the early stages of implementation are over, managing the work of the courts in implementing these electronic measures demands the possibility of using the electronic signature. Consequently, the electronic signature module must be set up in the system so as to be able to verify the author of judicial communications. Besides this, it is essential for the operations made available to the public on sites for users to have an electronic signature, because this guarantees trust in the bilateral communication established with Administration.

However, account must be taken of the different levels of installation and development of technological infrastructure in the ENPI South countries. This factor, associated with the particular situation in each country, determines the actual level of implantation of this type of technology in each country in the region.

A topic that gave rise to some interesting discussion was the need to ensure maximum security levels in the circulation of information via telecommunications. This aspect is a permanent challenge in optimising the guarantee of stability and confidence in information systems. User awareness and involvement is necessary to help maintain the highest security possible in this type of communication.

K. Shared access centre (Network)

Creation

- 53. Networks should be created to provide most information services and applications available to the courts.**

Catalogue of unified services

- 54. Preparing a catalogue of unified services that is part of the network is a recommended practice.**

Summary of discussions

Based on the idea that it seems practical to create a unified access point in areas already covered by an information system characterised by increased access to a range of services made available to the courts. Using the methodology designed for the work group, the subject was introduced by raising questions*. Delegations described the current situation in their respective countries and the information provided is summarised below.

In Algeria the Ministry of Justice has a data centre that can manage all electronic transmissions for the sector and that houses the central data bases, the intranet site, the message facility for the sector as well as the ISP platform. This centre gives the Ministry of Justice autonomy, control and flexibility in managing its own means of communication.

Egypt reported that there is a plan for a network of services in which the courts can find the information required for managing procedures, but that this network is not yet active. The Judicial Information Centre is responsible for ensuring that this network of services is maintained.

Israel explained that because of the judicial system used in this country, the judge may not gain access to supplementary information apart from that provided by the parties.

*Is there a network of services in which the courts can find information required to manage procedures? If yes, can you establish a catalogue of services provided to the courts? Are these data bases, information systems? Who is responsible for maintaining this network of services?

This information, as well as reports of precedent cases, has all been completely processed, but this does not mean it is automatically available to the judges. The police hold these reports and only authorised authorities can have access to them (by law).

Jordan explained that there is a network of services, which is a local intranet where all information required for managing proceedings is available. The network contains information systems and databases. The information system service of the Ministry of Justice is responsible for ensuring the maintenance of the services network.

Lebanon replied negatively to all questions raised on this issue.

Morocco said that there is a network of services on the web site of the Ministry of Justice, the Supreme Court and the General Secretariat of the Government. There are statistics, modernisation studies and databases. Administration is responsible for ensuring the maintenance of the services network.

Tunisia replied that it has a data centre at the level of the Ministry's site, which hosts some centralised applications such as the Trade & Companies register and the website which includes several centralised services.

Comments

Whenever the content of the information system increases, mainly because of the rise in the number of applications and information systems available to the courts, it is advisable to define shared access points because this facilitates information research and optimises system performance. This centralised access should take into consideration user profiles based on their allocation to the different units in the organisational outlay of the courts.

L. E-file

Numbering files

- 55. One final objective should be numbering files and arranging them correctly for uploading on ICT. Gradually achieving paperless judicial files will help professionals and the public interact with the courts on a more flexible and rational basis.**

Paper support

- 56. Planning must be defined that will gradually replace paper in procedures, while at the same time numbering files.**

Access levels

- 57. Different levels of access and operations or functions must be determined for the user, depending on the user profile. Different levels of service and consultation can also be defined.**

Control mechanisms

- 58. The information system should determine the control mechanisms that ensure access to the file according to user profile or to the unit to which the user belongs. In all cases, the system should be able to retain all signs of non-authorised access.**

Cost of paperless procedures

- 59. An estimate should be made of the cost of paperless procedures and the implementation of e-files. This estimate takes into account the number of cases processed and should plan for any possible growth in the number of cases according to tribunal or court.**

Summary of discussions

The work group discussed file numbering which is an essential element in implementing ICT in the courts. Paperless processes are a problem that appears in the early stages of

running the information system. Using the methodology designed for the work group, the subject was introduced by raising questions*.The information provided by delegations on this point is summarised below.

In Algeria the electronic file is only used for measures conducted by the courts, but not for those conducted by the parties (with the exception of the police). There is still a partial coexistence with the paper version of the file, but the plan is to gradually replace paper records. 80% of files are already numbered. There is a complete back up of files and the plan is to file them in PDF format using the AFNOR NFZ 42 013 standard, a French standard that has just been adopted as an international standard. Files can be identified by indexing (surname, first name, date of judgment and case number).

Egypt said that electronic files are used in the courts. There is still coexistence with the paper version of the file, but the plan is to replace paper versions of records.

Israel reported that electronic files are used in the courts, but currently, there are still paper versions of files alongside electronic files. In the next few years the plan is to transfer all proceedings to electronic files. Cases are scanned and numbered. Files are archived on dedicated storage servers. They are classified to ensure the effective and efficient recovery of information. All documents are in PDF format, signed and stored on a closed system (there is a specific security plan and data protection).

Jordan reported that it was using electronic files but that there was still a coexistence with paper versions. The plan is to replace paper versions of files. All documents are numbered and are currently scanned. Data are protected. Should any of the data be modified, whoever does this can be identified.

Lebanon said that electronic files were not used in the courts but that there was a plan to number them.

Morocco said that electronic files are not yet used in the courts. Currently, there was an archiving unit set up according to international standards and files can be identified using standards for document handling.

*Are electronic files used? If yes, do they co-exist with a paper version of files? Is there a plan to eliminate the paper version of files? Are court files numbered or scanned? How are these files filed? How can they be identified? How is data protection assured?

Tunisia said that electronic files are not yet used in the courts but that there is a plan underway to digitise files and replace paper. This is a pilot project for outsourcing the digitisation and acquisition of a software solution for the electronic management of documents to safeguard the property of the courts in an electronic version in accordance with the current international archiving standards and in accordance with an appropriate classification plan and a plan for preserving registers.

Comments

The electronic file is an essential objective in introducing ICT in the work of the courts. Making the management of the courts paperless clashes with a long tradition that in many cases runs into strong user resistance. This is why the characteristics of the electronic file, as well as its total efficiency as a documentary support, must be defined specifically. To this end, the electronic file must be accompanied by security mechanisms that ensure its reliability and authenticity. Whatever the case, the move from paperless to electronic file must be as fast as possible, bearing in mind the infrastructure resources of each country.

During discussions, it was clear that in most countries present at the meetings the traditional paper-based system coexists with the gradual implementation of the electronic file, and in certain countries, such as Israel, there is a high degree of implementation and use.

M. Administration of Justice records

Type of record

- 60. Define the type of records to be processed and the information to which the judicial operator will have access and the unit to which the operator belongs.**

On-line channel

- 61. In parallel to the public and professionals submitting documents, they should also be able to submit documents on-line.**

Summary of discussions

Part of the discussion dealt with issues related to the records kept by administration of justice. Using the methodology designed for the work group, the subject was introduced by raising questions*.The information provided by delegations on this point is summarised below

Algeria said that almost half of all judicial records had been processed, and that these electronic records are currently used by the courts.

Egypt explained that more records on marital status had been processed, but that the courts did not yet have access to them.

Israel said that all records had been completely processed and that all courts had access to them.

Jordan said that all records had been processed and that the courts had access to them and could consult them.

In Lebanon only the records of the Beirut commercial court had been entered in the system. The Information System Office of the Ministry of Justice is connected to the records of the commercial court.

Morocco said that only criminal records had been computerised to date.

*Which records have been processed electronically? Can the courts access these records?

In Palestine, the Ministry of Justice has up-dated the electronic record system for justice that rests on the introduction of data from judgments passed by the Palestinian courts and it is linked to the MIZAN 2 information system.

Tunisia said that many registers have been computerised, such as the Trade & Companies Register, the Register of Pardons, the Nationality (Naturalisation) register and naturally the register of laws), the register of death certificates, the rehabilitation register, the divorce register, the company evaluation register, the auxiliary justice management register and the judges management register.

Comments

Data processing of judicial data begins with the different types of judicial record that require to be processed. Best practice in managing judicial information also depends on the correct entry of data into the recording modules of the information system. It is important, therefore, to define the judicial records that should be processed as well as the characteristics they should have for their maintenance, up-dating and access.

There is a need to ensure the prevailing objective of secure access to records, as well as the protection of data and the information they contain.¹⁵

N. Shared office and judicial architecture

Shared services

- 62. Bearing in mind the peculiarities of each judicial system it is advisable to create shared services in using ICT in managing the repetitive work done by the courts. This organisational technique will make better use of ICT because it will cover needs resulting from running these shared services. The optional creation of shared services should be adapted to the level of development of ICT in each country, and to its possibilities in terms of infrastructure and budget.**

Pilot Scheme

- 63. A pilot scheme should be gradually set up to observe the impact on the judicial system. Such an organisational experience will not affect the continuation of the organisational structure in place in each country.**

Judicial buildings

- 64. When designing new judicial buildings consideration will be given to introducing and maintaining ICT in the courts. In existing judicial buildings the required alterations will have to be introduced gradually.**

Summary of discussions

The definition of shared offices gave rise to considerable discussion in that this system introduces a new element in most judicial organisations. Using the methodology designed for this workgroup the subject was introduced by first raising a number of questions*. These situations described by the different delegations are described below.

Algeria said that since modernisation had been introduced in 2003, an information service had been created in each court responsible for the local administration of projects deployed. Locations had been dedicated to house the technical platform. These

*Are there shared offices that centralize the repetitive work of the courts in the operating structure of the courts in your country? If yes, can you explain the type of shared office and the services they provide to the courts? Are court buildings adapted to the presence of the new technologies?

locations are more or less adapted according to the existing building. However, all new judicial structures are built to include this new dimension.

Egypt explained that the information system currently in place rests on a central server to which all the courts are connected. The new guideline provided for their information system plans to have a centralised service for managing the courts (350 courts, this number not including the small courts). In the new system, there is a judicial information centre and the electronic signature has been adopted. In addition, the structure of most of the old court buildings is not appropriate for the use of IT, making the renovation of these buildings even more necessary.

The system in place in Israel has centralisation at all levels. All the courts are interconnected to a central software system that controls the distribution of cases and the whole proceedings. For example, the regional courts know what the situation is with cases being examined in the district courts. The Israeli delegation stressed the pertinence of centralising court services, although this subject requires special treatment because of its importance in the organisational structure of the courts. Besides this, all court buildings are sufficiently adapted to running ICT.

Jordan said that it did not have any shared courts. Each court is responsible for using the information system to conduct the different stages in proceedings and each judge has access to the cases with which he is concerned. In their current system (MIZAN), there is an information system server to which all the courts are connected. Experts in the Jordanian delegation think there should be a centralised system that establishes a direct link to all of the courts, as there is in all State administrative services. Since the records of each court are connected to a central system, buildings with special characteristics for the use of ICT have not been planned.

Lebanon reported that in the context of the current state of ICT in the courts, it is too early to create shared offices; however, they think that when implementation of ICT is more advanced they will be able to work towards this end. Regarding the level to which judicial buildings are adapted to ICT, there are no buildings especially designed because the country is in the preliminary stage of introducing information systems into the courts.

Morocco does not yet have any shared offices in the organisational structure of its courts. Regarding the construction of new judicial buildings, these have already been designed specifically to respond to the needs of using ICT.

Palestine does not yet have shared central offices in its organisation because each court conducts all the steps of proceedings. However, they also view the possibility of creating shared services in order to centralise the repetitive work of the courts. The main problem in implementing this type of office is, decidedly, the lack of financial means. Furthermore, judicial buildings are not yet on the whole adapted to the use of ICT.

In Tunisia, the positive effects of centralised services are already evident. There is a trade registry whose information is accessible to all the district courts. Regarding judicial buildings, they vary greatly and administration is engaged in reinforcing the infrastructure to allow for ICT to be used appropriately. In fact, there is a plethora of applications (centralised, decentralised, local, municipal, sectoral, etc.). The IT system in place is currently based on a central server for the centralised applications hosted at the Ministry.

Comments

The wide-spread use of ICT by the courts requires implementing shared services, the type and number of which will depend on the organisational and budgetary characteristics of each country. The concept of the shared office is limited solely to judicial activity characterised by repetitive tasks and makes every sense when it helps centralise tasks that are done by the courts individually. This dimension will be adapted to the organisational needs and circumstances of the administration of justice. It would be useful to plan pilot schemes to help analyse performance and establish a geographical and functional framework.

It became clear when discussing court buildings that another difficulty does sometimes arise in installing the technical and material means for ICT to function correctly when installation is in court buildings renowned for their state of dilapidation.

O. Workflows

Workflows

65. After discussion and an introduction by a group of experts, the recommendation is to provide software for managing proceedings in internal workflows that court staff can use as a guideline in their work. This instrument must be seen as a best practice in avoiding bottlenecks in judicial procedures as well as in controlling delays.

Summary of discussions

This question was also raised in the discussions of the work group that noted the possible advantages for the user that has information system modules for managing proceedings. Using the methodology designed for this work group the subject was introduced by raising a number of questions*. The delegations explained their points of view by sharing their respective experiences.

Algeria said that its system includes information system workflows and that court staff can use them.

Egypt said that it did not have this type of work flow. For the Egyptian government the priority is for staff to have a good understanding of ICT and to provide specialist studies in this field. Its new information system (e-Court) will not initially be obligatory and will coexist with procedural measures on paper support. To launch the new system a pilot scheme is planned. Its Judicial Information Centre, responsible for implementing ICT, is working on the organisation of a new information structure in the Egyptian courts. This country is aware that it is a project that requires both time and financial resources. An Egyptian delegation expert suggested the expression “on-going decision” as being the most appropriate in referring to the idea of workflows that had been discussed within the workgroup.

The Israeli delegation said that the courts had workflows that are obligatory. Most

*Is it possible to work with workflow schemes? If yes, must staff members use these? Who is responsible for defining and adopting these schemes?

workflows are included in the specific regulations on procedural codes by the legislation service of the Ministry of Justice, in cooperation with Court Management. They emphasised that these workflows are also planned for mediation and arbitration.

Jordan remarked that in its information system (MIZAN) there are very similar procedures such as, for example, a specific form for notification. In this way, each court enforces its decisions and publishes them using the shared model that provides the notification system.

In Lebanon, for the moment the courts cannot use workflows. The delegation pointed out that the country is in the preliminary stage of installing information systems in its courts and due to this they cannot yet give a final opinion on workflows and their obligatory nature. However, they think that, in principle, a manual or a guide could be recommended for court staff explaining the different measures involved.

Currently, Morocco has no workflows in its information system. The government is working on several projects the aim of which is to give court staff a series of workflows.

Palestine said that in using its management system for proceedings, MIZAN, each court had its own criteria for conducting the stages of proceedings and it did not have to use a unified scheme. The MIZAN system includes a general programme used by all the courts in which information on each court is automatically stored by the clerk of court. The Palestinian delegation pointed out that there is a draft bill on procedure that will rule on all electronic processing.

Tunisia has workflows controlling all proceedings in its courts. The country initiated a repositories project, which has not been fully finalised but which led to a draft procedural document entailing all the criminal and civil procedures in the courts. In the context of the roadmap project, the Ministry has created an integrated system for criminal cases (case management).. Experts in the Tunisian delegation think the move should be towards interaction involving all the courts in order to create an adequate workflow structure. Making this obligatory will depend on all the courts being able to use workflows for proceedings.

Comments

Workflows provide a guide for court staff and help new users incorporated into the court to be able to work immediately, according to the rules of procedure indicated by the staff managing the judicial body. However, workflows are limited to controlling the process of proceedings prior to a decision from the judge and will in no way reduce the independence of the judge.

P. Use of audio and video technology

Use of audio-visual means

- 66. There should be an adequate legal and legislative framework to allow for the use of audio-visual means and their organisation.**

Guarantees

- 67. Audio-visual means should be incorporated as infrastructure becomes ready to allow for their use in the courts. To achieve this, the required conditions must be guaranteed.**

Situation of vulnerability

- 68. The use of audio-visual means should facilitate access to justice for minors and in general to all those who are in a vulnerable situation.**

Duration and costs

- 69. The incorporation of audio-visual means should make judicial measures immediate and rapid, while reducing their duration and the cost of proceedings.**

Summary of discussions

The work group discussed the impact and new forms of action brought in with the use of audio-visual means in justice. Using the methodology designed for this workgroup the subject was introduced by raising a number of questions*. The different delegations then explained the situation regarding audio-visual means in their respective countries.

In the case of Algeria audio-visual means are being developed so that they can be used in training and for recording audio-visual minutes as well as for the remote hearing of witnesses.

*Is this type of technology used in the courts? In which court is it most used? Can you explain the type of procedure in which audiovisual means are used?

According to the delegation from Egypt, currently audio-visual means may only be used in the criminal court, but the court authorities are considering their use in all courts. The Egyptian delegation emphasised the difference between a recorded witness statement and direct evidence from the witness. For the moment, Egyptian legislation does not regulate the direct recording of the witness statement. Currently, Egypt is working on regulations on the use of videoconferencing. The Egyptian Ministry of Justice considers that this provision will help reduce the cost of proceedings, but it is limited by a lack of infrastructure and financial resources. Legislation on minors already provides for the use of the videoconference in statements made by minors and the Ministry of Justice wants to conduct a pilot scheme in the Cairo court. Similarly, the use of this provision is suggested for police statements. Besides this, the delegation emphasised the importance of knowing whether there are multilateral agreements with other countries should the witness live in another country and videoconferencing be requested for hearing that witness.

In Israel, the use of audio-visual means in the courts is already a *fait accompli*. There is a legal and legislative framework that applies throughout to the courts and tribunals, although they do encounter some organisational problems in the use of this means. In Israel audio-visual means are used for giving evidence electronically, (and this evidence is accepted by all the courts), as well as for recording hearings and witness statements. In this sense the judge has the authority to decide whether to record the hearing. However, discussions are currently underway on the use of the videoconference in criminal proceedings, because there is a query as to whether the presence of lawyers is required at the time of statements. The Israeli delegation stressed the particular importance that its information system attaches to security and safeguarding audio-visual recordings made in the courts.

According to the Jordanian delegation, in their legal and legislative framework procedural code allows the judge to use audio-visual means to hear the witness statements of minors in cases of sexual violence. The criminal court has been using audio-visual means since 2005 and general use is made of it in certain district courts, the aim being that each court should have a recording room. The Jordanian delegation emphasised that audio-visual means should become part of the information system. However, before considering a discussion on their validity as proof, the priority

currently in Jordan is to have all the courts able to use this means. The plan is to gradually extend the videoconference system to all courts, but an appropriate legal and legislative framework must be established first of all. In addition, the delegation also emphasised that audio-visual recording is protected and stored on CD but that it cannot yet be distributed to legal professionals.

Lebanon said that it did not yet have general legislation on audio-visual means. As a result, there is no legal authorisation for the use of this means in the courts, with the exception of the president of the Criminal Chamber who may permit it, but these means would not be valid as evidence unless the parties accept this and agree on it. However, audio-visual means are used to provide judicial protection to minors. Audio-visual documents may not be distributed to the mass media (TV, etc.), unless authorised by the president of the court or by the Ministry of Justice.

Morocco said that it was using audio-visual means, particularly videoconferencing, but that these are not used in the criminal courts. This type of means is used most in the Court of Appeal.

Palestine said that it had neither the legal and legislative framework, nor the means to consider setting up audio-visual devices in its courts. Currently, witnesses are heard taking into consideration their place of residence and, if need be, a court may apply to the court in the region where the witness lives for it to hear the statement of the same. The Palestinian delegation considers that the Court of Appeal is without doubt the only court that currently can use audio-visual means. Only the judge can authorise the introduction of audio-visual devices into the court.

In Tunisia there are several video-surveillance pilot schemes in 11 courts of first instance and one operational room has already been set up for using audio-visual resources. There is also a project for migration from the WAN network to support this type of application (videoconference, data, Internet, VoIP). There is also a project on pilot sites offering a solution for the dynamic display of the list of cases for each courtroom.

Comments

For the best possible use to be made of audio-visual resources in court work, the legal and legislative framework must give them full validity and legal recognition. The situation in terms of infrastructure and economic resources in each country will have an influence on the degree to which audio-visual means are installed. Whatever the case, their use should be considered as a highly effective instrument in providing access to justice to those most vulnerable. Hence the implementation of these means will go towards realising this objective. In regard to this, it is worth looking at the Brasilia Rules on Access to Justice for the Vulnerable, which expressly refer to the use of audio-visual means as a way of encouraging access to justice for the vulnerable.¹⁶ The use of audio-visual means updates the way in which the courts function, while offering the guarantee of reducing delays and the cost of proceedings.¹⁷

Discussions also referred to the use of audio-visual means to make the handling of proceedings more flexible, still emphasising, however, that procedural guarantees may in no way be affected by the use of these technologies.

A favourable attitude to the use of the videoconference is observed within international bodies, on the condition that national and international standards permit it. By way of example, there is the Latin-American Convention on the use of the videoconference in international cooperation between systems of justice.¹⁸

Q. Use/Data processing and the decisions of judicial authority

Case law

- 70. The use of ICT should contribute to an adequate compilation of case law for later consultation by citizens and justice professionals.**

Information parameters

- 71. Adequate use of ICT should aim to provide the information parameters required to understand and examine how the administration of justice functions. The content of this information should be established by the competent authorities and the experts appointed for this purpose, bearing in mind the peculiarities and the level of development of the information system in each country.**

Summary of discussions

The question of data processing by the information system was discussed by the workgroup that underscored the need to establish adequate information parameters. Using the methodology designed for this workgroup the subject was introduced by raising, in this case, only one question*. The situation explained by each delegation within the workgroup appears below.

Algeria explained that certain decisions taken by the judicial authority are made with the help of an instrument panel that helps decision-makers do the necessary crosschecking to make a correct interpretation of statistics and to extract the resulting information.

Egypt explained that it had the EKMA programme, which will certainly be changed, with which to collect information from the courts (this programme also makes it possible to number documents). Nevertheless, the resulting statistics are not precise and the members of the Egyptian delegation provided no exact information on the reasons for delays and hold-ups in the way their courts function. The objective of the judicial

*Are decisions taken by the judicial authority based on processed statistical data?

authorities is to establish an Intelligent Court Management Program.

In Israel, statistics are used to analyse the best management of the courts and to observe tendencies in civil and criminal cases. Thanks to these statistical studies the number of cases opened and judged as well as the workload of each court is known. Another element examined, concerns weighting, that is, the estimate of the average time dedicated to each case. However, since studies into the aspect of weighting began only recently, it is too early to draw any conclusions on this.

Jordan explained that statistical reports are supported by MIZAN software. Thanks to these statistics the number and category of cases, as well as the length of proceedings, are known. The High Judicial Council uses statistics to examine the workload of the courts and the mobility of judges. Besides this, data is available on crimes committed by minors such as geographic location, and the economic status and level of education of the parents. MIZAN software provides an annual report that is sent to the High Judicial Council. Furthermore, the Jordanian delegation said that there was a project for developing criminal justice resting on a route map that examines the origin of the offence all the way to the court's final decision.

The Lebanese delegation said that the collection and publication of case law was done by private initiative. Furthermore, the current state of information system implementation in the courts in Lebanon (only the trade court is fully information-system based) means that statistics and reports on the courts can only be obtained on paper. However the Lebanese judicial authorities are working on a plan that will make it possible to obtain statistics using an information system.

Morocco said that certain decisions taken by the judicial authority are made based on statistical data processing.

Palestine said that within the High Judicial Council there is a technical office responsible for analysing court decisions. This analysis, done in collaboration with the Ministry of Justice, studies the figures of criminal cases and extracts data from case records. Besides this, the Bar Association edits all court judgments. A series of judgments from the High Judicial Council have already been printed and published, and

have also been published electronically by judges on the internal court network. A judicial library has been created that covers 700 subjects in different legal contexts. The library has also been equipped with a legislative database with software to help judges better control their everyday work.

Tunisia said that it processes data concerning the enforcement of sentences as well as the length of time of proceedings. There is an address on the site of the Ministry of Justice that deals with the collection of statistics from regional offices on information from the district courts. However, there is also a project for consolidation and centralisation and a project underway for the decisions division and the data warehouse (collected decisions and log of judicial activities).

Comments

One of the fundamental objectives of ICT is that of providing a collection of case law that is complete and easily accessible, both for justice professionals and for the public. To this end, the judicial authorities should make the necessary effort to have information system tools help prepare complete case law to respond to the needs of the different users (see comment on best practice n° 34). Furthermore, another challenge of ICT was mentioned that consists of providing the necessary indicators for a good analysis of the administration of justice. In fact, the use and processing of data should provide estimation criteria so that the judicial authorities can take their decisions based on the state of justice in their countries.

R. Time management

Applying procedural management

- 72. The adequate use of procedural management applications helps improve the stages of proceedings, reduces the time required and avoids delays.**

Judicial delays

- 73. ICT should not be considered as the only means of avoiding judicial delays and in no case at all should their use reduce the independence of the judge**

Summary of discussions

The information system used by the courts should lead to the rational management of time. Using the methodology designed for this workgroup the subject was introduced by raising several questions*. The situation explained by each delegation within the workgroup appears below.

The Algerian delegation said that in their information system there were modules for controlling procedural delays. There is also an alarm system for provisional detentions, delays in handling cases and the dispatch of court proceedings to appeal.

In Egypt, the law sanctions administratively and criminally any unjustified delay in the management of proceedings. If the unjustified delay brings with it a breach of the rights to defence, whoever is responsible is sanctioned. In future, with the new E-Court information system, clear and precise proceedings will be established and possible delays and hold-ups will be revealed beforehand. The reason for any delay in the timeframe agreed will have to be justified. The Egyptian judicial system includes the obligation to respond to a summons within 48 hours and distinguishes between dealing with simple or complex issues. In the case of the latter, which implies the participation of outsourced specialists, proof is shown of greater tolerance for delays with respect to deadline. The current information system does not yet afford a precise control in managing the time taken for proceedings because there is an absolute dependence on the criteria of the court staff responsible.

*Are there information system modules that control the time management of proceedings? What type of modules are they?

The Israeli delegation said that in its country the information system provides widespread control of time management for proceedings, because delays can be detected and timeframes, dates and times of hearings are respected.

In Jordan judicial delays are due to different reasons (difficulties for witnesses to appear at the hearing, the need in certain proceedings to call in experts, etc.). Rules of procedure stipulate that a hearing may not be suspended for more than one month and the reason for the delay must be justified. However, the use of the MIZAN information system has contributed to detecting certain delays and reducing the number of cases before the courts. Timeframes receive special control in cases involving minors, and there are also decision periods.

Lebanon said that there is no information system to control time management by the courts. In the civil court, indicative deadlines are provided, but they are not usually respected, although in the criminal court deadlines are paid more respect. Court inspection carries out a certain control on the courts in order to discover the reasons for delays and the disciplinary court is involved. Court inspection also provides for times for hearings throughout the country in order to facilitate the task of lawyers who must attend several hearings on the same day.

Morocco does not have any information system modules to control time management in proceedings.

Palestine said that its information system helps optimise time management of proceedings. According to statistics, 90% of jurists consider that the duration of proceedings is too long, and they put forward as the main reasons the frequent absence of witnesses at the time of hearing and the line of action adopted between judges and parties. The ethical code of the legal council stipulates that there must be a solid reason for suspending the hearing more than once. The MIZAN information system provides the time dedicated to each proceeding, as well as the date and time of the hearing. The President of the High Judicial Council carries out this control, but the information with which he is provided does not reveal to him the reason for the court delays.

In the case of Tunisia, the information system provides no specific control for judicial delays, and this is due partly to the fact that the procedural code does not establish precise regulations, as well as to an insufficient number of judges. There are only rules that prohibit delays in proceedings for medical reasons affecting the participants or for reasons of *force majeure*. Whatever the case, the court inspection of the Ministry of Justice can follow-up on complaints made by the public about delays in proceedings, and if the delay is not justified the clerk of court may be imposed a sanction.

All these aspects will be added to the new project underway concerning the integrated system for the management of criminal cases.

Comments

Applications for the time management of proceedings are a key component in the information system of the courts. Their adequate development and effective use by court staff lead to a reduction in the duration of proceedings. For this reason, court users must be motivated in using these applications so that they do their task carefully and constantly over time. Implementing modules for the time management of proceedings in the information system will only have little effect if users are not fully aware of their importance and their influence on the whole of court activity.

Currently, discussions on managing delays are a priority topic in judicial circles because it is closely linked to one of the main judicial problems, that is, the delay in handling and settling proceedings. This has led institutions such as the European Network of Councils of Justice (ERCJ) ¹⁹ and the European Commission for the Efficiency of Justice (CEPEJ) ²⁰ to look closely into this question in their respective work.

S. Judicial statistics

Collection

- 74. The use of ICT should provide the necessary information for automatically sending reports requested to each court.**

Function

- 75. Judicial statistics should provide not only information on the number of cases on trial, but also a number of other aspects established by the judicial authorities, such as the average duration of proceedings, duration according to type of proceedings, awareness of stages that demand special attention or other parameters that should be analysed.**

Summary of discussions

The introduction of ICT in the courts is a good opportunity for obtaining judicial statistics that provide a real view of the state of justice. Using the methodology designed for this workgroup, the subject was introduced by raising several questions*. The information provided by each delegation based on the situation in their respective countries appears below.

In Algeria ICT is used to obtain statistical information for analysing the way the courts work. The General Directorate for the Modernisation of Justice has set up a mini local panel for those responsible for the courts, which helps them follow court work locally with statistics provided on progress in litigation.

The Egyptian delegation said that the current information system provides monthly and quarterly statistics that are processed by the Judicial Information Centre and sent to the Ministry of Justice and to the High Judicial Council. These statistical reports are optional because they can only be prepared with the approval of the president of the court.

*Are the new technologies used to obtain statistical information on how the courts function? Who ensures their management? How is this information used?

In the case of Israel, each court president can manage the statistics of his jurisdiction (type of case, number of proceedings, etc.). Data are obtained by the information department of each court and are used to analyse the work of the court in the management of cases.

In Jordan it is the technical staff of the courts and of the High Judicial Council who are responsible for providing statistical information. Data are sent to the Ministry of Justice to assess the performance and running of the courts.

Lebanon said that the clerk of court sends an activity report monthly to judicial inspection. This report indicates the number of hearings held in the court. This information is used by the Ministry of Justice and judicial inspection to improve time management in the work of the courts. An annual report is also prepared by the Council of State.

In Morocco the clerk of court is responsible for providing statistical information monthly and the Department for Modernisation and Studies is responsible for managing and processing this information, which is then sent to the High Judicial Council where it is used to make more rational use of the geographic distribution of the courts, human resources and the budget.

In the case of Palestine, statistical reports are produced in each court and according to geographic area, and this information always goes to the High Judicial Council. In this area, MIZAN software has provided researchers working in the departments of the High Judicial Council with a highly advanced tool for the necessary searches and for preparing statistical reports on cases, the type and reason for delays, all of this with a view to improving the efficiency of court work.

The Tunisian delegation said that the statistics Department, which belongs to the inspection body of the Ministry of Justice, prepares a monthly statistical report based on information provided by the courts. This information is used for court inspection and for conducting studies, to hire personnel and manage human resources. A call for tenders is underway for the creation of a statistical system.

Comments

The information system of the courts should provide all statistical data to help the courts prepare reports demanded of them by the judicial authorities. This work should also help analyse both positive and negative factors that have an influence on the way in which the administration of justice functions. Based on the statistics extracted by the information system, the most common problems found in the work of the courts can be detected and very valuable instruments will be available to resolve them.

In this regard, statistical information on the functioning of the courts should be seen as an exercise in transparency and objectivity which, through the analysis of this information, will help improve court management and other aspects and assess how the courts function.

T. Degree of satisfaction and quality control

Protection and access

- 76. The use of ICT should guarantee adequate protection for the information contained in judicial files and avoid abusive access according to the definition of this in each country.**

Estimation of level

- 77. A good estimate must be made of the level of satisfaction with the administration of justice to see where possible improvements can be made to the service. To this end, ICT may be considered an appropriate element for estimating satisfaction levels.**

Summary of discussions

Part of the discussion was dedicated to estimating the question of satisfaction level and quality control for ICT. Using the methodology designed for this workgroup the subject was introduced by raising several questions*.The information provided by each delegation based on the situation in their respective countries appears below.

Algeria said that it did not use the new technologies to assess the level to which the public is satisfied with justice, but that members of the public can file a complaint or a claim against the way in which the administration of justice functions via the website of the Ministry of Justice.

Egypt said that the Ministry of Justice does not currently have a quality control system, although there are a certain number of internal regulations. The general inspection of the Ministry of Justice controls the application of these regulations, and also monitors the precision of the data supplied by the courts. In addition, the Ministry of Justice monitors the work of the judges in terms of respect for procedural regulations. For some time

*Are the new technologies used to assess the degree of the public's satisfaction with justice? Can the public lodge a complaint or make a claim concerning how the administration of justice works by e-mail without having to do this in person?

now, personal data protection measures have been in place contained within the information system, but after an initial assessment an attempt is now being made to improve them. The Egyptian delegation also stressed the real importance for them of knowing the public is satisfied with their procedures, in terms of timeframes and respect for their right of defence. Members of the delegation described such a system as “justice tailored to the customer”.

Israel said that they had a Central statistics office that also includes the courts. Since 2007 this office has been conducting a survey on the quality of the administration of justice. Another area of quality control involves the Ombudsman, who deals with the complaints of the public before the courts. The security of the information system is also important and access can be monitored and the protection of judicial networks ensured. To this end, there is a specialist team working under the supervision of the president of the Supreme Court.

In Jordan, there is within the Ministry of Justice an equality studies office that operates in all courts. This office is responsible for examining the quality of information and the data provided by the courts.

In Lebanon there is no specific body for controlling the quality of the administration of justice. The public can file complaints against the way the courts function via the website of the Ministry of Justice. With regard to the security of information systems, there has on occasion been unauthorised access, for example on the site of the Ministry of Justice, where foreign information was found on the site.

The Moroccan delegation said that the Department for Modernisation and Studies analyses the level to which the public is satisfied with justice. In addition, members of the public can file a complaint or a claim on the website of the Ministry of Justice against the way the administration of justice functions.

In Palestine, the public is not satisfied with the administration of justice. However, MIZAN 2, which compared to MIZAN 1, is structured with a database shared among all the courts, has helped improve the way the court system functions because it provides a solid basis for exchanging and distributing data and information between the ordinary

courts and the external judicial parties concerned. However, there is practically no quality control of the information system. The delegation does not have its own statistics on this, and those that do exist have been prepared by external bodies. However efforts have been made by the High Judicial Council to remedy this lack of means.

Tunisia said that it had found widespread dissatisfaction among the public regarding the way in which their justice system functions and one of the objectives of the government is to try and change this. However, they do not have the information system means to control the quality of justice. In terms of security, the information system has a number of protection modules, but total protection against unauthorised access is not always guaranteed. A call for tenders has already been launched for commissioning a study of security, which includes an audit stage, a stage for implementing an existing security system and a stage for preparing a commission for the development of a security policy.

Comments

In considering justice as a public service, it is very important to know the opinion of members of the public as users of this service to discover how it is perceived and assessed by them. This information, associated with other indicators and parameters, makes it possible to analyse aspects where the public see room for improvement and, as a result, these opinions contribute to improving the quality of justice. This aspect is also important in considering the reforms that could be made to improve the public's access to justice.

U. Performance assessment

Efficiency

- 78. The use of ICT should be seen as an instrument that helps consolidate a more efficient, smooth running administration of justice as a public service.**

Human factor

- 79. The use of ICT must not be a replacement for the professional diligence of staff working in the administration of justice. Consideration should also be given to the importance of the human factor in the courts.**

Summary of discussions

The work group discussed the performance assessment of the information system in the courts. Using the methodology designed for this workgroup the subject was introduced by raising one question*.The information provided by each delegation based on the situation in their respective countries appears below.

Algeria said that in 2007 an assessment had been done on a pilot site to assess the performance of the system. An estimated time gain of 30% in handling cases was detected.

Egypt said that good performance in the use of ICT by the courts is an institutional benefit in the eyes of the public. The Egyptian court authorities aim to progress towards electronic justice in a paperless environment and the new *e-court* information system will help achieve this goal and contribute to the institutional work done by the Ministry of Justice. To this end, there will be on-going training workshops for judges in the new technologies. However, the Egyptian delegation discussed the need for the administration of justice to inter-operate with other administrations in the country. Implementing an *e-court* system will mean qualitative progress in ICT in the courts. There is a conviction that this system is going to facilitate the work of judges because it will allow them to obtain all the information they require from other administrations to be able to do their work, and in this way contribute towards a faster, more efficient justice.

*Are there mechanisms for assessing the performance of ICT in the courts?

In Israel, court databases help assess workload and the number of staff required for the courts to function correctly. The databases of the courts and of the Ministry of Justice are separate, so that the Ministry does not have access to data held in the courts, although there is total interoperability between the two.

In Jordan, their information system for managing procedures, MIZAN, helps assess the performance of the courts as well as shortcomings or weaknesses in performance. This leads to the public having greater confidence in justice. On a regular basis, the president of each court must answer a questionnaire the answers to which are entered in the MIZAN system. The aim of the questionnaire is to analyse the performance of the court. The Jordanian delegation also considers that the good performance of ICT in the courts is an obvious institutional reinforcement in administering justice. Thanks to the MIZAN system an internal library can be published for judges and court staff that will lead to preparing a handbook or a reference book for them to perform their duties. In addition, the MIZAN system has links to central records.

Lebanon said that it had no mechanisms in the country to help assess the performance of ICT in the courts. Among the reasons for this situation is the lack of a legal and legislative framework adequate for ICT and the lack of the regular use of new technologies by court staff. However, most other administrations have Information Systems but there is no interconnectivity.

The Moroccan delegation said that through the general Inspection Service the use and performance of information systems in the courts can be assessed.

Palestine said that the introduction of ICT in the country suffers from a lack of financial and human resources, as well as a lack of good training in the use of the new technologies. The policy for developing ICT is managed by the Ministry of Justice and the High Judicial Council. Currently there is MIZAN software for managing proceedings. The Palestinian delegation said that cooperation should be strengthened with other administrations in the country in order to achieve the thorough and global use of information systems in public services.

Tunisia said that it did not have any special mechanisms to check the performance of ICT in the courts. The Tunisian delegation emphasised several aspects that should be developed in the country and that have an influence on the performance of ICT in the administration of justice. These include the need for a list of services available, the provision of a regular information systems service, guaranteed confidentiality of data, the introduction of an electronic identity card, ensuring the precision and consistency of stored information, ensuring on-going training for court staff and avoiding bad practices in the use of information system tools. The delegation also noted the importance of following up on suggestions made by the public. There is also the need to publish regulations to control the use of ICT in the field of justice. In 2009 the State began the project for the national inter-administrative network that brought together all the applications of public administrations in the country. It is piloted by the national information systems centre. Furthermore, the courts cannot function without IT. It is a vital component but what is needed is training in how to use the current IT resources effectively.

Comments

ICT provide a permanent instrument that leads to the modern administration of justice, able to respond flexibly and transparently to the needs of the public. The good use of information system resources is currently a decisive factor in improving the way the courts function and in detecting anomalies resulting from bad behaviour or habits. The tools of the information system serve to improve organisations. In this regard, mechanisms should be put in place to assess the performance of ICT in the work of the courts.²¹

Identification of needs

The discussions conducted by the different delegations led to a series of reflections on the relationship in each country between the new technologies and justice. The reflections of experts gave rise to some interesting points of view on the more pertinent needs in each country and have helped provide some valuable material for this task.

Although each country taking part has its own specific characteristics and situations, something observed throughout the discussions, a number of important areas of convergence emerged that were mentioned by all of the countries. Among priority needs, most of the participating countries from the region indicated the following:

- The existence of a legal and legislative framework adequate for developing ICT.
- Increasing the level of access and the functions of ICT in the field of administration of justice made available to the public and professionals.
- Implementation of the electronic file and the elimination of paper-based measures.
- The fundamental role of training for court staff involved in the administration of justice in order to guarantee optimum yield from ICT in the work of the court.

Besides this, a number of needs expressed by the workgroup are also described below. It should be emphasised that a number of these needs are shared by several delegations:

- Dissemination of the use of ICT.
- A network that links all the courts in the country.
- The interconnection of systems set up to help the flow of information and avoid repetitive tasks.
- Reinforcing the use of electronic means in the work of the courts by reducing manual tasks.

- System identification of criminal offences to allow decision-makers a good view of the situation when assessing the degree of criminality.
- Unified system identification of offences in all the countries.
- Implementation of a device for the electronic signature.
- Give the public more information online on their files.
- The introduction of a study for building a model court including ICT.
- Allowing magistrates and lawyers remote access to their files through electronic identification and signature.
- Increasing the yield of existing applications by developing new measures aiming to number files and provide marital status, and have these interact permanently with the principal activities of the courts.
- Training of engineers in information systems security.
- Making databases on case law accessible through the intranet sites of the courts.
- Obtaining software licenses.
- Improving material (hardware) (PC, Thin Client, servers, scanners, fast printers).
- Improving the information system skills of court staff and judges as well as promoting the use of the new technologies in their work.
- Introducing campaigns for public policy to make the public and professionals aware of new court technology systems.
- Developing automatic interfaces between different units of the justice system (that is, public defence, the public prosecutor's office, the courts).
- An adequate analysis of information systems based on the needs of the different users.

- Improvements to the ICT infrastructure used by lawyers and professionals.
- Raising the public's confidence in security systems for the use of ICT.
- Exchanging data and information between court administration and the private sector the activity of which is linked to ICT, such as electric companies and communication companies.
- Facilitating the access of lawyers and the parties to court files.
- Storage of cases and evidence given before the courts using electronic means.
- Providing access to specialist sites so that professionals and the public can make online consultations.
- Giving professionals the possibility of conducting different operations online.
- Promoting the use of electronic summons so that the public knows that it has this option.
- Overcoming the lack of confidence among judges and technical staff.
- Equipping the courts with the required technical material: computers, printers and Internet connection.
- Setting up a legal site that is free of charge and that provides free access to ensure the complete and reliable publication of all laws in force.
- Creating an intranet network among the courts, magistrates and court staff.
- Setting up an online helpdesk (support centre) to reply to the questions of litigants concerning proceedings and the formalities related to each case.
- Improving laws on the standardisation of communications and electronic data exchange.

- Improving laws dealing with electronic and cyber crimes.
- Preparing and adopting laws on the use of videoconferencing in hearing rooms.
- Training in ICT and taking this into consideration for the purposes of professional promotion.
- Encouraging judges and clerks of court to use ICT
- Encouraging the public to put ICT to better use through the mass media.

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Recommendation n° 4 in the Vilnius Declaration on challenges and opportunities for the judiciary in the current economic adopted by The European Network of Councils for the Judiciary, met in General Assembly in Vilnius (LT), on 8-10 2011 : « Investment in administration of justice and modern technologies and the strengthening of human resources in courts should be encouraged in order to make judiciary more resilient to future challenges. »

http://www.encj.eu/images/stories/pdf/GA/Vilnius/encj_vilnius_declaration.pdf

³ Among others: Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee, COM(2008) 329 final « Towards a European e-Justice Strategy. »
http://ec.europa.eu/civiljustice/docs/com_2008_329_en.pdf

Implementation of the European e-Justice action plan -

Roadmap. <http://register.consilium.europa.eu/pdf/en/10/st09/st09714-re01.en10.pdf>

Opinion N° (2011)14 du CCJE “Justice and information technologies ()”. Adopted by the CCJE (Consultative Council of European Judges) at its 12th. Plenary meeting (Strasbourg, 7 – 9 November 2011).

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⁶ Art. 22 Opinion N° (2011)14 du CCJE “Justice and information technologies (IT) ». Adopted by the CCJE (Consultative Council of European Judges) at its 12th plenary meeting (Strasbourg, 7 – 9 November 2011) IT is a valuable tool to support the role of courts. IT can also improve the ways in which courts can provide the concerned persons with detailed information on procedures in general. Therefore, the CCJE recommends that Courts introduce user-friendly electronic information services.

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⁷ Art. 38 Opinion N° (2011)14 of the CCJE « Justice and information technologies (IT) ». Judges and court staff have both a right and a duty to initial and on-going IT training so they can make full and appropriate use of IT systems.

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⁸ https://e-justice.europa.eu/content_small_claims_forms-177-en.do

https://e-justice.europa.eu/content_european_payment_order_forms-156-en.do

⁹ <http://www.e-codex.eu/about-the-project.html>

¹⁰ http://ec.europa.eu/justice/criminal/european-e-justice/ecris/index_en.htm

¹¹ Art.21 Opinion N° (2011) 14 of the CCJE. « IT creates new opportunities to provide court users with general information on the judicial system, its activities, case-law, the costs of proceedings, ... »

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¹² <http://www.piaje.org/ES/COMJIB/Paginas/COMJIB.aspx>

¹³ Art.9 Opinion N° (2011) 14 of the CCJE. « IT creates new opportunities to provide court users with general information on the judicial system, its activities, case-law, the costs of proceedings Not all individuals have access to IT. At present, more traditional means of access to information should not be abolished. Help desks and other forms of assistance within courts should not be removed because of an erroneous argument that IT has made justice “accessible for all”. This is a particularly pressing concern as regards the protection of vulnerable persons. »

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¹⁴ <http://www.ccbe.eu/index.php?id=333&L=0>

¹⁵ Art. 16 Opinion N° (2011) 14 of the CCJE « Justice and information technologies (IT) ». « Data and information, such as those contained in case registers, individual

case files, preparatory notes and drafts, judicial decisions and statistical data on the evaluation of judicial processes and court management, need to be managed with appropriate levels of data security. Within the courts, access to information should be limited to those who need it in order to accomplish their work. »

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- ¹⁶ Rules of Brasilia on access to justice for vulnerable people.(95) On fera en sorte de tirer profit des possibilités offertes par le progrès technique pour améliorer les conditions d'accès à la justice des personnes vulnérables.

<http://justicia.programaueurosocial.eu/index.php?PHPSESSID=vte9hr6fh2p3kg6s7v793nq5q6&nIDMenu=3&nIDSeccion=3&nIDArticulo=84>

- ¹⁷ Art. 30 Opinion N°(2011)14 of the CCJE « Justice and information technologies (IT) ». “Video-conferencing may facilitate hearings in conditions of improved security or the hearing remotely of witnesses or experts. It could, however, have the disadvantage of providing a less direct or accurate perception by the judge of the words and reactions of a party, a witness or an expert. Special care should be taken so that video-conferencing and adducing evidence by such means should never impair the guarantees of the defence.”

- ¹⁸ Ibero-American Convention on the Use of Videoconferencing in International Cooperation between Justice Systems.

<http://www.piaje.org/ES/Video/Paginas/intrules.aspx>

- ¹⁹ <http://www.encj.eu/>

- ²⁰ http://www.coe.int/t/dghl/cooperation/cepej/default_EN.asp?

- ²¹ Art. 39 Opinion N° (2011) 14 of the CCJE. “IT can be an important tool for strengthening transparency, and objectivity in distributing cases and fostering case management. It can play a role in relation to the evaluation of judges and courts.

However, data collected from IT systems should not be the sole basis for analysis of the work of an individual judge. Statistical data should be examined by the Council for the Judiciary or another equivalent independent body.”

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