



Are you ready for online courts?

Guide on readiness for the introduction of online courts

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Acronyms

ADR	Alternative Dispute Resolution
EBRD	European Bank for Reconstruction and Development
eIDAS	Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC
CEPEJ	European Commission for the Efficiency of Justice
CMS	Case Management System
CoE	Council of Europe
CoOs	EBRD Countries of Operation
EAP	External Advisory Panel
ICT	Information and Communication Technology
MCOL	Money Claim Online
MLAT	Maturity Level Assessment Tool
ODR	Online Dispute Resolution
SMEs	Small and Middle-sized Enterprises
VMR	Virtual meeting room



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1. Introduction

The purpose of this Guide is to assist EBRD countries of operation (CoOs) in improving their readiness for the introduction of online courts.

In doing that, the Guide identifies the building blocks of a system conducive to the existence of such online courts and spells out recommended measures to achieve them. The recommended measures range from improvements to the policy and legal framework, through enhancing the information and communication technology (ICT) infrastructure, to institutional measures and stakeholder engagement. The guide also analyses the potential benefits of online courts such as increased access to justice, reduced costs and time efficiency, in particular for SMEs.

In identifying the building blocks of online courts, the Guide embarks on an assessment of EBRD economies which explores four key dimensions seen as prerequisites for the introduction of online courts. These four dimensions are (1) Policies and Infrastructure for E-justice; (2) Commercial Dispute Resolution; (3) Uncontested Procedures for Enforcing a Claim; and (4) Small Claims procedures. The examination of these four dimensions employs a Maturity Level Assessment Tool (MLAT) which has been specifically developed for the purpose of this initiative and which evaluates the current level of readiness of 17 EBRD CoOs for the introduction of online courts, together with good practices and lessons learned.

Online courts¹ are defined as dispute resolution services conducted by default online, starting from the submission of the claim and ending with the delivery of the judgment, accessible directly to litigants and their representatives and augmented by services and tools to ease access to justice and litigant participation. A key term used with reference to online

courts is online dispute resolution (ODR). This term refers to the processing of certain cases entirely online from the point of filing the claim to the point of pronouncing a judgment, reaching a settlement or terminating the case in any other formal manner.² Thus, while the terms online courts and ODR are interrelated, the former is broader in that it encompasses not only the process of online resolution of claims but also the accompanying institutional/ organisational setup.

The time when economies worldwide are transitioning to digital governance is particularly opportune for expanding the role of digital tools in justice systems. The lockdowns due to COVID-19 have exacerbated the pressures on court services but have also motivated numerous jurisdictions to accelerate the pace of digitisation of the justice system by allowing for e-filing, online hearings and e-communication between the litigants and the court. Digital tools are particularly suitable in commercial justice where participants in proceedings oftentimes have a high level of digital skills and where the costs and speed of court cases have a direct effect on the economic environment and its attractiveness to investors.

The potential of ODR has already been explored through private initiatives such as the [Uniform Domain-Name Dispute-Resolution Policy \(UDRP\)](#) of the Internet Corporation for Assigned Names and Numbers (ICANN), the [eBay/PayPal ODR](#) process and the [CyberSettle](#) mechanism.³ More recently, the introduction of such mechanisms for dispute resolution has been promoted in the regulatory work of international bodies, e.g., the European Union [Regulation online dispute resolution for consumer disputes](#) and the UN Commission for International Trade Law (UNCITRAL) non-binding [Technical Notes on Online Dispute Resolution](#). These developments have gradually coined the term online courts and led to the piloting of such solutions in national justice systems

such as the [British Columbia Civil Resolution Tribunal](#) and the [Money Claim Online](#) and [Damages Claims Online Pilot](#) in England and Wales.

This Guide aims to contribute to the development of such economic, convenient and speedy means of dispute resolution across EBRD CoOs. By following the Guide, CoOs can improve their court systems and move closer to realizing the benefits of online courts.

¹ The concept of online courts owes much of its development to the work of Richard Susskind, author of 'Online Courts and the Future of Justice', Oxford University Press, 2019 and his subsequent work and participation in expert panels.

² This process-oriented view of ODR is shared by the 'ASEAN Guidelines on Online Dispute Resolution', which define ODR as "web-based technology-assisted processes where parties utilize digital communication and information management tools to resolve a dispute". See at <https://aseanconsumer.org/file/ODR/ASEAN%20ODR%20Guidelines%20-%20FINAL.pdf>. By contrast, the Guidelines of the Committee of Ministers of the Council of Europe on online dispute resolution mechanisms in civil and administrative court proceedings of June 2021 define ODR as "any online information technology (IT) used by a court to resolve or assist in resolving a dispute". See at https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a2cf96. All links referred to in this document have been accessed on 1st of June 2023.

³ Other examples of initiatives using ODR include Nominet; the Family Resolution Center of the County of Los Angeles; the online arbitrator of the Department of Consumer Protection of Germany; The Youstice programme.

2. Building blocks for developing online courts

The measures and building blocks of online courts proposed in this Guide are summarised in [Annex 1](#), and classified by order of priority into essential, significant and useful measures.

2.1. Policy and legal framework

Unlike mechanisms for online dispute resolution in the private sector, online courts that are part of national justice systems can only develop on the basis of an enabling policy and legal framework. With this in mind, this Guide examines both the preconditions for developing a robust e-justice system as a whole, and the legal framework for some special types of procedures which have high relevance for businesses, such as commercial litigation, ADR in civil and commercial disputes, procedures for enforcing uncontested claims, and small claims procedures.

2.1.1. Developing a robust e-Justice system

Policies to improve the quality of justice through digital tools and systems should be articulated through clear, measurable and verifiable objectives, with technology seen as means rather than an end in supporting the overall justice modernisation strategy.⁴ The legal framework should also be adequately adapted to enable the implementation of e-justice systems and uphold established principles on data protection, security and privacy. The measures proposed below aim to support targeted efforts for improving court performance through practical reforms and better utilisation of existing and new technologies, tools and work processes, with a focus on the key building blocks and enabling conditions for introducing online courts.

E-Governance and e-justice policies and strategies

The digital transformation of the judiciary requires a focused and well-planned effort which is aligned with the respective jurisdiction's overall approach to the digital transformation of the entire public sector. This necessitates a strategic approach to e-governance and e-justice.

Recommended measures

In adopting a strategic approach toward the digitisation of the public sector and the judicial system in particular, a jurisdiction should strive to ensure that:

- It has a **strategic document on e-governance** detailing the vision, goals, milestones, timelines, resourcing requirements, and responsible institutions for harnessing digitisation in the exercise of public function and the provision of public services.
- It has a **strategic document on e-justice** detailing the vision, goals, milestones, timelines, and responsible institutions for harnessing digitisation in the management of the judiciary and the provision of judicial services. The strategic document may be standalone or part of a broader justice strategy.
- The strategic documents on e-governance and e-justice are **supported by roadmaps, including concrete targets and key performance indicators (KPIs) to measure progress.**

- The e-governance and the e-justice strategic **documents are aligned**, including through incorporating the e-justice strategic document as a sectoral component of the e-governance strategic document (or in another manner).
- There is a **mechanism for ongoing coordination** between the e-justice and the e-governance strategic leadership.
- There is a **mechanism for regular reporting on and tracking the progress** of the implementation of the e-governance and e-justice strategic documents.
- The implementation of the strategic milestones in the fields of e-governance and e-justice is on track **and that there are mechanisms in place to address delays.**
- The strategic documents on e-governance and e-justice have a **time-span of three to five years.**
- At least one year before the expiry of the time period of the current e-government / e-justice strategy, a **participatory process has been launched to develop the strategy for the subsequent period.**

⁴ OECD, 2020. The OECD Digital Government Policy Framework: Six dimensions of a Digital Government at <https://www.oecd.org/gov/the-oecd-digital-government-policy-framework-f64fed2a-en.htm>



Expected benefits

The key expected benefits of developing and implementing a robust e-governance and e-justice strategic framework are:

- **Continuity and sustainability** of the efforts towards digital transformation, regardless of short-term political changes and shifts in priorities.
- **Possibility for adequate planning and management** for the substantial financial and human resources necessary for the introduction and enhancement of e-government and e-justice.
- **Clear lines of responsibility** in the management and implementation of the process of digital transformation in the public sector.
- **Transparency** vis-à-vis society and management of expectations.
- **Ability for a more rational distribution of available resources**, especially in cases where they come from different sources (e.g., state budget versus donor funding).

Lessons learned from other jurisdictions

Portugal: a participatory approach

The Justiça + Próxima 2020-2023 programme includes 140 measures with primarily focused on citizens' needs. The measures focus on dematerialisation of communications between the courts and various entities, simplified registration, and improving public service.⁵ Each of the initiatives identifies various details in the necessary changes and expected impacts, including the number of targeted/affected stakeholders and estimated savings. The process for identifying measures included as part of the Justiça + Próxima programme represents an innovative, collaborative and bottom-up effort, with input from justice stakeholders, such as practising judges, the High Council for the Administrative and Fiscal Courts and the High Council of the Judiciary. This consultation process involves a series of workshops in which participants are asked to propose initiatives, including their potential impact.⁶

E-identification and e-document

E-identification and e-documents allow their users to validly and securely engage in legal interactions online, which is an indispensable prerequisite for the functioning of online courts.

Recommended measures

Countries should consider implementing comprehensive legislation that recognises and regulates the use of e-identification⁷ for official communication, including through:

- **Recognising e-signatures** as legally equivalent to handwritten signatures.
- **Establishing standards for the creation and verification of e-signatures** to ensure security and prevent fraud.
- Providing for a **certification authority or accreditation body to oversee compliance with the e-signature rules**.
- Accepting **different types of e-signatures with the type of e-signature permitted for a particular use matching the requisite security level**.
- **Mandating interoperability and non-discrimination** to enable e-signatures to be used across platforms, domains and, possibly, borders.
- Allowing for **e-identification on the basis of the national identity card** (or equivalent document).
- Creating the **capacity for issuing electronic ID to citizens**.
- Enabling **the use of the national e-ID for accessing public services**.

⁵ These measures are continuously adjusted through an online public consultation process on a dedicated website: <https://mais.justica.gov.pt/>

⁶ OECD, 2020. Justice Transformation in Portugal: Building on Successes and Challenges at <https://doi.org/10.1787/184acf59-en>

⁷ On digital identity practices across the world see also 'G20 Collection of Digital Identity Practices', Report for the G20 Digital Economy Task Force, August 2021, at <https://assets.innovazione.gov.it/1628073752-g20detfoecddigitalid.pdf>.

Lessons learned

- **Recognising electronic documents** as legally equivalent to paper-based documents.
- Enabling the use of e-signatures, e-ID and electronic documents in **accessing public services**.
- Enabling the use of e-signatures, e-ID and electronic documents in interactions **with courts** (e.g., via amendments to procedural laws).

Expected benefits

Introducing comprehensive and robust e-signature legislation creates an enabling environment for online courts and boosts the readiness for e-filing, e-communications and online dispute resolution. More particularly, adopting e-signature legislation and encouraging e-signature use has the following key benefits:

- **Providing legal certainty around the use of e-identification and e-documents.**
- **Allowing validly made binding legal statements in an electronic environment.**
- **Reducing barriers to using online court tools** by allowing court users to file claims, submit evidence and communicate with the court electronically.
- **E-identification can provide** a higher level of security, integrity, and authenticity than traditional paper-based signatures as it typically uses encryption and other security measures to ensure that documents are not altered after they have been signed.

EU eIDAS Regulation⁸: unifying the standards applicable to e-identification across borders

eIDAS provides a comprehensive framework for e-signatures for EU member states by introducing uniform standards throughout the EU in the fields of electronic identification and electronic trust services. eIDAS provides for several types of e-signatures, depending on their security level. Adopting legislation in line with eIDAS can help ensure interoperability of e-signatures.⁹

Estonia's e-ID card: state-issued digital identity

Most Estonian residents (99%) have a digital ID card. The chip on the card can be used as proof of ID in an electronic environment, as well as for digital signatures, i-Voting, and accessing a variety of public services. Estonians can use their e-ID via state-issued identity or ID-card, using Mobile-ID on their smartphones, or the application Smart-ID. Since 2014, Estonia has also offered a programme called e-Residency for anyone who wishes to become an e-resident of Estonia and access its diverse digital services, regardless of citizenship or location.

⁸ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2014.257.01.0073.01.ENG

⁹ See for more details ENISA, 2018. eIDAS: Overview on the implementation and uptake of Trust Services at <https://www.enisa.europa.eu/publications/eidas-overview-on-the-implementation-and-uptake-of-trust-services>



E-filing legislation

Electronic filing (e-filing) allows for the submission of a case to courts by electronic means, as well as for the possibility to make subsequent submissions to the court in an electronic form.

Recommended measures

Countries should consider adopting and implementing laws and regulations that enable the use of e-filing in court proceedings, including by:

- Establishing a clear **legal framework** that governs the use of electronic documents in different types of court proceedings, and for e-filing in particular.
- Developing **technical standards for filing** electronic documents and data exchange, including definitions of file formats and metadata requirements.
- Establishing **security requirements for e-filing systems** to prevent unauthorized access to court documents and to protect sensitive information.¹⁰
- Including requirements for e-filing systems to **comply with data protection laws and regulations**.
- Including **requirements for alternative communication channels** to ensure accessibility of court procedures for all users, including those with disabilities or possessing limited digital literacy skills.
- Considering the **mandatory use of e-filing for professional court users** such as lawyers, notaries, and court experts.

¹⁰ Including data encryption, access controls, and availability of audit trails.

¹¹ Available at: <http://www.e-mehkeme.gov.az/>

¹² Article 10-1.2. of the Civil Procedure Code of the Republic of Azerbaijan.

¹³ Article 10-1.3. of the Civil Procedure Code of the Republic of Azerbaijan.

Expected benefits

Implementing e-filing legislation can lead to a more efficient and streamlined court process and provide a critical building block for online dispute resolution. In particular, e-filing can have the following key benefits:

- **Reducing the time and costs** associated with filing paper documents and increasing efficiency of court staff.
- **Reducing risks** of data and document loss, misfiling, or unauthorized access to documents.
- **Improving access to justice** by allowing parties to file documents remotely, without needing to physically visit the court.
- **Improving the accuracy and completeness** of court filings, as e-filing systems can be designed to prompt users to include all necessary information and documentation.
- Delivering **increased transparency and access to documents** for all litigants.

Lessons learned

Mandatory e-filing for commercial disputes in Azerbaijan

The electronic court portal of Azerbaijan¹¹ offers e-filing. Preparation, sending, receiving, registration and circulation of applications, complaints and other documents in electronic form by the court and the parties is carried out in accordance with the rules of use of the Electronic Court Information System.¹² E-filing is required in commercial disputes, meaning that hardcopy statements of claim are not accepted.¹³

E-service legislation

Electronic service of documents (e-service) usually refers to the service of judicial or extrajudicial documents through remote means of electronic communication, such as e-mail or a secure web-based application.

Recommended measures

Countries should consider developing an e-service legal framework, including through:

- **Defining the scope of e-service**, preferably for a significant number of court procedures.
- Determining **permitted methods of e-service**, types of documents that can be served electronically,¹⁴ and requirements for **verifying the recipient's identity**.
- Allowing **e-service of process with the consent of the parties**, while **mandating e-service for professional court users** and/or for certain court procedures (e.g., commercial dispute resolution).
- Determining the **means for proving** that the documents were delivered to and received by the intended recipient.¹⁵
- Providing **alternative methods of service** of documents (e.g., postal mail) where e-service is not possible.
- Ensuring that **personal data of court users is protected**.

¹⁴ Standardized electronic document formats and/or open formats such as pdf could be used to facilitate access to and compatibility of the documents across different systems and devices.

¹⁵ Such as read receipts, delivery receipts and logs, etc.

Expected benefits

Introducing e-service for court documents is an important procedural innovation with a number of benefits for both courts and court users, including:

- Eliminating the need for physical delivery of documents, which can **reduce processing times and costs** associated with traditional methods of service (such as postal mail or courier services).
- Enabling **faster service** of documents than traditional methods and allowing cases to move through the court system more efficiently.
- Providing a secure and reliable method of delivering documents, and **reducing the risks** associated with lost or misdirected documents.
- **Improving access** to justice by making it easier for parties to receive and deliver court documents.

Lessons learned

Mandatory use of e-service for some court participants in Estonia

A court in Estonia may serve procedural documents online via the e-File system.¹⁶ When the recipient opens a procedural document in the information system or acknowledges receipt, it is deemed to be served. The use of e-service is mandatory for attorneys, notaries, enforcement agents, trustees in bankruptcy, reorganisation advisers, trustees within the meaning of the Natural Persons Insolvency Act, and state or local government agencies. There is no need for any special registration for such professionals to the information system (e-File). E-File uses the e-mail address notified to the court. If there is a valid reason (e.g. the e-File system does not work), professional users can also send documents via e-mail. Only with good reason may such professional users be served with procedural documents in any other manner than electronically.

Online hearings legislation

The possibility to hold online / audio / videoconference hearings refers to the official use of audio-visual devices and systems in the framework of judicial proceedings for hearing parties. While the process in online courts should by default develop without a hearing, it might be necessary in some cases to conduct such a hearing. The admissibility of online hearings is particularly important for online courts since although the default approach is to have asynchronous process with no court hearings, where appropriate, the disputants should be afforded the right to be heard even in the framework of online courts.¹⁷

Recommended measures

Countries should consider adopting and implementing laws and regulations that enable the use of online (remote) hearings in court proceedings, including by:

- Allowing for the **admissibility of online hearings** in a broad range of procedural laws (e.g. civil, criminal, administrative).
- Considering **criteria for the selection of video communication platforms**, including consideration of whether commercially available platforms would be acceptable or only the proprietary system of the judiciary would be used.¹⁸
- Developing **detailed rules and procedures** for online hearings.¹⁹
- Ensuring that all participants in the online hearing have been provided with **access to all the required documents prior to the online hearing**.
- Considering in which cases and how to allow **public access to online court hearings**, e.g. via streaming solutions.²⁰

¹⁶ Available at <https://www.rik.ee/en/e-file>

¹⁷ See Guidelines of the Committee of Ministers of the Council of Europe on online dispute resolution mechanisms in civil and administrative court proceedings of June 2021, Art. 23, “The use of ODR in courts should not in itself deprive parties of a right to request an oral hearing before at least one level of jurisdiction” at https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a2cf96. See also ASEAN Guidelines on Online Dispute Resolution’, para 61, page 10 at <https://aseanconsumer.org/file/ODR/ASEAN%20ODR%20Guidelines%20-%20FINAL.pdf>.

¹⁸ Including ease of access; availability of encryption or other security measures to protect against hacking or data breaches; ensuring that only authorized parties have access to the hearing; and availability of functionality to convert an electronic recording into a court transcript.

¹⁹ Including rules on how the court can verify the identity of participants; whether the consent of the parties is needed to schedule an online hearing; and providing alternative communication channels, such as telephone or email, or having alternative venues available for physical hearings if necessary.

²⁰ See Guidelines of the Committee of Ministers of the Council of Europe on online dispute resolution mechanisms in civil and administrative court proceedings of June 2021, Art. 22, “The use of ODR mechanisms should guarantee appropriate ways to ensure public scrutiny of proceedings.” at https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a2cf96.



United Kingdom

Expected benefits

Online hearings can reduce the dependence of the justice system on physical hearings, while delivering a number of key benefits:

- Improving access to justice by reducing the need for physical presence in court, **making it easier for parties to participate in hearings** regardless of their location.
- **Reducing costs for litigants associated with physical attendance**, such as travel and accommodation expenses. Saving litigants' time associated with travel to the court.
- Improving court case management by allowing for **more efficient scheduling and management of cases**, reducing delays and backlog in the court system.
- Encouraging the **wider adoption of other e-justice solutions** in the court system, leading to further efficiencies and improvements.

Lessons learned from other jurisdictions

The choice of platform for online hearings in Ireland and the UK

Online hearings in Ireland are conducted by means of a virtual meeting room (VMR) using the PEXIP video-streaming application. Parties can join a PEXIP VMR session from a range of video-streaming service providers, including Skype, Zoom, Cisco Webex and Teams. All parties do not need to use the same application or an integration tool to connect.²¹ Even though the England and Wales judiciary has its own platform for audiovisual hearings (Cloud Video Platform - CVP),²² during the COVID-19 pandemic few used this platform and preferred technologies like Skype instead.²³ Apparently, the utilization of commercially available solutions may be more convenient to parties than limiting online hearings to proprietary platforms.²⁴

Electronic enforceable titles legislation

Ideally, an e-justice system allows complete electronic management of cases, from case filing, through judgment, to enforcement.²⁵ Electronic enforceable titles legislation allows the relevant enforcement authority to initiate enforcement based on an enforceable title in electronic form.

Recommended measures

Countries should consider adopting the needed legislation to allow electronic enforceable titles, including through:

- **Defining the scope and nature of electronic enforceable titles**, including their legal status, enforceability, and transferability.
- Introducing **provisions for the process of creation, registration, and certification of electronic enforceable titles**, as well as the rights and obligations of parties involved in the e-enforcement process.
- Ensuring that **enforcement authorities have a secure access to the electronic enforceable title** and are able to record therein enforcement actions associated with that title, depending on applicable legislation.
- Considering the **introduction of common technical and legal standards for electronic enforceable titles**, as well as the exchange and recognition of electronic titles across borders.

²¹ Halpin, Rebecca (2020), Remote Court Hearings, Oireachtas Library & Research Service, p. 8.

²² See <https://www.gov.uk/government/publications/how-to-join-a-cloud-video-platform-cvp-hearing/how-to-join-cloud-video-platform-cvp-for-a-video-hearing>.

²³ See Byrom, Natalie & Beardon, Sarah & Kendrick, Abby. (2020). The impact of COVID-19 measures on the civil justice system, p. 34.

²⁴ See Panzardi, Roberto O.; Osmanovic Pasic, Zuhra; Petkova, Svetozara; Sipka, Olga; Sofijanac, Tatjana; Berhamovic, Esmir; Babovic, Branka; Prostran, Sonja. Improving Commercial Justice in Bosnia and Herzegovina in the Face of COVID-19 Crisis : Phase II Analysis - Medium to Long-Term Strategies (English). Washington, D.C. : World Bank Group. <http://documents.worldbank.org/curated/en/435031620103765036/Improving-Commercial-Justice-in-Bosnia-and-Herzegovina-in-the-Face-of-COVID-19-Crisis-Phase-II-Analysis-Medium-to-Long-Term-Strategies>, p. 45.

²⁵ Lupo, G., & Bailey, J. (2014). Designing and implementing e-Justice Systems: Some lessons learned from EU and Canadian Examples. *Laws*, 3(2), 353-387. See also CEPEJ, 2015. Good Practice Guide on Enforcement of Judicial Decisions adopted by the European Commission for the Efficiency of Justice CEPEJ (2015)10.

Expected benefits

Enacting legislation to establish electronic enforceable titles, and integrating electronic enforceable titles into e-justice systems can have significant benefits, including:

- **Reducing the time and costs associated with enforcement** by eliminating the need for physical delivery and facilitating faster processing times.
- Improving the **reliability and security of enforcement** proceedings by reducing the risk of fraud and errors.
- Facilitating **cross-border enforcement**.
- **Enhancing the speed of procedure** to prevent creditors from misbehaving by manipulating assets.

Lessons learned

Secure submission of electronic enforceable title in Estonia

In Estonia, the Code of Enforcement Procedure allows for the submission of an application for enforcement and an enforcement title through electronic means, as stated in Article 23(6).²⁶ To ensure the authenticity of the application, the sender must affix their digital signature. This means that an enforceable document can be requested electronically, provided that the applicant's identity can be verified. Additionally, Article 33(6) of the Code mandates that bailiffs must electronically register and record enforcement instruments and actions in accordance with the guidelines set forth by the Minister responsible for these matters.²⁷



²⁶ Available at <https://www.riigiteataja.ee/en/eli/501032021003/consolide>

²⁷ See for more details Jokubauskas, R., & Świerczyński, M. (2023). Digitalisation of Enforcement Proceedings. *Utrecht Law Review*, 19(1), 20–30. DOI: <https://doi.org/10.36633/ulr.819>

2.1.2. Streamlining the commercial dispute resolution process

Certain fields of law and certain types of court procedures are more suitable for the development of online courts than others. Business-to-business disputes are very appropriate for resolution through such mechanisms as they tend to develop between competent professional users of the court system who usually have a high level of digital skills. Furthermore, business transactions generally leave a clear documentary track. Therefore, written materials may be sufficient to conduct the discovery process in such disputes, and the interrogation of witnesses may not be required. Last, but not least, the costs of full-blown litigation might be prohibitive for small and middle-sized enterprises (SMEs) and an extended court process might frustrate business operations. For these reasons, online courts could offer a very attractive alternative to traditional litigation in commercial law, giving SMEs in particular a more cost-effective option for accessing justice.

Other procedures that may be suitable for execution in the framework of an online court include various forms of alternative dispute resolution (ADR), procedures for enforcing claims which are not contested by the debtor, as well as small claims procedures. These three types of procedures could all develop in the framework of a track that is adapted for business-to-business disputes or could apply to civil disputes overall, including commercial ones. Measures that could help economies streamline those specialised procedures and make them better suited for development in an online environment are presented below.

Commercial dispute resolution

While not all EBRD CoOs have separated commercial from civil litigation, institutionally or procedurally, a level of specialisation might help tailor the available tools and expertise to the needs of the business sector. Such specialisation may also allow for the establishment of an online track for that targets commercial disputes in particular.

Recommended measures

Where an economy seeks to introduce or strengthen specialisation in the field of commercial litigation, including with a view to enable the creation of a special online track for some types of commercial cases, some or all of the following measures could be employed:

- Introduce **specialised commercial courts or specialised commercial divisions of the courts of general jurisdiction**, either throughout the country or in major cities.
- **Modify the rules of general civil procedure as applicable to commercial cases** to make them better suited to the characteristics of business-to-business litigation.
- Introduce **mandatory inception and continuous training in commercial law for judges** that examine such cases.²⁸
- Ensure that **judicial assistants of judges who examine commercial cases have the required specialist knowledge**, including through training and other forms of capacity building.²⁹
- Ensure that **judicial statistics disaggregates between civil and commercial cases** to identify bottlenecks and improve performance of commercial litigation.

Expected benefits

Ensuring specialisation of commercial dispute resolution is expected to yield the following key benefits:

- Better **tailoring of civil procedure to the needs of the business sector**.
- **Speeding up commercial litigation**.³⁰
- **Reducing the cost** of commercial litigation by optimising the procedure.
- Ensuring that the judges and their assistants working on commercial cases have **specialist knowledge** thus enhancing the quality of commercial justice.
- Through statistical disaggregation, allowing for a **comparison between the efficiency processing of civil and commercial cases** and further analysis and tailored process improvements.
- Ensuring that commercial litigation is a well-delineated separate procedural track can allow for **accelerated piloting of digital tools** only for this track and, down the road, for introducing online courts tailored specifically to the needs of the business sector.

²⁸ See for more details the section on Capacity building below.

²⁹ Ibid.

³⁰ The procedural rules for commercial cases as compared to the general civil cases procedures can be streamlined and/or accelerated in four key areas: expedited court proceedings; special rules regarding evidence; special methods or procedures for organising and holding hearings; and modifications of the general procedural rules aimed at improving quality.

Lessons learned

Special procedural rules for commercial cases in Poland

The Polish Civil Procedure Code introduces special procedural rules for commercial cases to make them better suited to the characteristics of business-to-business litigation. There are time limitations for the parties in invoking statements and evidence: the claimant must invoke all statements and evidence in the lawsuit, and the defendant must invoke all statements and evidence in response to the lawsuit. Furthermore, there are numerous evidentiary limitations such as the possibility of the parties in a lawsuit to contractually exclude particular evidence; a rule that only a document can establish the acquisition, loss, or change of a party's right; and modifications to the evidentiary hierarchy whereas evidence in the form of documents has priority over witness testimonies.

Procedural modifications applicable to commercial cases in Bulgaria

There is a dedicated chapter in Bulgaria's Civil Procedure Code setting special procedural rules for commercial cases, as follows: (1) shorter timelines for commercial cases, e.g. in the regular procedure the timeline for responding to the claim is 1 month and in the commercial one – 2 weeks; (2) in the commercial procedure, there is a 1 month structured period in which the parties can exchange submissions in writing; (3) there is a closed case-management session (without the participation of the parties), in which the court makes preliminary pronouncements on whether claims and evidence requested by the parties are admissible; (4) if the court deems it appropriate, it may decide to examine the case fully in writing, avoiding a hearing altogether.

Alternative Dispute Resolution (ADR)

ADR is not limited to commercial dispute resolution and can develop in the context of various court procedures (including commercial ones) or outside the court system altogether. It is a very appropriate solution for business-to-business dispute though, where emotions have less of a role to play and parties are prepared to rationally, and even creatively, evaluate options for preserving their relationship and/or reducing the cost of the case. Furthermore, ADR can play an important role in the context of online courts. Since the parties to such a case may never meet in person or before a judge, it is important that the electronic platform itself incorporate mechanisms that would encourage the parties to reach a settlement, e.g., by proposing options or connecting the parties to a mediator/facilitator who might aid their discussions.³¹

Recommended measures

For ADR mechanisms in a country to be ripe for incorporation into an online court setting, they need to be well-developed in legislation and in practice. ADR should offer the prospect of resolving the dispute conveniently and with a high degree of certainty. With this in mind, the following measures are recommended to promote the use of ADR in preparation for the incorporation of such mechanisms into an online court:

- Introduce **legislation governing mediation in civil/commercial disputes** including court-annexed mediation (i.e. requiring the court to encourage and/or facilitate the parties to use a mediation procedure if appropriate).
- Ensure that the applicable law provides for **accreditation of mediators** and that there is an **official registry of mediators publicly available online**.
- Introduce **incentives that encourage the parties to resort to mediation** such as reduction of court fees upon successful settlement; one or more free mediation session(s); as well as a requirement for attempting mediation before litigating some types of disputes.

- Take legislative measures to ensure that at least **some types of mediation settlements are deemed to have the force of a court judgment** and are directly enforceable (e.g. at least for some types of disputes and/or under certain conditions).
- Introduce one or more **online mediation solutions** (possibly integrated into the CMS or the online court platform), potentially for different types of disputes such as business-to-business, consumer disputes, etc.

Expected benefits

Strengthening the role of civil / commercial ADR in a jurisdiction can bring the following potential benefits:

- Provide a route to resolving disputes, which is **less costly and speedier than litigation**.
- Ensure that the **mediators are highly qualified and reliable**.
- **Allow parties to preserve their relationship** following the settlement of the dispute.
- Foster a **less-litigious environment**.
- **Reduce the caseload of courts** thus allowing them to focus on more complex disputes and spare state resources.
- In the case where an **online mediation platform** is made available, allow for gradual promotion and improvement and, potentially, for its **incorporation within the framework of an online court**.³²

³¹ For example, the Civil Resolution Tribunal of British Columbia, which is one of only a few functioning online courts, incorporates both negotiation and facilitation through a case manager into its process. A settlement reached in such a manner can be turned into an enforceable order. See <https://civilresolutionbc.ca/crt-process/>.

³² The integration of online mediation platforms within the broader framework of an online court allows for synergistic advancements and the seamless transition to comprehensive online dispute resolution mechanisms tailored to the needs of civil/commercial litigants.

Lessons learned

Encouragement of mediation in Türkiye

Participating in a mediation session is a pre-requisite for commencing litigation in several types of commercial disputes in Türkiye (so-called mandatory mediation).³³ In mandatory mediation, the certified mediation minutes indicating the parties' disagreement should be attached to the claim when initiating court proceedings. The courts have also online access to the mediation centre's records. The application to mediate is free of charge. If settlement is not reached between the parties, the mediation fees are paid by the state; however, at the end of the court proceedings these fees are borne by the losing party. If settlement is reached, parties can decide how to divide the fees. The said fees are calculated based on an official tariff in proportion to the claimed amount. The application for mandatory mediation can be conducted through an electronic system. Since the Covid-19 pandemic, almost all mediation meetings are conducted in teleconferences and the mediation minutes are signed in an electronic form.

Enforceability of the settlement agreement in Serbia

In Serbia, a mediation settlement agreement is directly enforceable and has the legal force of a writ of execution if the following conditions are met: (1) it contains an enforcement clause, i.e. a statement of the debtor by which he/she agrees to enforcement; and (2) signatures of the parties and the mediator are certified by a public notary. However, in consumer disputes, out-of-court settlement agreements do not need to be certified by a public notary to have the legal force of a writ of execution.³⁴

Uncontested claims procedures

Uncontested procedures for enforcing a claim are of great significance both for the business environment and for the justice system. They allow creditors to obtain an enforceable title for claims not contested by the debtor in a manner which is speedy, cost-efficient and avoids the cumbersome procedures of traditional litigation. While they are highly important for businesses, and especially for institutional creditors such as banks and utility companies, uncontested claims procedures are rarely tailored specifically to commercial claims and usually apply to both civil and commercial ones.

Recommended measures

Due to their non-litigious nature, uncontested claims procedures are particularly suitable for streamlining and digitisation, and ultimately for their incorporation within the framework of an online court. To achieve that, the following measures are recommended:

- Introduce a **straightforward and standardized mechanism for filing uncontested claims online**, which allows creditors to do so without legal assistance.
- Require a **fee for filing** the uncontested claim which is **significantly lower than the fee for a litigious claim** of the same value.
- **Simplify substantially the rules on attaching evidence** to the uncontested claim preferably by allowing the attachment of electronic documents and/ or not requiring evidence at this stage of seeking enforcement.
- Set **short timelines for pronouncement** (e.g. less than one month) and ensure that they are complied with.

- Ensure that options are available for **efficient service of the notification of the procedure to the debtor**, even in cases where he or she actively seeks to avoid personal service of process.
- Ensure that debtors have an **easy mechanism for objecting to the claim**, without requiring justification thereof or the submission of supporting evidence at this stage of the procedure.
- In case of debtor's objection, ensure that there are **effective linkages between the uncontested claims procedure and the resulting litigious case** so as the claimant need not file the same documents or carry out very similar procedural actions twice.

Expected benefits

Streamlining and digitising the uncontested claims procedure(s) in a jurisdiction has the potential to yield the following benefits:

- **Reduce the cost** of enforcing contracts both for the creditor and for the debtor through savings from court fees and savings from legal assistance.
- Increase the speed of collecting claims that are not contested by the debtor.
- **Spare court resources** by reducing the number of procedures that reach litigation.
- A high degree of streamlining and standardization of the procedure would allow for **enhancing its level of digitisation** and making it **suitable for incorporation within the framework of an online court**.

³³ Law 6325 on Mediation in Civil Disputes.

³⁴ Article 166 of the Serbian Law on Consumer Disputes.

Lessons learned

Centralised and electronic order for payment procedure in Estonia

In Estonia, the order for payment procedure is fully centralised. All applications are examined by the Haapsalu Courthouse of Pärnu District Court.³⁵ Only electronic filing is allowed. The online platform for filing the application have functionality for the automatic verification of the entered data through interfaces with other databases concerning natural and legal persons who are registered in Estonian registers, e.g. the Central Commercial Register, the Population Register. There is no need to attach any evidence, but the application should set out a short description of the evidence which the petitioner would use in case of debtor's objection.³⁶ In case the debtor objects, the order for payment procedure transforms into a regular litigious procedure unless the claimant has explicitly asked for termination of proceedings in the case an objection is filed.

E-court in Poland

The E-court in Poland is set as a division of the district court of general jurisdiction in Lublin and is competent to examine all electronically filed applications for the issuance of orders for payment in the entire country. The procedure is quick and only electronic filing and processing are allowed. Claimants who wish to file on paper can do so based on the traditional rules of territorial jurisdiction; however, while in the E-court the fee amounts to 1.25% of the value of the claim, in the regular court the fee would be 5% of that value. Furthermore, the electronic procedure with E-court offers much quicker processing of claims as compared to the paper-based procedure in the courts of general jurisdiction.

Small claims procedures

Small claims procedures are civil and/or commercial court procedures designed to resolve disputes with a value below a certain monetary threshold. When faced with such disputes, citizens and businesses tend to have a high motivation to resolve them as quickly and inexpensively as possible. Like with uncontested claims, even though businesses, and SMEs in particular, are frequently faced with such disputes, small claims procedures are rarely tailored specifically to commercial claims and usually apply to both civil and commercial ones.

Recommended measures

Small claims procedures are very often suitable testing grounds for innovative approaches, including technological innovations. Furthermore, the very existence of a differentiated small claims procedure may indicate that it could be incorporated within the framework of an online court. To achieve that, the following measures are recommended:

- For CoOs that do not have a **small claims procedure** yet, consider **introducing one**.
- Introduce a straightforward mechanism for filing small claims, such as **standardized forms for filing** that can also be used in an online setting.
- Allow parties to **participate in the procedure without legal assistance** and incorporate in the procedure features (such as judicial guidance and simplifications) that would aid them in doing so.

³⁵ Article 108 of the Code of Civil Procedure of Estonia.

³⁶ Article 482(1) of the Code of Civil Procedure of Estonia.



- Consider introducing a possibility for the parties to **opt into the small claims procedure even if the value of the claim is above the threshold.**
- Require a **fee for filing the small claim which is significantly lower** than the fee for a litigious claim of the same value.
- See that the procedure develops quickly by setting **statutory timelines** both for the court and for the parties and ensuring compliance with them.
- **Simplify evidentiary rules.**³⁷
- **Simplify the rules on hearings** by allowing online hearings and/or a written only procedure.
- Introduce rules that **simplify the content of the judgment.**
- **Limit recourse to appeal.**³⁸

Expected benefits

Having a simplified small claims track can yield the following benefits:

- **Reduce the cost** of resolving low value claims.
- **Increase the speed** of resolving low value claims.
- **Spare court resources** used in the small claims procedure thus allowing judges to focus on more complex litigation.
- A high degree of streamlining and standardization of the procedure would allow for enhancing its level of digitisation and **making it suitable for incorporation within the framework of an online court.**

Lessons learned from other jurisdictions

Money Claim Online (England and Wales)

Money Claim Online (MCOL) is a simple way to commence online a claim. To file through this platform, claimants should seek a fixed amount of money less than £100,000, against no more than two defendants with an address in England or Wales. The claimants should have a valid credit or debit card to pay the court fees, an address in the United Kingdom, an email address and a regular access to a computer and the internet. Furthermore, to protect disadvantaged citizens, the platform requires that both the claimant and the defendant should not be under 18 years old. The defendant can also not be someone who lacks 'mental capacity'. Once the claim has been submitted, the court sends out a claim pack to each defendant and allows 5 calendar days from the date of issue for the service of the claim. The defendant has 14 calendar days from the date of service to file a response and has numerous response options such as full admission of the claim, partial admission of the claim, counterclaim, indication of an intention to file a defence, etc. In case the defendant contests the claim, the claimant must indicate to the court whether he or she still wishes to pursue it and complete a questionnaire in preparation for the litigious phase of the case. Once all parties have filed their questionnaires, the case may be referred to a mediator if the parties agree; alternatively it will be transferred to the local County Court Hearing Centre to continue. Thus MCOL serves as an online mechanism for channeling claims below a certain value and either issues an enforcement title, if they are not contested by the debtor, or directs them to the respective court or mediation service.³⁹

Optionality of the small claims procedure of Denmark

The small claims procedure of Denmark is applicable to claims with a value below 50,000 Danish Kroner (appr. EUR 6,700). However, parties to a dispute can enter into an agreement, similar to an arbitration clause, to use the simplified procedure even for claims with a higher value. Such an agreement would be valid for consumers only if they have consented after the dispute has arisen. The parties in may also agree that the small claims procedure shall not apply even though the value of the dispute is below the threshold. This agreement may only be made after the dispute has arisen.⁴⁰

³⁷ E.g. by introducing a stricter relevance assessment for admitting evidence, simplifications to the required form of the evidence or limitations to the use of expert witnesses.

³⁸ E.g. in some of the following ways: admit fewer grounds for appeal; restrict recourse to interlocutory appeal; empower the second-instance court to impose cost sanctions if it finds that the appeal had been vexatious or frivolous; simplify the appellate procedure.

³⁹ See Money Claim Online (MCOL) – User Guide for Claimants at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/478059/money-claim-online-user-guide.pdf.

⁴⁰ See Panzardi, Roberto O.; Osmanovic-Pasic, Zuhra; Petkova, Svetozara. Fast-Tracking Small Claims in Bosnia and Herzegovina: A Comparative Analysis and Reform Proposals (English). Washington, D.C.: World Bank. Group. <http://documents.worldbank.org/curated/en/329881567699256964/Fast-Tracking-Small-Claims-in-Bosnia-and-Herzegovina-A-Comparative-Analysis-and-Reform-Proposals>, p. 17

2.2. IT infrastructure

Investing in a modern and reliable IT infrastructure is essential for implementing e-justice reforms. Upgrading existing hardware, software and network equipment will lay the foundation for digitising court processes and introducing new digital tools. E-justice systems and tools should be progressively developed through an inclusive, user-centred process while actively involving stakeholders across the justice system and the wider society. The overall aim of the measures proposed below is to improve the day-to-day administration of justice, reduce costs and processing times, and increase transparency and accessibility of courts through digital channels.

Internet infrastructure

The level of internet penetration is indicative of the extent to which internet usage is widespread among the general population. Typically, per capita income, human capital, and foreign direct investment are key determinants of internet penetration.⁴¹ The availability of broadband internet access to the population is also an essential precondition for the successful implementation of e-justice solutions and tools.

Recommended measures

Countries should consider promoting the development and enhancement of internet infrastructure, including through investing in robust broadband networks and initiatives to increase internet penetration rates, as a critical foundation for the effective functioning of e-justice systems and online courts. Specific measures could include:

- Allocating adequate funding and resources to **expand fibre-optic networks, upgrade wireless infrastructure, and implement advanced technologies** like 5G networks that enable higher internet speeds and capacities.
- Establishing transparent regulations that foster **healthy competition among broadband providers** and incentivize investment in infrastructure expansion.
- Encouraging **collaborations between the government and the private sector**, such as internet service providers and telecommunications companies, **to invest in broadband infrastructure development.**⁴²
- Ensuring that **all justice institutions have reliable, high-speed internet access** to support e-justice services.
- Expanding **access to free public Wi-Fi**, particularly in disadvantaged communities and rural areas, via community centres, libraries, schools, and government facilities.
- Implementing programmes to bridge digital divides through targeted initiatives that **improve internet access for disadvantaged populations and regions.**
- Providing **training and technical support** to those who are not familiar with using the internet.
- **Considering internet accessibility and speed limitations in the process of developing e-justice system** requirements, system upgrades, authentication protocols, and cybersecurity measures.

Expected benefits

Improving internet infrastructure can increase access to justice by enabling more people to participate in court proceedings remotely. The key benefits include:

- Facilitating wider **access to online court services.**
- Enabling businesses and individuals in **remote or disadvantaged communities to participate in legal proceedings without the need for physical presence.**
- **Expediting communication, document exchange, and online case management** within the judicial system, leading to faster case resolution times and reduced procedural delays.
- Supporting the overall transition to digital work processes, resulting in **cost savings** for the justice system and court users.
- **Enhancing transparency** through easy access to court records, case status updates, and e-justice systems, thus promoting accountability, trust and confidence in the judiciary.

Lessons learned

WiFi4EU initiative in the European Union

Municipalities in the European Union are eligible to apply for a WiFi4EU voucher. The EUR 15,000 vouchers are intended to assist in providing the community with a free public internet connection. When a municipality receives a voucher, it can install WiFi4EU hotspots in any public space that are regarded the heart of their communal life, such as town halls, public libraries, health centres, museums, squares, parks, and so on. Each beneficiary (e.g. municipality or another local public institution) then contracts the telecom operator of their choice which should ensure the installation and functioning of the Wi-Fi connection for at least 3 years.⁴³

⁴¹ For more details see: Saba, C. S., & David, O. O. (2022). Identifying Convergence in Telecommunication Infrastructures and the Dynamics of Their Influencing Factors Across Countries. *Journal of the Knowledge Economy*, pp. 1-54.

⁴² See for more details ILSR, 2016. Successful Strategies for Broadband Public-Private Partnerships at <https://ilsr.org/wp-content/uploads/downloads/2016/08/PPP-Report-2016-1.pdf>

⁴³ See for more details the WiFi4EU initiative website at: <https://wifi4eu.ec.europa.eu/#/home>

Integrated case management system and recommended functionalities

Case management systems (CMS) are at the core of digitising court processes. While in many jurisdictions, the judiciary employs a number of different systems, an integrated one offers numerous advantages and can serve as the backbone of developing sophisticated functionalities, including online courts. A unified national CMS enables an integrated approach towards the development of the ICT infrastructure of the judiciary, as well as good interoperability among courts and effective use of investment in ICT for the judiciary.⁴⁴

Recommended measures

Countries should consider developing and implementing a single integrated CMS for all courts including the following:⁴⁵

- Providing **e-filing and e-document management**, including through web portals, and ensuring seamless **integration with a centralized CMS database**.⁴⁶
- Allowing for **e-service** of court notices, including judgments.
- Integrating a functionality for **managing electronic evidence**, including secure storage, chain of custody tracking, and access controls.

- Allowing for **remote access to the integrated CMS** for judges, other court staff, litigants, lawyers, and other authorized parties to easily file claims, submit evidence and manage cases online.
- Allowing **scheduling or postponement of court hearings**, and providing **real-time updates on case progress**, including notifications for upcoming deadlines and court events.
- Allowing **automatic generation of routine documents** like summons and standard court orders based on case-type and inputs by the judge.
- Allowing users to **search for cases and generate customised reports** based on various criteria, such as case type, date range, and other relevant factors.
- Providing the functionality to **issue an electronic enforceable title** and ensuring that enforcement agents have authorized access to it.
- Including a mechanism to **randomly allocate incoming cases to judges** to ensure unbiased assignment of cases.
- Implementing **strict security and system access standards**, such as two-factor authentication, use of digital signatures, encryption of sensitive data, and audit trails.⁴⁷
- Designing the CMS with a **user-centric approach**, focusing on ease of use and accessibility for all users, including those with disabilities and/or limited digital literacy skills.
- Designing the system with the **ability to scale up** and adapt to evolving needs, ensuring that it remains relevant and effective in the long term.
- Ensuring **interoperability and integration with other relevant systems**, such as administrative registries, law enforcement databases, and e-payment platforms, as well as interfaces to share data and e-documents with other public bodies as needed.
- Defining **key performance indicators** to monitor the performance, usage and user satisfaction of the CMS.
- Developing a **change management plan** to address organizational and cultural shifts that the integrated CMS implementation may entail.⁴⁸
- Providing **continuous training and support to judges, other court staff**, professional court users and citizens on using the system efficiently while adhering to data security and privacy standards.⁴⁹

⁴⁴ See for more details CEPEJ, 2016. European judicial systems: Efficiency and quality of justice, CEPEJ Studies No. 24, at <https://rm.coe.int/european-judicial-systems-efficiency-and-quality-of-justice-cepej-stud/1680788229>

⁴⁵ See for more detailed planning, design and implementation steps: CEPEJ, 2019. Toolkit for supporting the implementation of the Guidelines on how to drive change towards Cyberjustice at <https://rm.coe.int/cepej-toolkit-cyberjustice-en-cepej-2019-7/168094ef3e>

⁴⁶ In situations where the workload and case volume do not necessitate a new case management system, an alternative option could be to enhance the current system by incorporating digital court record solutions like a Document Management System (DMS) or an Electronic Case Management System (ECMS).

⁴⁷ Regarding cybersecurity in ODR systems, see also Guidelines of the Committee of Ministers of the Council of Europe on online dispute resolution mechanisms in civil and administrative court proceedings, Art. 29, at https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a2cf96.

⁴⁸ For example, providing equipment and adequate funding to enable courts to digitise existing records.

⁴⁹ See Guidelines of the Committee of Ministers of the Council of Europe on online dispute resolution mechanisms in civil and administrative court proceedings, Art. 41, at https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a2cf96.

Expected benefits

The implementation of a single national integrated CMS offers several key benefits:

- Enhancing the efficiency of the court system by **streamlining court processes**, automating administrative tasks, and reducing manual paperwork.
- Facilitating **seamless communication and collaboration** among judges, court staff, professional court users, and other stakeholders.
- Increasing **access to justice for litigants** by providing online access to case information, self-service options, and electronic filing capabilities.
- Ensuring **consistent and informed decision-making** by enhancing data accuracy, reducing duplicate entries and errors, and providing a comprehensive view of a case across different court instances.
- **Promoting transparency** by providing stakeholders with access to real-time case updates, court schedules, and hearing outcomes.
- **Fostering accountability** of the judiciary by tracking case progress, monitoring performance metrics, and providing court statistics.

⁵¹ For more details see (in Bulgarian): <https://www.is-bg.net/bg/news/204>

⁵² European judicial systems CEPEJ Evaluation Report, 2020 Evaluation cycle: [https://www.coe.int/en/web/cepej/special-file-publication-of-the-report-european-judicial-systems-cepej-evaluation-report-2020-evaluation-cycle-2018-data-: Country data for the CEPEJ report is available here: https://www.coe.int/en/web/cepej/replies-by-country](https://www.coe.int/en/web/cepej/special-file-publication-of-the-report-european-judicial-systems-cepej-evaluation-report-2020-evaluation-cycle-2018-data-:Country%20data%20for%20the%20CEPEJ%20report%20is%20available%20here%3A%20https://www.coe.int/en/web/cepej/replies-by-country)

⁵³ European Commission, 2020. Report of the Rule of Law in the Republic of Croatia for the preparation of the Annual Report on the Rule of Law in the European Union Member States by the European Commission at https://ec.europa.eu/info/sites/default/files/2020_rule_of_law_report_-_input_from_member_states_-_croatia.pdf

Lessons learned

Introduction of a unified CMS in Bulgaria

Several CMSs have been functioning in Bulgaria for a long time. They were replaced with a unified CMS in June 2020.⁵¹ The system enables centralized electronic case file storage, which considerably decreases the time required to develop and manage an electronic case file. When a case transfers between court instances, the electronic case files are sent to the next instance, resulting in significant time savings in each successive court where the case is heard. It enables remote work from anywhere around the globe via a secure connection with a high level of security. The unified CMS is still being fully integrated with all court cases, and various additional upgrades have either been carried out or are expected.

Innovative use of the case management system in Croatia

Croatia streamlined its appeal procedure in 2015 by moving away from territorial appeal jurisdiction, making random assignment of cases compulsory (through the case management system) and permitting second instance county courts to decide appeals in civil and criminal cases from all municipal courts thus essentially overriding the rules on territorial jurisdiction and having all second-instance judges function as a single court. This reform reduced the time taken to decide appeals, evened out the workload of judges, and increasingly harmonised the application of case law across the court system.⁵² A specially designed algorithm ensures equal allocation of cases, taking into account the type and legal complexity of the cases. The procedure for assigning cases to judges is regulated in detail by the Court Rules of Procedure and regulations governing the operation of information systems in the courts.⁵³



Availability and functionalities of the public interface for accessing courts

E-justice platforms are commonly equipped with a range of features to assist court users in efficiently participating in legal proceedings. Such platforms typically include web-based system interfaces.

Recommended measure

Countries should consider developing a comprehensive and user-friendly public interface for accessing courts that facilitates essential functionalities such as checking case progress, accessing case files, e-filing, e-service, and e-payment of court fees. The following measures and key elements could be considered in this regard:

- Implementing a **user-centred design** by creating an easy-to-navigate interface that takes into account the needs of all users.⁵⁴
- Implementing a one-stop-shop principle in order to provide a single platform for the delivery of e-services by the judiciary.⁵⁵
- Considering the **reuse of existing national e-government platforms** or frameworks.⁵⁶
- Making the public interface for communicating with courts **easily accessible** to all users, **including those with disabilities, and/or limited digital literacy skills**.⁵⁷
- Providing a comprehensive **e-filing functionality** that enables the interaction and exchange of data and e-documents between courts and court users.⁵⁸
- Allowing users to **track the progress of their case** in real-time.
- Providing **access to case files** for litigants and other relevant court users, including court decisions, orders, and pleadings.

- Enabling **electronic service of court documents** to all parties in the case.⁵⁹
- Providing the **possibility to hold online / audio / videoconference hearings**.⁶⁰
- Providing **adequate user support**, including user guides, help desk and guidance in the e-filing system and other public-facing e-justice systems.⁶¹
- Developing a **mobile app** to complement the web-based public interface and offer on-the-go access to court services.
- Implementing **strong security measures and privacy policies** to protect sensitive information and user data.

Expected benefits

The development and implementation of a comprehensive and user-friendly public interface for accessing courts offers several key benefits:

- Improved **access to justice and greater inclusivity** by ensuring the interface is easy-to-use for all citizens, regardless of physical or digital abilities.
- Improving **user satisfaction** by making it easier and more convenient for court users to interact with the courts.
- Higher **operational efficiency** through the digitisation of processes like e-filing, e-service and e-payments, reducing paperwork, manual handling and physical visits to courts.
- **Cost savings** from decreased expenditure on facilities, resources and materials used for processing physical court documents and files, which help offset the costs of developing and maintaining the public interface.
- **Greater transparency** of court processes and decisions through real-time case tracking and access to case documents for litigants and their representatives.

Lessons learned

Digital e-justice platform in Portugal

The digital e-justice platform in Portugal⁶² provides an integrated platform for all sites and e-services of the judiciary, including cost simulators for different proceedings, as well as 120 datasets of statistical information. Since November 2018, all cases are accessible to parties and authorised persons.⁶³ The authorities have also introduced a range of initiatives to strengthen communication with external stakeholders, including a newsletter, a direct channel for submitting ideas and the requirement for authorities to provide feedback.⁶⁴

⁵⁴ See for more detailed information on user centricity: CEPEJ, 2021. Guidelines on electronic court filing (e-filing) and digitalisation of courts at <https://rm.coe.int/cepej-2021-15-en-e-filing-guidelines-digitalisation-courts/1680a4cf87>

⁵⁵ Ibid.

⁵⁶ Such as e-signatures, e-IDs, e-payment, e-delivery.

⁵⁷ See also the section on **Accessibility** below.

⁵⁸ See for more details the section on **E-filing legislation** above.

⁵⁹ See for more details the section on **E-service legislation** above.

⁶⁰ See also the section on **Online hearings legislation** above.

⁶¹ See for more details the section on **Stakeholder engagement** below.

⁶² Available at <https://justica.gov.pt/>

⁶³ Available at <https://tribunais.org.pt/>

⁶⁴ See for more details OECD, 2020. Justice Transformation in Portugal: Building on Successes and Challenges at <https://doi.org/10.1787/184acf59-en>

Detailed information about court cases provided in Poland

The Informational Portal for Common Courts in Poland⁶⁵ which has been launched recently provides the following categories of information about individual open cases: (1) the status of the case, (2) court hearing dates, (3) court actions (including orders and judgments issued by the court), (4) documents in the case generated by the court in electronic form, and (5) electronic protocols of court hearings. Contact information and templates/forms for various court filings are also available.

2.3. Institutional measures and stakeholder engagement

By prioritising stakeholder engagement, capacity building, accessible court procedures, and transparency, a robust e-Justice system can be developed. Stakeholder engagement ensures the system meets the diverse needs of judges, court staff, legal professionals, and the public. Capacity building equips stakeholders with the skills and knowledge to effectively utilise e-justice tools and systems. Accessible court procedures guarantee openness and inclusivity for all users. Transparency fosters public trust and confidence in the justice system. Together, these pillars create an e-justice system that addresses stakeholder needs and improves readiness for the introduction of online courts.

Stakeholder engagement

Successful digital transformation requires an effective change management policy involving all potential stakeholders.⁶⁶ Introducing user centricity and establishing user-friendly and responsive system design for all types of users is a must for a successful digitisation initiative. Allowing stakeholders to actively participate in the improvement of judicial procedures and their digitisation also facilitates the future uptake of the system, procedure or tool.⁶⁷

Recommended measures

Ensuring equal access to justice through e-justice requires providing appropriate legal services, effective support systems, and collaboration among stakeholders.⁶⁸ To develop a comprehensive e-justice stakeholder engagement approach, countries should consider the following measures:

- Implementing **iterative design processes** that can encourage **continued engagement and cooperation with key stakeholders** in the justice sector.⁶⁹
- Developing **mechanisms for collecting stakeholder feedback**, including through court user surveys, focus groups, end-user workgroups, or other consultative approaches.⁷⁰
- Conducting a thorough **analysis of the needs and concerns of different stakeholder groups**, including judges, lawyers, other court users, and court clerks.
- Creating **communication materials and information campaigns tailored to the needs of specific stakeholder groups** to address their concerns and demonstrate the benefits of e-justice tools and systems.
- Ensuring that the information portals (websites) of justice system provide the **contact information of all courts; schedules of court hearings; and forms that can be used by citizens and businesses for various filings** with the court.
- Gradually introducing an **obligation for professional court users to interact with the court only electronically**.⁷¹
- Offering **incentives for using e-justice** procedures, systems and tools.⁷²
- Providing **adequate technical support** and ensuring the availability of user guides, help desk and guidance in the e-justice systems and tools.⁷³
- Organizing **regular training sessions**, workshops, and webinars to build stakeholder capacity and familiarity with e-justice tools and systems.⁷⁴

⁶⁵ Available at: <https://prs.ms.gov.pl/>

⁶⁶ CEPEJ, 2017. Use of information technology in European courts (CEPEJ Studies No. 24) at <https://rm.coe.int/european-judicial-systems-efficiency-and-quality-of-justice-cepej-stud/1680786b57>

⁶⁷ CEPEJ, 2021. Guidelines on electronic court filing (e-filing) and digitalisation of courts at <https://rm.coe.int/cepej-2021-15-en-e-filing-guidelines-digitalisation-courts/1680a4cf87>

⁶⁸ OECD, 2019. Equal Access to Justice for Inclusive Growth: Putting People at the Centre at <https://doi.org/10.1787/597f5b7f-en>

⁶⁹ This might include engaging stakeholders in system design, work process reorganization, content development, and user testing. See for more details Lupo, G., & Bailey, J. (2014). Designing and implementing e-Justice Systems: Some lessons learned from EU and Canadian Examples. *Laws*, 3(2), pp. 353-387.

⁷⁰ See for more details OECD, 2022. "Ensuring quality of participation: Guiding Principles for Citizen Participation Processes", in OECD Guidelines for Citizen Participation Processes, OECD Publishing, Paris at <https://doi.org/10.1787/22190414> and CEPEJ, 2021. Guidelines on electronic court filing (e-filing) and digitalisation of courts at <https://rm.coe.int/cepej-2021-15-en-e-filing-guidelines-digitalisation-courts/1680a4cf87>

⁷¹ This measure should be implemented only when most professional users already use the system or platform regularly, and the reliability of the system has been pilot tested in real life conditions. See for more details Gramckow, H., Ebeid, O., Bosio, E., & Silva Mendez, J. L., 2016. Good Practices for Courts, The World Bank, at <https://openknowledge.worldbank.org/bitstream/handle/10986/25101/108234.pdf?sequence=4>

⁷² Such as reduced fee for electronic filing, as well as other reduced court fees due to the use of electronic interactions with the court.

⁷³ Specific user support tools can include user guides; online or telephone help desk; and other forms of user guidance provided by the web interface, e.g., frequently asked questions (FAQs); tutorial videos; user notifications in online forms, AI chat bot, etc.

⁷⁴ See for more details the section on **Capacity building** below.

Expected benefits

The proposed stakeholder engagement approach for the implementation of e-justice initiatives, and of online courts in particular, offers several key benefits:

- Enabling the design and implementation of e-justice systems that facilitate access to services, ensuring access for all.
- Enabling the identification of areas for improvement and the implementation of tailored solutions based on actual stakeholder needs and designed to address key stakeholder concerns.
- Ensuring increased buy-in and support for e-justice reforms from stakeholders.
- Motivating stakeholders to embrace e-justice procedures, systems, and tools, and promoting their widespread adoption.
- Streamlining e-justice interactions and empowering stakeholders to effectively utilize e-justice systems and tools.

Lessons learned

Diversity of user support tools for court users in Kazakhstan

E-filing is offered in the Judicial Office system,⁷⁵ and the e-filing platform offers all three forms of court user support: user guides;⁷⁶ help desk;⁷⁷ and various types of user guidance (for example, detailed answers to frequently asked questions (FAQs)⁷⁸).

Recommended structure of court user surveys

The questionnaire items proposed by CEPEJ, the International Consortium for Court Excellence and other models used in Europe and the United States are typically structured around the following variables:⁷⁹

- Court service
 - General court organisation
 - Delays / excessive red tape/ administrative burden
 - Opening hours to the public
 - Costs
 - Access to information (accessibility of court documents, websites and information portals, etc.)
 - Equal treatment and non-discrimination
- Judges / Public Prosecutors
 - Competence
 - Impartiality
 - Ability to listen to the parties and to provide instructions
 - Time available before the judge
 - Clarity of judgments
- Staff (registrars / administrative staff)
 - Competence
 - Courtesy
 - Ability to listen and to provide instructions
- Structure
 - Organisation of the court (registries, offices, visual signage, etc.)
 - Building (external/internal accessibility, safety, available digital equipment, etc.)
- Other (noise, cleanliness, sanitary equipment)



Regular use of court surveys in Mongolia

The judicial system conducts court user surveys on a regular basis. Every year, a survey named “Trust of citizens in courts” is undertaken.⁸⁰ The key areas for improvement identified in the surveys are generally addressed in the strategic planning process of courts, and the strategy’s vision is titled “Strengthening public trust in the judiciary.”

⁷⁵ Available at: <https://office.sud.kz>

⁷⁶ The instructions for working with the Judicial Office can be found at <https://office.sud.kz/materials/help.xhtml>

⁷⁷ Help desk can be reached by (1) a phone line or (2) by writing an email to office@sud.kz

⁷⁸ FAQs at the Judicial Office website <https://office.sud.kz/materials/faq.xhtml>

⁷⁹ Adapted from CEPEJ, 2016. Measuring the quality of justice As adopted on 7 December 2016, at the 28th plenary meeting of the CEPEJ at https://rm.coe.int/european-commission-for-the-efficiency-of-justice-cepej-measuring-the-/1680747548#_Toc461720514 and International Consortium for Court Excellence, 2020. Global Measures of Court Performance. Third Edition. Sydney, Australia: Secretariat for the International Consortium for Court Excellence, at <http://www.courtexcellence.com>

⁸⁰ Conducted at least annually in 2017, 2018, 2019; no data is available for 2020 and 2021.

Legal obligations/ incentives for the use of electronic tools by professional users

Electronic communication (e-communication) between court users and courts is at the core of many e-justice transformation strategies. The obligation for professional court users to interact with the court only electronically is an important precondition for further digitisation of court processes, and successful online court implementation.

Recommended measures

Countries should consider requiring mandatory use of electronic tools by professional court users and/or incentives for the use of such tools, including through:

- **Defining the scope of electronic tools/systems/ platforms and categories of professional users**⁸¹ that shall use them.
- Specifying the **types of activities that professional users are required or incentivised to perform digitally**.⁸²
- Alternatively or concurrently, establishing **incentives to encourage professional users to use electronic tools willingly**.⁸³
- Setting **clear deadlines for professional users to shift to using electronic tools** to ensure a smooth and timely transition.
- Providing **free or subsidized training on electronic tools** for professional users.
- Offering **guidance to professional court users on the proper use of electronic tools** to ensure consistency and compliance with court procedures.

Expected benefits

The utilisation of electronic tools by professional users can contribute to improving the overall performance and readiness for online court development. This measure has the following key benefits:

- **Streamlining work processes** for both courts and professional users, reducing paperwork, and automating repetitive tasks, leading to faster case processing times and improved overall efficiency of the judicial system.
- **Enhancing accessibility** and reducing geographical barriers by enabling remote access to court documents, filings, and proceedings, and making it easier for professional users to engage with the court system from anywhere.
- Achieving **cost savings** by reducing the need for physical archiving space, minimizing paper-based processes, and lowering administrative expenses.
- Improved **accuracy and transparency of court processes** by introducing automated document management, digital signatures, and audit trails.

⁸¹ For example, lawyers, judicial system employees, notaries, bailiffs, court experts, court interpreters, and other professionals participating in the functioning of the court.

⁸² Such as e-filing, e-service, e-payment, e-enforcement, etc.

⁸³ Such as reduced court fees due to the use of electronic interactions with the court.

⁸⁴ Boscheinen-Duursma, H. C., & Khanyk-Pospolitak, R., 2019. Austrian and Ukrainian Comparative Study of E-Justice: Towards Conference of Judicial Rights Protection. Access to Just. E. Eur., 42 at <https://heinonline.org/HOL/LandingPage?handle=hein.journals/ajee2&div=31&id=&page=>

⁸⁵ Bundesministerium Justiz, 2020. IT-Anwendungen in der österreichischen Justiz at <https://www.justiz.gv.at/file/2c94848b6ff7074f017493349cf54406.de.0/it-anwendungen%20in%20der%20C3%B6sterreichischen%20justiz%20stand%20august%202020.pdf>

Lessons learned from other jurisdictions

Mandatory e-communication for professional court users in Austria

In Austria, lawyers, notaries, credit and financial institutions, insurance companies or social insurance agencies are obliged to participate in the electronic legal communication with courts within the bounds of the technical possibilities. Since 2019, experts and interpreters have been required to submit expert opinions and translations only electronically.⁸⁴ The advantages of this solution are cost savings (reduction of mailing and duplication costs as well as manipulation efforts), faster processing of the transmission, standardised transmission via secure connections and availability in digital form for further processing.⁸⁵

Capacity building

Capacity building for all users, including judges, is essential for improving court performance, using e-justice systems and tools, and for introducing online courts in particular. This entails the development of comprehensive training programmes, resources, and support systems that focus on enhancing the expertise of judges, court staff, and other stakeholders in both the technical aspects of using e-justice systems, and the substantive knowledge necessary for adjudicating complex commercial disputes, ADR, uncontested claims procedures, small claims procedures, and other relevant thematic areas.

Recommended measures

To develop an effective capacity-building programme for all users of the court system to support the introduction of online courts, countries should consider the following measures and key elements:

- Conducting a thorough **assessment of the training needs** and skill gaps among judges, court administrators, and other stakeholders in e-justice, commercial litigation, ADR, uncontested claims procedures, small claims procedures, etc.
- **Identifying key areas of judicial specialisation**, other substantive knowledge, and/or technical skills⁸⁶ that require additional training, new educational development programmes or other capacity-building activities.

- Designing a **comprehensive training curriculum** tailored to the needs of the stakeholder groups identified in the assessment, covering both procedural and substantive aspects.
- Implementing a **combination of online and in-person training sessions**, workshops, and seminars, as well as other innovative training approaches⁸⁷ to cater to different learning preferences and accommodate geographical constraints.
- Including **relevant topics in the mandatory inception training**, as well as in **continuous mandatory or voluntary training** for all judges and/or other court staff.
- Taking into consideration the need to **train users outside the judicial system**.⁸⁸
- Establishing **peer-learning networks and mentoring programmes** where experienced judges and court staff can share their knowledge with less experienced counterparts.
- Implementing **regular evaluations and updates to the training programmes** to ensure their effectiveness and adapt to changing needs and technological advancements.
- Developing a **repository of resources** such as manuals, guides, and case studies that users can access for continued learning and support.

⁸⁶ For example, using the various e-justice systems and tools, e-identification, cybersecurity, commercial litigation, ADR, uncontested claims procedures, small claims procedures, etc.

⁸⁷ For example, convening international judicial experts as trainers, developing e-learning modules and courses, short video trainings for court users, joint trainings of judges with prosecutors and other court users, micro trainings, etc. See for more details the collection of good training practices collected by the European Judicial Training Network (EJTN) available at: https://e-justice.europa.eu/content_good_training_practices-311-en.do

⁸⁸ See for more details CEPEJ, 2019. Toolkit for supporting the implementation of the Guidelines on how to drive change towards Cyberjustice at <https://rm.coe.int/cepej-toolkit-cyberjustice-en-cepej-2019-7/168094ef3e>

⁸⁹ Voigt, S., & El-Bialy, N., 2016. Identifying the determinants of aggregate judicial performance: Taxpayers' money well spent?, European Journal of Law and Economics, 41(2), pp. 283–319, at <https://doi.org/10.1007/s10657-014-9474-8>

⁹⁰ European Commission, 2020. Study on the use of innovative technologies in the justice field: final report, at <https://data.europa.eu/doi/10.2838/585101>

Expected benefits

The proposed capacity building measures offer the following key benefits:

- **Enhancing the knowledge and skills** of judges, other court staff, and court users in general on using e-justice systems, as well as on other substantive issues, leading to better decision-making and more efficient case management.
- **Improved court performance** and increased resolution rates.⁸⁹
- More **consistent application of e-justice legislation and procedures**, promoting fairness and predictability in the legal system.
- Enabling stakeholders to **fully leverage the benefits of e-justice systems** and tools, leading to streamlined processes and improved access to justice.

Lessons learned from other jurisdictions

Innovative e-learning portal for the judiciary in Czechia⁹⁰

The e-Learning portal in Czechia offers full online registration for participants from the judiciary for training events. Each training event task is performed online through the portal. It also provides mechanisms for evaluating information. All target groups in the judiciary use the portal. The e-Learning portal provides training e-books, e-learning modules in different fields of law, as well as soft skills training (e.g., languages), and video and audio training sequences. The portal uses artificial intelligence (AI) in the field of advanced Search (question-answer systems and semantic search), evaluation of trainings, and identification of participants. The solution is based on supervised and unsupervised Machine Learning /Deep Learning.

Accessibility of court procedures

Complex procedures, paperwork, and high costs can often deter court users from accessing justice. Implementing measures to improve accessibility through simplified rules and forms, e-filing capabilities, and affordable fees can significantly enhance the business environment and confidence in the judicial system.

Recommended measures

Countries should consider improving the accessibility of court procedures, including through:

- Allowing for **self-representation in uncontested claims procedures** and small claims procedures, both in terms of procedural law and by simplifying the process.
- Providing relevant **information resources for self-represented litigants**.⁹¹
- Ensuring the **availability of guidance to self-represented litigants both in court hearings, and through self-help centres** (or help desk).
- Providing **standardized templates for filing** claims and other motions with the court that are easy to understand and complete.⁹²
- Ensuring that relevant **forms for filing** claims and other motions with the court are **easily accessible online** through the relevant information portals (websites) of the justice system, e-filing system interfaces, and in print.

⁹¹ For example, guidance materials, checklists, and online resources that effectively instruct litigants on how to represent themselves in commercial court proceedings.

⁹² Ideally, the use of such forms should be mandatory.

⁹³ Generally, the fee for filing the claim in these two types of procedure should be significantly lower than the fee for filing a general civil/commercial claim (assuming equal value of the two claims).

⁹⁴ See for more details on online payments CEPEJ, 2021. Guidelines on electronic court filing (e-filing) and digitalisation of courts at <https://rm.coe.int/cepej-2021-15-en-e-filing-guidelines-digitalisation-courts/1680a4cf87>

- Offering **multilingual forms to cater to diverse populations** (where needed).
- Setting **transparent, affordable and reasonable fees** for filing claims in uncontested claims procedures and small claims procedures.⁹³
- Enabling **online payment (e-payment) of court fees**, including **official online calculators for determining the amount of court fees**, and enabling the users to choose the preferred method among the most common ones (e.g., credit card, debit card, micro payments, money transfer, etc.).⁹⁴

Expected benefits

The proposed measures to improve the accessibility of court procedures offer the following key benefits:

- Contributing to **improved access to justice**.
- Increasing the **efficiency of court proceedings** by reducing delays caused by accessibility barriers.
- Promoting the **uptake of uncontested claims procedures and small claims procedures**.
- Promoting **self-representation in uncontested claims procedures and small claims procedures**.
- **Reducing the financial burden** of litigation, particularly for low-income litigants and SMEs.
- Enhancing the **public trust in the court system**.

Lessons learned

Guidance to self-represented litigants in Serbia

The Civil Procedure Law (CPL) of Serbia requires judges to provide guidance to self-represented litigants in some cases. These rules apply in all civil cases, including small claim cases:⁹⁵

- the court is to inform the lay party that it has the right to an attorney;
- submission by a party without a representative shall not be dismissed if it is incomplete or incomprehensible but will be returned to the party for correction
- if a submission is filed on time but to an incompetent court, and reaches the competent court with delay, such submission shall be considered timely, if the submission to the incompetent court can be attributed to ignorance of the applicant;
- in the summons for the main hearing the court is to warn the parties of the legal consequences of absence from the hearing, the instructive deadline for presenting evidence, limitations regarding the right to appeal;
- when pronouncing the judgment, the court is to inform the parties of the conditions under which they can file an appeal.

Court fees in Kazakhstan

The Civil Procedure Code of Kazakhstan provides for the possibility of electronic payment of the state duty, which can be confirmed by checks and receipts on paper or in electronic form.⁹⁶ It is possible to pay by a credit card directly or by means of scanning of a QR-code generated in the e-filing system by a bank. An online calculator is also available in the Judicial Office system.⁹⁷

Transparency

Transparency is a critical element of a well-functioning judicial system. By implementing the proposed measures for enhanced transparency, countries can foster a more accessible and accountable court system, laying the foundation for a robust online court development readiness.⁹⁸

Recommended measures

Countries should introduce elements and mechanisms necessary to ensure transparency of the judicial system, including through:

- Ensuring credible, prompt and comprehensive **publication of court decisions and judgments** of most courts, as well as providing **free online access to them**, with opportunities for searches based on keywords.
- Providing **anonymized versions of court decisions and judgments** to ensure compliance with personal data protection regulations.

- Creating and maintaining an **official, public, and searchable online registry of accredited mediators and arbitrators**, including their professional backgrounds, qualifications, and specific areas of expertise.
- **Regularly publishing court statistics.**⁹⁹
- Developing and maintaining a **user-friendly online portal that provides essential information on the court system**, preferably from a single web location.¹⁰⁰
- Encouraging and facilitating **public access to court hearings**, either in-person or through live streaming, while respecting privacy and confidentiality concerns.
- Providing **training to judges and court staff** on the importance of transparency and the proper procedures for publishing court decisions and maintaining registries.
- Regularly **monitoring and evaluating the transparency measures** implemented by courts to ensure they are effective and efficient.
- Ensure that ODR mechanisms are explained in an intelligible manner using **clear and plain language.**¹⁰¹

⁹⁵ Civil Procedure Law (CPL) of Serbia, Articles 85, 101, 104, 473, 477.

⁹⁶ Art. 103 of the CPC of Kazakhstan.

⁹⁷ At office.sud.kz.

⁹⁸ The importance of transparency for ODR is emphasized in the 'ASEAN Guidelines on Online Dispute Resolution', Section "Transparency and Due Process" at <https://aseanconsumer.org/file/ODR/ASEAN%20ODR%20Guidelines%20-%20FINAL.pdf>.

⁹⁹ Including metrics such as case clearance rates, average disposition times, the proportion of cases resolved through mediation or arbitration, etc. Ideally, such statistics should be available and should allow for a comparison between commercial and general civil cases in order to identify potential areas for improvement.

¹⁰⁰ See for more details the sections on Availability and functionalities of public interface to access courts and Stakeholder engagement above.

¹⁰¹ See the Guidelines of the Committee of Ministers of the Council of Europe on online dispute resolution mechanisms in civil and administrative court proceedings of June 2021, Art 21 at https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a2cf96

Expected benefits

Ensuring transparency in the judicial system is crucial for improving its performance and credibility. The proposed measures to enhance transparency offer the following key benefits:

- Fostering **public trust** in the country's judicial system, and the legal system in general.
- Promoting **access to justice** by making it easier for all parties to navigate the court system.
- Promoting **consistency, coherence, and clarity in the application of the law**, while also providing a mechanism for public scrutiny and oversight of judicial decision-making.
- Allowing policymakers and stakeholders to **identify areas that require improvement**, leading to more effective and efficient court operations.

Lessons learned

Best practices regarding online publication of court decisions

In the framework of the European Union, there is an effort towards encouraging enhanced online publication of court decision. In this regard, the Report of the Policy Group of the Project 'Building on the European Case Law Identifier' makes detailed recommendations. The most important ones include:¹⁰²

- Criteria on which decisions should be published must be precise, while leaving room for discretion in individual cases.
- Selection criteria should be published.
- Negative selection¹⁰³ should be applied to the courts of the highest jurisdiction as well as to specialized courts. Positive selection¹⁰⁴ should be applied to other courts. From first instance courts and courts of appeal at least those decisions should be published that have attracted interest from mass-media and/or that can be expected to be important for the development of law.
- Old decisions that have played a major role in legal history or are still relevant for current doctrine should be published as much as possible.
- Decisions that might be of specific relevance for the legal community abroad should be translated in full or at least abridged.
- A search engine should be offered.
- Not only objective metadata should be supplied, but as far as possible also subjective metadata, like keywords, summaries and (standardized) links to legal sources that are cited within or covered by the decision, or which are referring to it.
- All metadata should be searchable.
- Information should be supplied about the finality of a decision and about subsequent decisions by the same or another court in the same proceedings, pending appeals and/or its irrevocability.
- Court decisions published on the internet should be anonymized.
- For reasons of consistency and legal certainty, personal data that must be anonymised should be enumerated. Such enumerations though should leave room for the additional anonymisation of other data, which are normally not identifying, but might be in specific cases.
- Anonymisation rules should be published.
- Obscuring personal data (e.g. by fully deleting them or replacing them by dots or 'xxxx') should be avoided since this method hampers the comprehensibility of a text. When initials are used, they should be randomized, since the use of true initials enlarges the risk of de-anonymisation.
- For individual cases there should always be the possibility to deviate from established anonymisation rules. This could be the decision not to publish a decision at all since normal anonymisation wouldn't suffice, but also the decision to disclose full personal data if the case so requires.
- Since anonymisation errors can have grave consequences, data subjects should have a user-friendly option to request for corrections.
- The licencing regime of published decisions allow for re-use (e.g. a CC-BY licence)
- For re-use purposes court decisions should be made available in the most optimal computer-readable ormat possible.

¹⁰² A summary of the recommendations is provided herein. For the full recommendations see On-line Publication of Court Decisions in the EU Report of the Policy Group of the Project 'Building on the European Case Law Identifier' at <https://bo-ecli.eu/uploads/deliverables/Deliverable%20WS0-D1.pdf>

¹⁰³ Negative selection is defined as a setup where all decisions are published, unless there are specific reasons not to publish a specific decision.

¹⁰⁴ Positive selection is defined as a setup where decisions are not published unless they meet specific criteria, which are formulated beforehand.

3. Conclusion

As digital technologies continue to transform nearly every aspect of life and governance, there is significant potential for ICT to improve the efficiency, accessibility and quality of justice systems.

The measures presented in this Guide have the potential to boost the utilisation of ICT in justice systems and improve their readiness for introducing solutions that are fully web-based, user friendly and economical. Online courts offer such a solution and while they are in their nascency, they present a promise for bridging the justice gap that affects millions worldwide.¹⁰⁵ However, for online solutions to be truly inclusive and effective, they must be carefully developed and implemented in ways that account for each jurisdiction's unique needs, capabilities and levels of development. The measures discussed in this Guide seek to foster such an inclusive and holistic - yet rigorous - approach toward online court readiness and development.

The EBRD region is diverse. It includes countries that are well-advanced on the path of digital transformation as well as ones that are still in the beginning of this journey. The CoOs that have already made significant steps towards digitising their governance can start considering ODR tools in their court processes with the ultimate goal of launching an online court for some types of disputes. Such a step would position these countries on the forefront of e-justice and would make them

especially visible as investment friendly economies. By contrast, the CoOs that are just commencing to digitise their judiciaries can use the valuable experiences of other jurisdiction within the EBRD region to speed up this process and make critical steps towards improving the performance of their justice sector with the tools that the digital economy offers.

Regardless of their current stage of digital development, all CoOs stand to benefit from this Guide. To EBRD economies that are well advanced in their digital transformation, it can bring inspiration and reassurance that the time may be ripe for braver steps towards the introduction of online courts while indicating what types of court procedures might be the most suitable for such innovations. To EBRD economies that need more work to improve their readiness for the introduction of online courts, it offers practical guidance as to the specific steps that lie ahead.

While the journey will vary for each country, the ultimate goals are the same: bolstering the foundational elements needed to deliver e-justice solutions that are inclusive, user-friendly and impactful for businesses, citizens and the broader judicial system. By learning from both regional and global experiences, embracing good practices, and pacing reforms to match capabilities, all EBRD economies can harness the opportunities of digital transformation to strengthen commercial dispute resolution and improve access to justice.

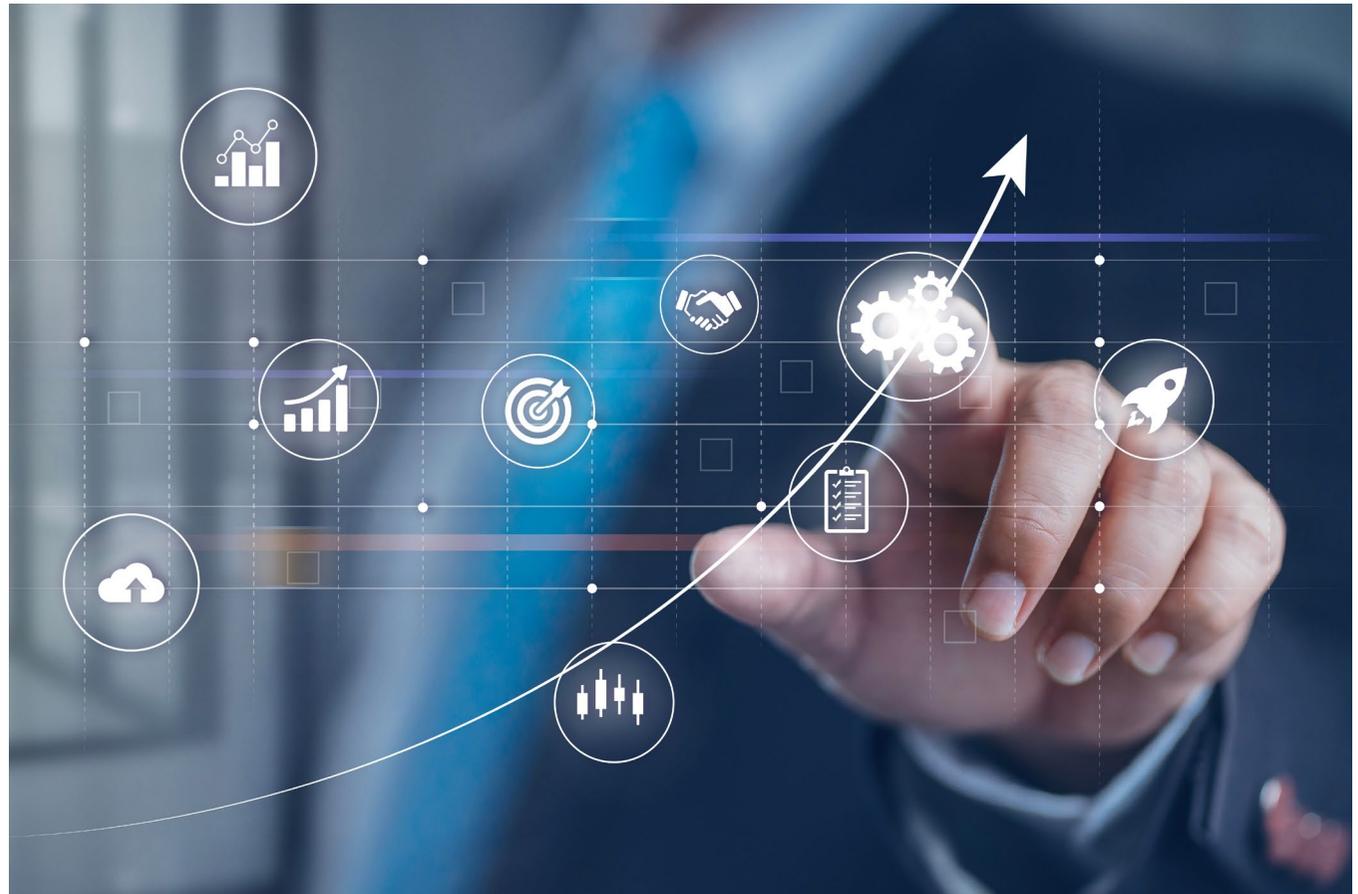


¹⁰⁵ 1.4 Billion people worldwide have unmet civil or administrative justice needs. See World Justice Project, 'Measuring the Justice Gap', 2019, p. 13 at https://worldjusticeproject.org/sites/default/files/documents/WJP_Measuring%20the%20Justice%20Gap_final_20Jun2019_0.pdf

Annex 1. Matrix of proposed measures and building blocks of Online Courts

This Matrix summarizes the proposed measures for the building blocks of a system conducive to the existence of online courts. The measures are grouped in three categories:

- **Essential Measures**, which represent core and indispensable requirements for the building blocks of online courts;
- **Significant Measures**, which are important elements that significantly contribute to the building blocks of online courts; and
- **Useful Measures**, which are additional measures that further enhance the building blocks of online courts, but are not critical.



Building blocks	Essential Measures	Significant Measures	Useful Measures
Policy and legal framework			
E-Governance and e-justice policies and strategies	<ul style="list-style-type: none"> • Comprehensive strategic documents on e-governance and e-justice • Roadmaps with targets and KPIs 	<ul style="list-style-type: none"> • Strategic alignment and coordination • Progress tracking, reporting and follow-up 	<ul style="list-style-type: none"> • Time-span of 3-5 years • Participatory process for subsequent strategy development
E-identification and e-document	<ul style="list-style-type: none"> • Recognition of e-signatures and e-documents as legally equivalent • Standards for e-signature creation and verification • E-signature certification authority oversight 	<ul style="list-style-type: none"> • Interoperability and non-discrimination • Use of national identity card for e-identification • Capacity for issuing electronic ID 	<ul style="list-style-type: none"> • Use of e-signatures, e-ID and electronic documents for accessing public services
E-filing legislation	<ul style="list-style-type: none"> • Clear legal framework for electronic documents and e-filing • Technical standards and security requirements • Compliance with data protection laws 	<ul style="list-style-type: none"> • Accessibility provisions • Mandatory e-filing for professional court users 	
E-service legislation	<ul style="list-style-type: none"> • Definition and scope of e-service • Permitted methods and document types for e-service • Proof of delivery and receipt • Protection of personal data 	<ul style="list-style-type: none"> • Consent of parties or mandatory use • Alternative service methods 	
Online hearings legislation	<ul style="list-style-type: none"> • Admissibility of online hearings in various procedures • Access to all required documents • Rules and procedures for online hearings 	<ul style="list-style-type: none"> • Criteria for selection of video communication platforms 	<ul style="list-style-type: none"> • Rules for public access

Building blocks	Essential Measures	Significant Measures	Useful Measures
Policy and legal framework			
Electronic enforceable titles legislation	<ul style="list-style-type: none"> • Definition of scope, legal status, enforceability and transferability • Provisions for creation, registration, and certification 	<ul style="list-style-type: none"> • Access for enforcement authorities to record enforcement actions 	<ul style="list-style-type: none"> • Common standards for cross-border electronic enforceable titles
Commercial dispute resolution	<ul style="list-style-type: none"> • Specialised commercial courts/divisions • Modified civil procedure rules for commercial cases 	<ul style="list-style-type: none"> • Mandatory commercial law training • Qualified judicial assistants 	<ul style="list-style-type: none"> • Disaggregated judicial statistics
Alternative Dispute Resolution (ADR)	<ul style="list-style-type: none"> • Legislation on (court-annexed) mediation • Accreditation and registry of mediators 	<ul style="list-style-type: none"> • Incentives for mediation over litigation • Enforceable mediation settlements 	<ul style="list-style-type: none"> • Online mediation solutions
Uncontested claims procedures	<ul style="list-style-type: none"> • Straightforward (online) filing of uncontested claims • Lower fees for uncontested claims • Short timelines for pronouncement 	<ul style="list-style-type: none"> • Simplified evidence rules • Efficient service of notification to debtor • Easy mechanism for debtor objection 	<ul style="list-style-type: none"> • Effective linkages between procedures
Small claims procedures	<ul style="list-style-type: none"> • Small claims procedure introduction • Straightforward (online) filing of small claims • Lower fees for small claims • Short, statutory timelines 	<ul style="list-style-type: none"> • Self-representation allowed • Simplified evidence rules • Online hearings/written procedure • Limited appeals 	<ul style="list-style-type: none"> • Voluntary opt-in above threshold • Simplified judgment content

Building blocks	Essential Measures	Significant Measures	Useful Measures
IT infrastructure			
Internet infrastructure	<ul style="list-style-type: none"> • Fiber-optic, 5G and wireless infrastructure upgrades • Reliable high-speed internet for justice institutions • Consideration of internet limitations for e-justice systems 	<ul style="list-style-type: none"> • Competition-fostering broadband regulations • Free public Wi-Fi expansion • Digital divide bridging initiatives 	<ul style="list-style-type: none"> • Public-private broadband infrastructure partnerships • Internet use training and support
Integrated case management system and recommended functionalities	<ul style="list-style-type: none"> • E-filing and document management • Remote CMS access for authorized users • Strict security and access controls • User-centric and accessible design • Scalability and adaptability • Integration with other systems • Change management planning • Ongoing user training and support 	<ul style="list-style-type: none"> • E-service of notices and judgments • Electronic evidence management • Hearing scheduling and case tracking • Random case assignment • Performance monitoring 	<ul style="list-style-type: none"> • Automated document generation • Searchable cases and custom reporting • Electronic enforceable titles
Availability and functionalities of the public interface for accessing courts	<ul style="list-style-type: none"> • User-centred design • One-stop-shop principle • Easily accessible interface • Comprehensive e-filing • User support and guidance • Strong security and privacy 	<ul style="list-style-type: none"> • Real-time case tracking • Access to case files • Electronic service of documents 	<ul style="list-style-type: none"> • Leveraging existing e-government platforms • Online/videoconference hearings • Mobile application(s)

Building blocks	Essential Measures	Significant Measures	Useful Measures
Institutional measures and stakeholder engagement			
Stakeholder engagement	<ul style="list-style-type: none"> • Iterative and participatory design processes • Mechanisms for stakeholder feedback • Needs analysis per stakeholder group • Comprehensive and useful court information portals • User support and guides 	<ul style="list-style-type: none"> • Tailored and targeted communications • Mandatory e-interaction for professional users • Incentives for e-justice use • Training workshops and webinars 	
Legal obligations/ incentives for the use of electronic tools by professional users	<ul style="list-style-type: none"> • Definition of mandatory e-tools and types of professional users • Specification of mandatory or incentivized digital activities • E-tool transition deadlines • Proper user guidance 	<ul style="list-style-type: none"> • Incentives for e-tool use • Free/subsidized training 	
Capacity building	<ul style="list-style-type: none"> • Training needs assessment • Identification of knowledge gaps • Tailored training curriculum • Blended training delivery • Inclusion of required topics in mandatory training 	<ul style="list-style-type: none"> • Peer learning and mentoring • Regular training evaluation and updates 	<ul style="list-style-type: none"> • Learning resource repository
Accessibility of court procedures	<ul style="list-style-type: none"> • Self-representation in simplified court procedures • Standardised filing templates • Accessible online and print forms • Transparent, affordable and reasonable fees 	<ul style="list-style-type: none"> • Information resources for self-represented litigants • Availability of guidance to self-represented litigants • Online fee calculators and e-payments 	<ul style="list-style-type: none"> • Multilingual forms
Transparency	<ul style="list-style-type: none"> • Comprehensive publication of court decisions and judgments • Anonymized versions of court decisions and judgments • Online registry of mediators/arbitrators • User-friendly court system online portal 	<ul style="list-style-type: none"> • Public access to court hearings • Training and procedures on court transparency • Regular monitoring of transparency measures 	<ul style="list-style-type: none"> • Plain language online court explanation

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