European Network of Councils
for the Judiciary (ENCJ)

Réseau européen des Conseils
de la Justice (RECJ)

ENCJ Digital Justice Forum

Founding meeting and first annual seminar Amsterdam, 4 May 2018

Opening of the seminar

Nuria Díaz Abad opened the seminar with a small introduction.

Wilma Groos – Member of the Board of Court of Appeal of Amsterdam –Welcomed every participant and presented the justice palace of Amsterdam.

Colin Tyre – member of the Executive Board and project coordinator – pointed out that there have been different roads of justice digitalization. In some countries the Councils lead the digitalization process, in others that role falls to the ministries of justice. Either way there is a general feeling that judges are not close enough with the digitalization process. Our challenge should be to move judges closer to the process.

Ana Rita Loja – member of the Executive Board and project coordinator - mentioned that in this first meeting the goal is to decide on how should this forum be organized, in a way that brings added value to ENCJ's members and promotes digital justice.

Dory Reiling - Moderator, former judge / IT expert for Netherlands Judiciary - expressed her believe that the exchange of ideas about digitalization could be very exciting.

Session 1 the challenges and opportunities of going digital

1. **Presentation by Dory Reiling on the development of IT instruments to support judicial work including Artificial Intelligence and legal design thinking.**
   The presentation focused on where IT is right now, the opportunities and challenges.
   One of the main messages was that digital is the new normal, in this field, the courts are not following the rest of society, which by itself is a good enough reason to think about going digital.

Regarding IT there were two main topics mentioned: i) legal design thinking; ii) artificial intelligence.

The current state of IT development in the judiciary was described with a preliminary distinction on what sort of IT:

i)   registration database;

ii)   office automation;

iii)   knowledge systems;

iv)   work flow system/ case management;

v)   digital communication;

vi)   web sites;

vii)   Network to system technology.

The general overview of the IT in Judiciary in the EU followed the CEPEJ 2016 report. The data was presented with a comment that some data could be from 4 years ago.

Concerning the CEPEJ report, the topics pointed out were the following:

i)   The communication with the lawyers (digital filing for lawyers), and digital filing for others. And what do we communicate with lawyers about: the Decision; hearing dates; filling cases; e-mail.

ii)   Online case tracking questions: who can track cases online? – lawyers do we give access to cases that are not their own? – Dutch experience – to the parties? – full access? to prisoners? General public?

    Challenges identified:

i)   The Governance of any IT project;

ii)   The complexity of a Digitalization procedure (political, legislative, financial, and technical);

iii)   The digitalization can also imply a review of the court process- not only in theory but in particle terms;

iv)   Program and project planning

v)   The choice of building the systems from within or outsource?

vi)   current judicial legal culture – tends to find someone to blame when things don't go so well , it can be contour productive and does not reward risk taking.

    Opportunities:

i)   Improve access to justice – disintermediation, eliminates barriers (physical, economical, information);

ii)   Improving impartiality and integrity;

iii)   Interaction with outside world;

iv)   Improve court process – case management, court management;

    Legal design thinking:

i)   discover the *status quo* - what is going well, what could be better, what is going wrong, what could go wrong in the future;

ii)   focus on the person;
iii)   reframe the challenge, brainstorm wide, make sense and prioritize

Artificial Intelligence - Legal design in the moment uses AI (artificial intelligence) Different uses:
i)   structuring information;
ii)   analysis - pulls together and draws some conclusion (for example word cloud);
iii)   advisory;
iv)   predicting outcome.

There are current examples of proven AI – structuring large cases files – used in US and UK.
        As advisory – tribunal in Canada – in solution explorer.
        Question on AI:
i)   Can AI work with unstructured legal information?
ii)   ii) Can it predict outcome (Daniel Katz algorithm for the US Supreme Court)? What about due process – comply with article 6.º ECHR – outcome must be transparent - how does AI reach its results?

Break-out groups. The topics that were discussed were:
i) sharing recent successes;
ii) sharing experiences;
iii) how to overcome difficulties;
iv) what help would you like:
v) From whom

Conclusions
Group 1:
1- We cannot implement a system without judges, lawyers and clerks;
2- The development of the system raises financial issues.

Group 2:
1-   Access to justice – access for people that do not have digital access;
2-   Responsible for digitalization – Ministries of Justice in most countries;
3- Improve case management in countries;

Group 3:
1- Basis on which to build the system;
2- Need to involve all the stakeholders;
3 -Change of mind – change the way we look at the procedure.

Session 2 European e-Justice Strategy

1. Presentation by Gösta Petri, European Commission on the e-justice strategy and the role of the judiciary

The presentation covered the ongoing action plan on e-justice – exclusively for projects focused in cross boarder solutions.

The main deliverables of the current action plan are

i) the e-justice portal – launched in 2011–it started as an information tool – now covers 150 topics in 23 languages. It was evolved to other tools: i) various interconnected registers, ii) find a lawyer, find a notary systems; iii) possibility to electronic submission of claims; iv) ECLI, Europeans courts database, machine translation etc.

ii) Another important deliverable was e-codex – very important system of exchange of documents and information – with potential to be use in all Europeans procedures in cross boarder nature.

Possible topics for a new strategy and action plan

i)   Digital by default principle – when making legislation – incentive to removing impediments on national legislation.
ii)   User centered design;
iii)   Sustainability and interoperability electronic authentication and signature – eIDAS regulation
iv)   Artificial   intelligence   in   the   judiciary   –European   Commission   strategy (file:///C:/Users/MJ02815/Downloads/CommunicationArtificialIntelligence.pdf)
v)   Block chain technology;
vi)   Interconnection of national databases

2. Presentation by Ernst Steigenga, e-CODEX, IT governance and judicial independence

Discussion in plenary

The presentation on e-codex begun by identifying the needs to interconnect citizens overcoming legal boundaries.

E-codex provides easy access to courts in a different countries – trough a European digital infrastructure for secure communications.
The E-codex principles, namely subsidiarity – there is no replacement of the local IT solutions.
The E-codex is able to cope with different legal system.
The challenges for E-Codex are to increase the users and use cases, sustainability and governance.
The future of E-Codex is to be hosted by an EU organization – European agency will take care of e-codex.
The future of E-Codex is being decided in the upcoming regulation.

Regarding E-Codex and the judicial independence there was a distinction on functional independence and institutional independence.
The functional independence is ensured by track and change mechanism to see who has send, received and opened information.

On the second meaning the E-Codex upcoming project ME- Codex is looking to include a judicial perspective on the definition of the future institutional representation of the Judicial Power, maybe including ENCJ on the advisory board of the project

Plenary discussion
One of the main questions was regarding the judicial representation in the working groups within the DG Justice, especially regarding the representation of the judicial councils.
Gösta Petri recognized the importance of the judicial perspective, however pointed out that Member States are the ones responsible for organizing the delegations.

Session 3 ENCJ Digital Justice Forum

State of Affairs – Digital Justice in national justice systems presentation by Yannick Meneceur, CEPEJ

The presentation begun with an introduction on CEPEJ itself and the mandate to ensure the compliance of article 6, § 1 ECHR.
Followed by a brief description of the CEPEJ work:
i)   rankings,
ii)   Justice scoreboard.
iii)   The current 4 working groups on: i)evaluation; ii) Saturn; iii) quality; iv) mediation
iv)   The pilot courts network.

Concerning Digital Justice there was a remark for the
Opinion 14 of CCEJ – https://www.coe.int/en/web/ccje/opinion-n-14-on-justice-and-information-technologies-it- Fundamental principle – the Judicial Bodied must be involved in the development of Digital solutions.

Another important issue is to preserve the human aspect of the judicial intervention.
Concerning this principle there was a special remark to the PACE resolution 2054 (2015) - http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=21753&lang=en,   and   the
Recommendation   2102   (2017)   -   http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=23726&lang=en.

The presentation concluded with brief description of some CEPEJ studies. In some studies the only assessment is the development of the IT solutions with no measure of the actual use. The CEPEJ has carried out additional studies comparing the investment, the equipment availability and the efficiency of the system

ENCJ Digital Justice Forum (DJF) introduction by the co-ordinators moderators Colin Tyre/ Ana Rita Loja

Ana Rita Loja clarified the goals of ENCJ with this forum. It was explained that the Forum organized as the members decided, but should be in a way that generates added value to the ENCJ and its members, implementing something that is different and has the power to generate solid deliverables.

Discussion in break-out groups assessing the needs, aims, topics and practical functioning of the ENCJ DJF

Reporting back in plenary from the break-out groups

In the final report there were the following conclusions on how to organize the work of the forum:

i) Holding an annual meeting – the meetings need to have a concrete purpose, and it shouldn't be enough with any sort of current work;
ii) Organize small groups - besides or within the framework of the annual meeting;
iii) Sharing best practices – working as an advisory group, generate recommendations and expressing the users perceptions;
iv) Identifying and setting shared values and/or guidelines on topics such as data ownership, recommendations;
v) Identify the partners of the forum;
vi) Training judges
vii) Sales pitch – promoting Digital Justice
viii) Involving judges in IT development:
ix) ODR
x) Digital justice literacy
xi) Specialists groups