



European Network of Councils
for the Judiciary (ENCJ)

Réseau européen des Conseils
de la Justice (RECJ)

Notes ENCJ Digital Justice Forum seminar #5

Balancing digitalization and judicial independence

Date: Thursday 24 February 2022

Venue meeting: Virtual meeting

Time: 10:30 – 12:00 hrs CET

- 10:30 CET** **Opening of the seminar**
Filippo Donati, President of the ENCJ
Erik Kersevan, Sodni Svet Slovenia and
Henk Naves/ Jos Smits Raad voor de rechtspraak - Coordinators
- 10:40** **Presentations by the Portuguese CSM and the Belgian HRJ/CSJ of their**
strategy/actions to ensure that judicial independence is safeguarded in the process
of digitalisation + discussion
- 11:30** **Presentation by Markus Brückner - Secretary General of the EJTN on how**
digitalisation is incorporated in Judicial Training Programmes
- 12:00** **End of the seminar**

Opening of the seminar

The ENCJ President welcomed the participants to the ENCJ Digital Justice Forum. Henk Naves, Coordinator of the Project on Digital Justice presented the programme and introduced the speakers: Mr José Manuel Correia from the Portuguese CSM, Mr Pierre Thiriar from the Belgian HRJ/CSJ and Mr Markus Brückner, Secretary General of the EJTN.

In preparation of the fourth edition of the ENCJ Digital Justice Forum, the Coordinators sent out a short questionnaire aimed to collect the most urgent problems regarding digitalization of the judiciary in each country. One of the issues that came out of the questionnaires was the tension between digitalization of judicial procedures and maintaining the independence of justice.

Therefore, the Coordinators decided to organise a seminar on how to reconcile the digitalization of the judicial system with the independence of the courts.

Ms José Manuel Correia and Mr Pierre Thririar delivered a presentation on their respective institutions, the Portuguese CSM and the Belgian HRJ/CSJ, strategy/actions to ensure that judicial independence is safeguarded in the process of digitalisation.

The Secretary General of the EJTN, Mr Markus Brückner explained how digitalisation is incorporated in Judicial Training Programme.

Presentations by the Portuguese CSM and the Belgian HRJ/CSJ of their strategy/actions to ensure that judicial independence is safeguarded in the process of digitalisation + discussion

Mr José Manuel Coreira spoke about the opportunities and risks of digitalisation in the judiciary. The digitalisation of justice is crucial to improve the quality of justice. However, there is a risk that the digitalisation of justice could affect the independence of the judiciary.

Mr Coreira presented an overview of the implementation process of the digitalisation of justice in Portugal.

The beginning of the dematerialisation of procedures in the Portuguese courts started in April 2008. The use of electronic means became mandatory in January 2009. For 13 years, judges in Portugal work in a completely paperless environment. The system used in courts in Portugal is based on an electronic data transmission between courts officers, lawyers and judges.

The implementation of this system brought a new light to the Portuguese justice system. It provides more transparency and efficiency, and a greater accessibility for the parties. At the same time, judges work became easier.

Due to the introduction of the IT tools in the courts, a huge transformation of Portuguese court activity took place. The system has further evolved. Both, software and hardware tools have improved. The Portuguese justice system entered in a modern era.

However, the aforementioned conceived system was implemented, and is managed and controlled by an institution working under the authority and supervision of the Ministry of Justice.

This institution is autonomous from courts and from the Council for the Judiciary.

Judges in Portugal neither know what system is used to store data nor do they have access to the data center support. Deletion of data is decided by the IT technicians and not by judges.

Moreover, the system in Portugal is based on a random case allocation. The algorithm used in that operation is set and under control of the Minister of Justice. Any kind of mistakes and/or external manipulation could jeopardise and endanger the judicial independence.

According to Mr Coreira, this system should be changed. In addition, Councils for the Judiciary should be the one how chooses the IT system used in courts. It should be the one that has control the system and exclusive access to it. Management of data specifically attributed by law to the courts should be under control of the Council. If not, the independence of council will not be safeguarded.

For Mr Coreira there is a clear risk for the judiciary for their independence being endangered.

A question was asked whether any steps are taken in order to bring the IT more in hands of the judiciary. Mr Coreira responded that the system is under control of the Ministry of Justice and that it is difficult to raise this issue with the Ministry.

A question was raised about ensuring data protection and whether the judges were consulted before the implementation of the system. Mr Coreira answered that judges neither have been consulted nor have they been informed about the implementation of the system. Data storage and deletion is an issue in Portugal. There is a lack of information in relation to where data are stored.

Presentation delivered by Mr Pierre Thiriar from the Belgian HRJ/CSJ

Please refer to the attached document.

Presentation of Mr Markus Brückner, Secretary General of the EJTN on how digitalisation is incorporated in Judicial Training Programme

Mr Brückner briefly introduced the European Judicial Training Network (EJTN). EJTN is an EU-wide platform which brings together judicial training institutions from all the EU Member States and supports the interests of over 120,000 European judges, prosecutors and judicial trainers across Europe.

EJTN is the principal platform and promoter for the training and exchange of knowledge of the European judiciary.

Mr Brückner highlighted that judicial training must prepare justice professionals to embrace digitalisation and the use of artificial intelligence.

EJTN's activities are the outcome of the collective efforts of EJTN's Members, encompassing all national training institutions from all 27 EU Member States, including national court staff training providers, and the Academy of European Law (ERA).

The EJTN introduced language webinars designed to improve participants language skills.

Moreover, the EJTN started organising short webinars in the 1 topic/1 expert/1 hour format. Artificial intelligence, digital tools, individual rights in the digital space were among the topics of the lunch webinars organised by the EJTN. The series continued in 2022 with new topics related to the various areas.

The EJTN implements its strategy through the exchange programme for judicial authorities. The Exchange Programme's main purpose is to enhance the European judiciary's practical knowledge of other judicial systems as well as European and human rights law through direct contacts, exchange of views and experiences between judges, prosecutors, court staff and trainers from different EU Member States.

In addition, the EJTN is further working on judicial trainings through its Members' training activities.

The EJTN works with the European Commission and nearly 40 EU national judicial bodies, which are Members and Observers of EJTN.

End of the seminar – next meeting

The next Digital Justice Forum will take place on Friday 22 April in Amsterdam.

More information will follow in due course.