

EUROPEAN NETWORK OF COUNCILS FOR THE JUDICIARY – DIGITAL JUSTICE FORUM

Purpose

1. To invite the Committee to consider and note the report of the first seminar of the Digital Justice Forum (“the Forum”) of the European Network of Councils for the Judiciary (“ENCJ”) and to comment upon the proposed aims and practical functioning of the Forum.
2. The report of the seminar is produced at **Paper 2.4A**.

Introduction

3. The ENCJ was established in 2004. It unites the national institutions in the Member States of the European Union which are independent of the executive and legislature, and which are responsible for the support of the judiciaries in the independent delivery of justice.
4. Members may be aware that the Chair, Lord Tyre, is a former member of the Executive Board of the ENCJ. On 4 May 2018 the ENCJ launched the Forum in Amsterdam. The seminar, in which Lord Tyre participated, was attended by participants from almost all EU (candidate) Member States and brought together members of Councils for the Judiciary, judges and IT-specialists.

Summary

5. The Forum’s first seminar consisted of three sessions. A brief outline of each is provided below.

Session 1 – the challenges and opportunities of going digital

6. The first session commenced with a presentation by Dory Reiling, formerly a senior judge in the first instance court in Amsterdam, which looked at the current state of IT development in the judiciary, including the role of judges in the digitalization of justice. It highlighted the risk in courts lagging behind the rest of society, where digital is the new normal.
7. Two main topics in IT development were considered:
 - 1) The concept of “legal design thinking”, which takes account of visual and design principles, legal thinking and user experience design in order to

- create innovative and effective methods of delivering access to justice;
and
- 2) The use of artificial intelligence (AI) in the courts, with particular regard to the need for AI to be compliant with Article 6 of the ECHR so that outcomes are transparent and the way in which AI reaches decisions is open.
8. As background to the presentation, members may wish to note an article by Dory Reiling titled “Beyond Court Digitization With Online Dispute Resolution”, which was published in the International Journal for Court Administration in May 2017 and is provided at **Paper 2.4B**.

Session 2 – European e-Justice Strategy

9. The second session focussed on the European e-Justice Strategy and consisted of presentations by representatives of the European Commission and the e-CODEX consortium.
10. Gösta Petri of the European Commission discussed the European e-Justice Portal, which was launched in 2011 as an information tool but now allows for the completion of online forms and the electronic submission of claims.
11. It was noted that progress on interconnecting various registers within Member States, such as insolvency and land registers, is on-going. The current European e-Justice Strategy and Action Plan comes to an end this year. Work is underway preparing the e-Justice Strategy and Action Plan for 2019-2023.
12. Ernst Steigenga of the e-CODEX consortium spoke next. The e-CODEX (e-Justice Communication via Online Data Exchange) project aims to enable cross border judicial cooperation by facilitating the digital exchange of case related data. Without replacing back-end systems in Member States, e-CODEX interlinks national and European IT systems through the European e-Justice Portal.
13. It was noted that there is no replacement for local IT solutions, and that e-CODEX therefore must be able to cope with different legal systems.

Session 3 – ENCJ Digital Justice Forum

14. The final session included a presentation on digital justice in national justice systems by Yannick Meneceur of the European Commission for the Efficiency of Justice (“CEPEJ”). The CEPEJ was created in 2002. Its aim is the improvement of the performance and functioning of justice in EU Member States, and the

continuous implementation of the instruments adopted by the Council of Europe to this end.

15. The presentation referred to Opinion No.14 of the Consultative Council of European Judges (CCJE) and noted its recommendation that judges should be involved in all decisions concerning the setting up and development of IT in the judicial system. There was a description of CEPEJ studies into the use of information technology in the judicial systems of Members States.
16. Members may wish to note the CEPEJ's "Guidelines on how to drive change towards Cyberjustice" from 2016 which can be found via this link: <https://rm.coe.int/16807482de>.
17. The guidelines include much of the data gathered by CEPEJ on the extent of digital technology employed in EU courts as of late 2016.
18. The seminar concluded with a session on the goal of the ENCJ in creating the Forum, and on the functions, operation and aims of the Forum itself.

Next steps

19. The Forum will next meet in 2019. Although the ongoing involvement of Scotland, and of the UK as a whole, in EU bodies such as the Digital Justice Forum, and in the overall European e-Justice Strategy, will be affected by Brexit, many of the issues outlined in this paper will continue to apply to the digitization process in Scotland, and are likely to require consideration by the Committee in the coming years.

Recommendation

20. **The Committee is invited**
 - (a) to consider and note the scope of the work to be undertaken by the ENCJ Digital Justice Forum, and**
 - (b) to comment upon the proposed aims and practical functioning of the Forum (as summarised at the end of paper 2.4A).**

**Lord President's Private Office and Scottish Civil Justice Council Secretariat
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