Discussion Guide 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

A session lasts approximately 90 minutes$^1$ and must provide for sufficient time to allow for Q&A or any other engagement of the audience. Roundtables and guided discussions are ideal formats for sessions, in order to achieve concrete and substantive inputs and conclusions from each session.

Each organization coordinating a session is required to prepare a 5 to 10 pages max. discussion guide for their sessions (Times New Roman, 12 pt, single space).

The objective of this document is to provide guidance to the session moderator, panellists and the session rapporteur, in a way that promotes a targeted, concrete and inclusive debate about the topic of the session. The guide should also be distributed to participants, as background information for the sessions.

The discussion guide must cover the following areas:

1. **Introduction of the topic** – providing background information on the issue to be 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;

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$^1$ Sessions might have to last 80min. to accommodate the schedule of interpreters.
2. **Outline the main issues** to be addressed during the session – reference to what aspects of the topic each panellist will be addressing is also welcome;

3. **Propose specific questions** to facilitate the discussions during the session – the objective is to guide the work of the moderator, foster targeted interventions from panellists and inform the audience about the starting point of the discussions.

All discussion guides will be later incorporated to the library of resources of the Global Judicial Integrity Network, along with the session report prepared by organizers, as relevant resources on judicial integrity and the prevention of corruption within the justice system. Further guidance on the reports will also be provided.

**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 23 March 2018.

**How to Submit:**
*By email addressed to* unodc-judicialintegrity@un.org

In case of further questions, please contact:

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I. TITLE OF THE SESSION:

<table>
<thead>
<tr>
<th>Title of the Session:</th>
<th>Impact of digitization on integrity and accountability</th>
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<tbody>
<tr>
<td>Topic of the session:</td>
<td>The session offers an in-depth analysis of the impacts that the pervasive digitization of the administration of justice has on judicial integrity, accountability, as well as other primary social and legal values guiding judicial actions.</td>
</tr>
<tr>
<td>Organizer(s):</td>
<td>Research Institute on Judicial Systems, National Research Council of Italy (IRSIG-CNR) <a href="http://www.irsig.cnr.it">www.irsig.cnr.it</a></td>
</tr>
<tr>
<td>Contact information</td>
<td>Francesco Contini, IRSIG-CNR, Via Zamboni, 26 – 40216 Bologna <a href="mailto:francesco.contini@irsig.cnr.it">francesco.contini@irsig.cnr.it</a>; Tel. +39 051 275 6227</td>
</tr>
<tr>
<td>Brief presentation</td>
<td>The Research Institute on Judicial Systems (IRSIG-CNR) is the branch of the National Research Council of Italy in charge of studying the functioning of judicial systems with an empirical, comparative and interdisciplinary approach. The goal is the promotion of a research area of growing relevance from a political, social and economic perspective, so far largely disregarded in countries with a civil law tradition. The studies undertaken have both theoretical and practical goals. For matter and method the studies conducted have developed a body of knowledge relevant for judicial reforms as well as for organisational and technological innovation in the justice sector.</td>
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</tbody>
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II. BRIEF INTRODUCTION OF MODERATOR AND PANELLISTS:

<table>
<thead>
<tr>
<th>Moderator:</th>
<th>Marco Fabri</th>
</tr>
</thead>
<tbody>
<tr>
<td>Position:</td>
<td>Acting Director</td>
</tr>
<tr>
<td>Organization:</td>
<td>Research Institute on Judicial Systems, National Research Council of Italy</td>
</tr>
</tbody>
</table>

PANELLISTS

<table>
<thead>
<tr>
<th>Name:</th>
<th>Francesco Contini</th>
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<tbody>
<tr>
<td>Position:</td>
<td>Senior Researcher</td>
</tr>
<tr>
<td>Organization:</td>
<td>Research Institute on Judicial Systems, National Research Council of Italy</td>
</tr>
<tr>
<td>Topic of presentation:</td>
<td>Francesco Contini assesses the consequences of the digitization of</td>
</tr>
</tbody>
</table>
caseflow data and case files, considering also the new challenges posed by artificial intelligence, judicial profiling and predictive justice.

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: Dory Reiling will offer 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 will provide her insights both from a practical and a research perspective.

Name: Antonio Cordella  
Position: Associate Professor in Management  
Organization: London School of Economics, Dept. of Management  
Topic of presentation: Antonio Cordella explores 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.

III. BACKGROUND INFORMATION ON THE TOPIC:

Introduction

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. To appreciate their relationships just consider the following common statements.

*If the electronic case management system guides the users to act accordingly to the rules of procedure, a perfect uniform application of the law will be the reality. This reduces undue influences on judicial proceedings.*

*When the deeds are digitally signed and exchanged electronically, the court will work following a pre-established workflow that is fully compliant with the existing procedures. Such computer-based systems will make very difficult the forgery of deeds and to take wrong procedural steps.*
When all the judicial procedures are in digital format, there will be plenty of reliable data to be used for court monitoring and performance evaluation. This increased transparency will support individual and organisational learning and help the identification of ‘wrongdoings’ and corruptive practices.

**When computers and artificial intelligence adjudicate cases, all the problems of judicial integrity will be solved!**

Are these statements true ... or not?

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. Even if there are significant differences among judicial systems, the administration of justice is now inextricably interconnected with technologies. Court technology is much more than just a tool to enhance judicial efficiency and effectiveness, while the promised miraculous results that are often envisaged with technology are yet to come.

The technological implementations currently used in almost any judiciary carry 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, judicial profiling and predictive justice will be “desk companions” of judges, prosecutors and lawyers.

Some critical thinking is much 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. Here, many questions arise.

Is the introduction of Information and Communication Technology (ICT) just a matter of efficiency and effectiveness, or affects the pervasive digitisation of justice also integrity and accountability? If so, to what extent is ICT an asset for all those promoting judicial integrity? What can be done to design court technology supporting judicial integrity and the values endorsed by the Bangalore principles? To what extent does ICT bring in new risks and challenges? Are we ready to face the consequences of artificial intelligence, predictive justice and judicial profiling on judicial integrity?

The session aims to answer to these questions and to assess the current and future deep impacts of ICT in the judiciary on the bases of fresh empirical data, analysis from academics and judicial officers and, mostly, a vivid discussion with all the participants. The final goals are to raise the awareness of the implications of ICT development on integrity, impartiality
and accountability, to exchange experiences and lessons learned on the topic, and to trigger joint initiatives to monitor and address these potentially disruptive innovations.

**e-Justice and judicial integrity**

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.

Random case assignment algorithms, often included in CMS, reduce the possibility of judge shopping or manipulations. 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. Increased procedural standardisation, regularly associated with the CMS adoption, reduces the room for manipulation and undue influences on procedures. Furthermore, such CMS are often designed to monitor and prompt procedural action when needed and established by the law, hence lessening standstill times sometimes associated with corruptive practices.

Not less relevant, the CMS can improve accountability through precise statistical data, and logs of all the actions made on the data and documents. E-filing, and the new e-justice platforms can also provide beneficial impacts, as improved access to justice, secure exchange of summons and documents, and integrity of the documents exchanged.

To sum up, the introduction of robust case management systems and other digital technologies can reduce vulnerabilities that ease breaches of integrity, and that can be exploited for corruptive practices. Indeed, in conventional paper-based procedures there are common flaws and weaknesses that can be exploited to get undue advantages. In a nutshell, the deployment of technology in judicial proceedings create the conditions to

- Reduce the risks of manipulation and loss of procedural data and documents;
- Make more visible the actions and the performance of each individual judicial officer, hence improving transparency and performance evaluation;
- Reduce undue and improper influence of non authorised parties in case assignment and case handling;
- Reduce the discrentional power of judicial and administrative staff.

Even if ICT is not the final weapon against the loss of integrity, it can help to counteract some of the weaknesses that, in paper-based procedures, can lead to a deterioration of integrity.
At the same time, the digitalisation of court proceedings leads to the delegation of administrative and judicial activities to hardware and software components. Today, machines, software and algorithms perform a growing number of tasks that are strictly regulated by the law and previously executed by trained and accountable persons. Digitisation started with the automation of simple administrative functions such as case registration, but more and more complex the activities are delegated to computers systems. Complex ICT systems increasingly perform tasks such as identification of the case parties, the check of the authenticity of procedural documents, and their delivery, hence perform tasks established by the codes of procedure.

The first example of this elusive phenomenon is a CMS that grants the access to the "hearing management functions" just to the clerk (who should do the job) and not to the judges who, due to staff shortage, were forced to do also the clerical tasks. Another example is a bankruptcy judge that cannot appoint an experienced insolvency practitioner (already designated several times) because of her professional association was not listed in the new CMS due to an interpretation of the law made by the software developers. A third example is a Ministry of justice that has recently put offline the case law database since - based on the interpretation made by the ICT Directorate - it is not compliant with the privacy laws, while the interpretation of many judges is entirely different.

The effects of the delegation of judicial activity to machines and algorithms 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 - all the examples 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 artificial intelligence systems may become the ultimate severe challenge to judicial integrity.

References

e-justice and e-government


Artificial intelligence and predictive justice


IV. MAIN ISSUES TO BE ADDRESSED AND KEY OBJECTIVES OF THE SESSION:

Main issues

The panel explores the current and future consequences of the digitization of court operations, focusing on the impacts on judicial integrity and other vital principles placed at the roots of the administration of justice. Besides offering new ways to improve the integrity and protect judges from undue influences in case handling, the pervasive encoding of judicial operation shows also threatening features, as the profiling of judicial officers or predictive justice. The empirical approach taken by the speakers will help not to overestimate the gains digitization can assure while providing a better account for its consequences on the administration of justice and on the values that guarantee its proper delivery. The discussion will consider both the improvements and the threats associated with digitization of justice operations and aims to provide a fact based assessment of integrity risks associated with the use of court technologies - particularly to those based on artificial intelligence. Once identified and analysed the landscape, the discussion will focus on the proper responses to benefit from the many potential gains and face the new threats identified.

Key objectives

- Raise awareness of the deep impact that the encoding of court proceedings has on judicial integrity and accountability.
- Explore the implications of the implementation of artificial intelligence and predictive systems on judges' decision making and on the features of the judicial process.
- Conduct a joint reflection on the deep impact that ICT is having (and is going to have) on legal and judicial business
- 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.

V. SPECIFIC QUESTIONS AND DISCUSSION POINTS TO BE ADDRESSED IN THE SESSION

a) BY PANELISTS

The panellists will the help of participants, will look for viable ways to take advantage of the new technologies without endangering the institutional foundations of the administration of justice. To facilitate the involvement of participants, the session is organised as a roundtable discussion. After the first round of questions by the moderator, the floor is opened to questions from the participants. This is repeated after the second round of questions.

The panellists will try to answer to the following questions:
• What is the role of ICT in the judiciary today and what the impact on integrity?
• How can we manage the new challenges brought in by the digitisation of court proceedings?
• Is there anything that we can learn from experiences in other branches of the public sector?
• How can we manage large-scale project addressed to build e-justice platform keeping the control of the system within the judiciary?
• What are the AI experiences in the public sector, and what we can learn considering the specificities of judiciaries?
• What can Artificial Intelligence do for courts and judicial systems?
• What are the implications of such new technology for judicial integrity and more generally for the judicial function?

b) BY THE AUDIENCE

Some questions that can be relevant for the audience:

• Which measures can be taken to assure the compliance of current and forthcoming technological systems with key judicial values and judicial peculiarities as independence and impartiality?
• In which way we can take advantage of ICT to improve judicial integrity and accountability?
• How can we use artificial intelligence to improve judicial decision-making, trigger learning process, empower judges and legal practitioners?
• To what extent the deployment of ICT in judicial operations can affect transparency and accountability?
• How can we make accountable software and algorithms performing judicial tasks?

VI. PROPOSED OUTCOME(S) OF THE SESSION:

Make judicial leaders and the judicial integrity network aware of the impacts of ICT on fundamental values as integrity, impartiality and accountability, and of the new risks associated with court digitisation

Understand how court technology and e-justice platforms can be developed and managed in a way that enhance judicial integrity and support the values endorsed by the Bangalore principles of judicial conduct.

Mobilize resources and trigger new actions to monitor and assess the risks of ICT deployment on the administration of justice and promote the fulfilment of the values endorsed by the Bangalore Principles of Judicial Conduct.