



Session Report Template for Substantive Sessions

Launch of the Global Judicial Integrity Network

(9-10 April 2018, United Nations Vienna)

This form provides guidance to the organizations that will coordinate sessions to address one of the conference's work streams.

The Conference's main goal is to officially launch the Global Network and to kick start its activities by engaging participants in substantive exchanges and discussions on topics, approaches and emerging good practices related to the strengthening of judicial integrity and preventing corruption in the justice system.

As such, the Conference will work under three streams:

- **Strengthening Judicial Integrity & Accountability**
- **Preventing Corruption in the Justice System**
- **Assessing and Monitoring Integrity**

Each organization coordinating a session is required to prepare a **3-6 pages report** about their sessions (Times New Roman, 12 pt, single space).

The objective of this document is to provide an account of the presentations made and discussions carried out during the session. The report will be shared with all participants of the Conference, as well as disseminated more widely on the Global Judicial Integrity Network website.

The Session Report should cover the following areas:

1. **Introduction of the topic** – providing background information on the issue addressed in the session. The information should include, whenever possible, reference to academic materials, surveys, publications or other reference material, as well as an overall summary of the experiences, practices and challenges to date under the topic. This information may be the same included in the discussion guide of the session;
2. **How the session supports the overall objective of the Global Judicial Integrity Network of strengthening judicial integrity and preventing corruption in the justice system** – this information may be an update/amendment from the initial session proposal submitted;
3. **Outline the issues addressed during the session by the panellists** – information to what aspects of the topic each panellist addressed in his/her presentation;
4. **Outline the issues raised by the audience and discussed with the panel;**



5. **Proposed outcomes of the session and whether they were achieved** – a summary of what the outcomes of the session were when it was initially proposed and whether they were achieved during the session. The report should also include a summary of the outcomes achieved.
6. **Conclusions and Recommendations** – any recommendations or observations that come out of the discussions and relate to priority areas for action and suggestions of activities or services to be provided by the Global Judicial Integrity Network.

All reports will be incorporated to the library of resources of the Global Judicial Integrity Network and made available through the Network's website, as relevant resources on judicial integrity and the prevention of corruption within the justice system.

Background

With a view to provide sustained support and technical assistance to Member States in implementing the Doha Declaration's goals, UNODC launched in 2016 a **Global Programme for Promoting a Culture of Lawfulness**, with the support of the State of Qatar. The **four-year programme** covers specific areas addressed in the Doha Declaration, including strengthening judicial integrity and the prevention of corruption in the justice system. One of the key objectives of the Global Programme is the establishment of a **Global Judicial Integrity Network**.

Deadline for Submissions:

Discussion guides should be submitted until **30 April 2018**.

How to Submit:

By email addressed to oliver.stolpe@unodc.org and roberta.solis@un.org

In case of further questions, please contact:

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Global Judicial Integrity Network

Substantive Breakout Session Report

I. TITLE OF THE SESSION:

Title of the Session:	Impact of digitization on integrity and accountability
Date and time of the Session:	9 April 2018, 14.00-15.15 (Room M7)
Topic of the session:	The session explored the consequences of the massive and systematic introduction of ICTs in the judicial domain, with some references also to other private and public sectors experiences. It looked at how ICT has reshuffled courts and justice and how judicial procedure and judicial behaviour are encoded in computerised systems. It finally discussed the effects of such technologies on judicial integrity and on the values upheld by the Bangalore principle of judicial conduct: encoding justice can improve integrity, impartiality, and accountability, but, at the same time, it is associated with unexplored risks and adverse effects particularly when artificial intelligence (AI) influence judicial decisions.
Organizer(s):	Research Institute on Judicial Systems, National Research Council of Italy (IRSIG-CNR) www.irsig.cnr.it
Contact information of the session coordinator:	Francesco Contini, IRSIG-CNR, Via Zamboni, 26 – 40216 Bologna francesco.contini@irsig.cnr.it ; Tel. +39 051 275 6227

II. RAPPOREUR¹

Rapporteur:	Daniela Cavallini
Position:	Associate Professor in Judicial Systems
Organization:	University of Bologna (Italy)

III. MODERATOR AND PANELLISTS:

Moderator:	Marco Fabri
Position:	Acting Director
Organization:	Research Institute on Judicial Systems, National Research Council of Italy

¹ Responsible for drafting the session report.



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PANELLISTS

Name:	Francesco Contini
Position:	Senior Researcher
Organization:	Research Institute on Judicial Systems, National Research Council of Italy
Topic of presentation:	The presentation focused on the consequences of the digitization of caseload data and case files on judicial activity and behaviour, considering also the new challenges and risks posed by artificial intelligence, judicial profiling and predictive justice.
Outline of presentation (max. 1000 characters):	The presentation analysed the technologies used in the judicial domain (such as the digitization of caseload data, the case management system, the digital exchange of procedural documents) considering their multiple benefits but also their impact on the role of the judge. Digital systems are deeply changing the traditional role of the judge as the sole interpreter of the law; they concretely affect judges' discretionary powers and actions, which are more and more driven by digital systems, hence by those who have developed the software. The effects are even more disruptive with regard to artificial intelligence and judges' profiling. All these transformations raise serious problems of accountability: if judicial functions are delegated to ICT, then ICT should respect legal, professional and ethical standards. To this end, guidance should be provided in order to make digital systems compliant with the Bangalore principles of judicial conduct.

Name:	Dory Reiling
Position:	Senior Judge, Expert on the digital civil justice project in the Quality and Innovation Program of the Netherlands judiciary
Organization:	The Netherlands Judiciary
Topic of presentation:	The presentation offered a hands-on view of how technology impacts the daily activities of judges. Moving from her extensive experience in e-justice, as a judge and project leader of e-justice applications, Dory Reiling provided her insights both from a practical and a research perspective.
Outline of presentation (max. 1000 characters):	The presentation illustrated how the digitization of judicial procedures has been carried out in The Netherlands. Differently from other countries, the software development was not outsourced but it was carried out internally by the judiciary. This allows a strict supervision by the judiciary on software development and its compliance with the legal framework. The rationale behind this



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	<p>choice is that the judiciary, being responsible for carrying out proper procedures, should also be in charge of information technology , especially when software codes affect the implementation of legal codes. The control of the judiciary has led to better results, but the digitization process is still very hard. A perfect model does not exist. In the Dutch case, more attention should have been drawn to the involvement of the users in the development process and to the cooperation with the legislator.</p> <p>Finally, a discussion should be open about artificial intelligence and the problem of accountability.</p>
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Name:	Antonio Cordella
Position:	Associate Professor in Management
Organization:	London School of Economics, Dept. of Management
Topic of presentation:	The presentation explored the implications of digitization in other private and public sector areas. Since justice systems have never been front-runners in technology development, the transformative effects ICT has generated in other domains of public interests can help to anticipate opportunities, challenges and risks that are specific for the judiciary.
Outline of presentation (max. 1000 characters):	<p>The presentation explained how ICT has transformative effects in organisational and institutional terms. When a procedure is digitized or the actions of public administrators are constrained in digital codes the values that are associated thereto change. Relevant examples include the case of the Digital and organisational interfaces connecting Police and Crown Prosecution Service in the UK, and the case of the Body cameras used by the police in the US. Both cases show how technology can uphold or neglect a peculiar set of values. They also show that ICT is not politically neutral.</p> <p>Similar problems are related to artificial intelligence. How can decisions be delegated to algorithms that are intrinsically obscure and almost impossible to analyse? Without getting more control and understanding of technology it is impossible to assess the values that are affected by technology itself.</p>

IV. BACKGROUND INFORMATION ON THE TOPIC:

The more the administration of justice is based on Information and communication technologies, the more an assessment of integrity and accountability has to consider the deep-seated implications of technology on judicial behaviour.



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Despite the difficulties encountered in court technology development, ICT is now pervading the entire judicial field. Almost any task or activity is supported, enabled or directly executed by technological devices, and in many jurisdictions e-Justice platforms are a key channel for service delivery.

Court technology is much more than just a tool to enhance judicial efficiency and effectiveness, it carries transformative and re-configurative effects. In private life, technology makes us smart and dependent, connected and profiled, empowered and deprived, knowledgeable and ignorant at the same time. The magnitude of the consequences is not less intense in the judicial domain, and will become even stronger in the near future, when artificial intelligence (AI), judicial profiling and predictive justice will be “desk companions” of judges, prosecutors and lawyers.

Some critical thinking is therefore needed to properly assess the impact, the consequences and the future developments of technology on the administration of justice and judicial integrity. If courts operations are ICT based, any discussion on judicial integrity requires an understanding of the emerging features of e-justice, and on the role of ICT.

A first assessment of the consequences of e-justice on integrity and on the values promoted by the Bangalore principles leads to mixed answers.

On the one hand, a well-designed case management system (CMS) can deliver outstanding results not just in terms of efficiency and effectiveness but also on fundamental judicial values, protecting independence and impartiality from undue influences, supporting equal treatment of the parties, and reducing “grey areas” that may offer suitable ground for corruption. For example, weighted caseload systems, made possible by CMS, favour the equal distribution of the workload (to courts and judges) that is a pre-requisite for the equal treatment of the parties; increase procedural standardisation, regularly associated with the CMS adoption; reduce the room for manipulation and undue influences on procedures. Not less relevant, the CMS can improve accountability through precise statistical data and logs of all the actions made on the data and documents.

At the same time, the digitization of court proceedings leads to the delegation of administrative and judicial activities to hardware and software components.

The effects of such delegation are even more visible when judicial decisions are suggested or influenced by algorithms. Systems used in the United States rate the likelihood of future crimes of suspects. Such algorithms, developed by a software company, are used to inform bail and preventive detention decisions. An agency of investigative journalism assessed the algorithm and established that it introduces racial bias and is ineffective in predicting recidivism. Regardless the conclusions of the study - criticised by the software developer - ICTs point to new forms of influences on judicial proceedings that should be carefully assessed. It must be understood if such influences are acceptable or not, and if the new systems are compliant with the values that must guide judicial action. If new forms of accountability will not be swiftly established, the "aid" of predictions made by an obscure algorithm or mysterious AI systems may become the ultimate severe challenge to judicial integrity.

References

E-justice and e-government



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V. SUMMARY OF THE SESSION:

The session explored the current and future consequences of digitization of court operations on judicial integrity. On the one side, digitization contributes to better protect judicial integrity from undue influences in case handling; on the other side, it is associated with new and still unexplored threats, such as the profiling of judges and predictive justice. More in detail, five main topics were discussed by the panelists and the audience.

1) *The effects of the transformation of legal rules into software codes.* ICT is now pervading the justice system. The major changes were introduced with the development of case management systems, when courts started to delegate operations, tasks and activities to machines. With e-justice the entire proceedings became digital and judges started to follow what the interfaces suggest them to do. This has changed, to various extents, the role of the judge. The judges (traditionally the unique interpreters of the law) are now somehow driven by the law as interpreted by the case management system. Their discretionary power is reduced as their actions are driven by the digital system. Just to make an example, two months ago the Italian Ministry of justice decided that, in view of the new EU regulation on privacy, only judgements in which the parties are anonymous can be made public. However, since for various reasons it was impossible to anonymize all the judgements, the Ministry put off line the judgements archives already accessible to the lawyers. The decision on the publication of judgements, once in the hands of the judiciary, is now in the hands of a different body, the Ministry of Justice, the owner of the software. Those who control the software code are also those who control the interpretation of procedural law.

The key point is to make clear how ICT affects judicial values, it is not just a tool, but "something" with profound and sometimes unclear implications upon the court organization and the application of the law. The more courts go into e-justice, the more judges depend on technology. This calls for the introduction of new forms of accountability.

2) *Examples in other private and public sectors.* Experiences in other public sectors clearly show that digitization may change the values orienting the delivery of a service. Technologies are not neutral; when public actions are constrained in digital codes new values and institutional arrangements step in.

Three examples can be relevant to the purpose. The first refers to the possibility to park in the city center of London. The parking can be paid only either by phone or credit card. This fact has actually changed the public policy because only people having a credit card or a mobile phone with a dedicated app are entitled to park in the city center. The second example is about the Digital interfaces connecting the Police and the Crown Prosecution Service in the



UK. Such system allows a more strict connection between the Police and the Crown Prosecutor Office (CPO) in order to improve the efficiency of the process and decrease the number of cases that are dismissed when taken to court. De facto, the CPO, having the power to overlook on what the police does, can actually shape or have an impact on the direction of investigation. The result is that the CPO is actually in charge of the investigation. Without that system this wouldn't have happened. The main question is: what are the public values that have been affected by this transformation? No attention was devoted to this crucial question.

The third example concerns the Body camera used by the police in the US. With the introduction of Body cameras policemen have changed the way in which they report crimes and actions. Instead of providing their own view on the events, they just report what the camera recorded, ignoring all the information and facts that were not captured by the footage. When a procedure is digitized or the actions of public administrators are constrained in digital codes the values that are associated with that specific procedure/action are changing. New levels of accountability must be taken into consideration, including the accountability of those who design the digital systems.

3) *Management of software development.* There is not a perfect model of digitization but only experiences: some of them work and some others don't. The judiciary as organization, being responsible for carrying out proper procedures, should also be in charge of information technology. One of the big challenges is to balance what the system can do and what judges need to do. Digitization should be kept under the control of the judiciary, because this allows to better understand what the needs of judges are and in what cases digitization is possible or not. This is not common, however, since in many countries the software development is outsourced. If the software development is delegated to private companies, the courts (that simply buy the software) cannot know how the system works and how to change it. Without control on the ICT system it is impossible to understand the values it will deliver.

A good practice is to change the procedural law in order to facilitate the adoption of the technology; procedural improvements should come first and digitization afterwards, the two operations shouldn't be carried out at the same time. Moreover, it is important to work closely with the legislator, since minor legal changes can ease ICT development. Also, to involve the users in the development process will help their understanding of the goals of the digitization process and to fully embrace the philosophy behind the new way of working.

4) *New challenges coming from artificial intelligence (AI), predictability, judicial profiling.* The delegation of judicial decisions to algorithms is a controversial point, which also implies political and philosophical issues. AI can provide multiple benefits to the work of judges but it also raises several questions: who is responsible for the damages done by algorithms? How can errors be detected? How can judges trust algorithms that are opaque and undetectable? ICT is not politically neutral since it affects the values of the public service. Estonia, for example, has radically changed the notion of citizenship because of its IT architecture. The 2007-8 financial crisis was due to changes in the algorithm used to assess credits risk that resulted in higher risk taking by banks and mortgage companies. Algorithms were designed to manage those risks in the most efficient ways, but such algorithms created financial



products - such as swaps - that were almost impossible to be understood and risk assessed. The whole system finally collapsed.

Lots of issues have been raised by the panelists and the audience on this topic. The discussion was very vivid and stimulating, ranging from the institutional setting of the judiciary to very practical questions.

Many remarks focused on the broad and disruptive implications of AI on judicial activities. AI affects the independence of the judiciary, since technology, as already pointed out, shapes the actions of judges. Without getting more control and understanding of technology it is impossible to guarantee the independence of the judiciary. The person in charge of digitization should be an expert of the judicial domain and, at the same time, a computer scientist. Without understanding the algorithms it is impossible to understand the judicial values that are delivered by the application. AI affects also the principle of equality. A large company can easily buy the services of AI providers to predict the decisions of a given judge, but this is not the case for consumers, normal people, lawyers working in rural areas.

Not less relevant is the dilemma that predictive justice poses to judges: to trust the machine or to oppose it. To oppose the machine is more difficult, since the judge has to justify the decision against it. To trust the machine seems the easiest way, but the judge is actually giving up to his/her work: the machine decides. A different path could be to use AI only for closed proceedings, not to control the judges but to trigger a learning process in order to improve, for example, a more equal and uniform application of the law. This could be done at the judge level, at court level and also at national level.

5) *New forms of accountability.* Accountability is the main problem associated with digitization and predictive justice. Different questions were raised by the panelists and the audience, mostly with regard to AI.

The judiciary should start to discuss about predictive justice. It has scary and disruptive effects but the process is not going to stop. It is important to always check the outcomes of AI and the developers should be responsible for damages made by algorithms; sometimes, however, they do not understand themselves what the algorithm is going to do.

According to one of the participants courts should be very careful with digitization. Automation is a necessity but a line must be drawn. Automation can be admitted for ministerial and administrative procedures, whereas it is much more problematic for judicial decisions (AI or other formula shouldn't be admitted in judicial decisions). Rules and legislative control are needed on the topic: it is necessary to draw a line. It is very difficult also to convince judges to adopt automation, what is automation going to do? There are judges who do not use computers. Courts should go easy and slow, being more interactive with judges who want to use automation; they should start from them.

New forms of accountability must be designed. The process of digitization cannot be stopped but guidelines can be developed to better use and control it. If the Bangalore principles must guide judicial behavior, they must also direct the functioning of information systems and AI. Technology itself must be aligned with the Bangalore principles of impartiality, integrity, propriety, etc. Guidance should be provided through a large discussion among judges, policy makers and researchers. In Europe this phenomenon is at the beginning, but it is just a matter of time; before opening the doors to technology judges must be aware of the problems and build the measures to control the system.



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The Council of Europe (the CEPEJ Quality Group, the CCJE) is starting to work in this direction as well.

VI. HOW THE SESSION SUPPORTS THE OVERALL OBJECTIVE OF THE GLOBAL JUDICIAL INTEGRITY NETWORK OF STRENGTHENING JUDICIAL INTEGRITY AND PREVENTING CORRUPTION IN THE JUSTICE SYSTEM:

The impact of new technology on judicial integrity, impartiality and accountability is largely underestimated. The session assesses the current and future impacts of ICT adoptions in the judiciary with fresh empirical data and analysis from academics and judicial officers. More precisely, the primary goal is to raise the awareness of the implications of ICT development on integrity, impartiality and accountability and to exchange experiences and lessons learned on the topic. The session also provides a first assessment of integrity risks associated with the development of court technologies, particularly those based on artificial intelligence, and the identification of proper responses to the new threats identified. Finally, the panel aims to join up researchers and judicial officers to facilitate the development of new initiatives in the field to make new technological systems - such as artificial intelligence and judicial profiling - compliant with the fundamental requirements of the administration of justice.

VII. PROPOSED OUTCOME(S) OF THE SESSION AND THEIR ACHIEVEMENT:

The session pursued the following key objectives: 1) Raising awareness of the deep impact that the encoding of court proceedings has on judicial integrity and accountability; 2) Exploring the implications of the implementation of artificial intelligence and predictive systems on judges' decision making and on the features of the judicial process; 3) Conducting a joint reflection on the deep impact that ICT is having (and is going to have) on legal and judicial business.

The session has fully achieved the proposed outcomes. All the participants have agreed on the fact that ICTs (and in particular AI) have large and still unexplored effects on judicial integrity and court administration. They have also agreed on the urgency to make judges and policy-makers aware of such implications and threats, in order to arrange the necessary counter-measures to control the digital systems and preserve the fundamental values of judicial integrity, impartiality and accountability. To this end, new initiatives could be promoted through the GJIN to raise the interest on such emerging topic, mobilize resources and trigger new actions to monitor and assess the risks of ICT deployment in the judicial sector.

VIII. CONCLUSIONS OF THE SESSION AND RECOMMENDATIONS TO THE GLOBAL JUDICIAL INTEGRITY NETWORK:



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The implications of digitization are very deep in the judicial domain and they are changing the role of the judge and the way in which justice is provided. Digitization of judicial functions and AI are still at an early stage in Europe but it is only a matter of time, since such phenomena are not going to stop. It is therefore of paramount importance that before "opening the doors" to technology judges become fully aware of the problems and risks associated with it, in order to build the necessary measures to control the digital systems. They should therefore understand to what extent technology can be admitted in the judicial domain, taking advantage of its power and reducing the risks.

The main problem associated with digitization and predictive justice is accountability. The new pervasive role of the digital systems requires the development of new forms of accountability to preserve the fundamental values of judicial integrity, impartiality and transparency. The main answer is that technology must be aligned with the Bangalore principles of judicial conduct. If the Bangalore principles must guide judicial behaviour, they must also direct the functioning of information systems and AI. In this way ICTs will be used for justice and not against justice and the global standards that have been built in two hundred years.

The GJIN should take actions to map out the consequences of digitization on judicial integrity and on the functioning of courts and provide specific guidance to use such technologies in a way that is compliant with the Bangalore principles of judicial conduct. This can be done by establishing a Working Group within the network with the mandate to suggest principles and guidance for the use of such technologies. Judges, lawyers, policy makers and researchers could work together in this Group to identify the measures to be taken to assure the compliance of the current and forthcoming digital systems with the key judicial values enshrined in the Bangalore principles, and distil new principles to guide the use of such new technology in judicial operations.

IX. ADDITIONAL OBSERVATIONS, IF APPLICABLE