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REPORT

**INFORMATION TECHNOLOGY AS SUPPORT
FOR MORE EFFECTIVE OPERATION
OF THE CONSTITUTIONAL COURT**

**THE PRESENTATION OF THE CASE MANAGEMENT SYSTEM
OF THE CONSTITUTIONAL COURT
OF THE REPUBLIC OF SLOVENIA**

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I. Introduction

The Constitutional Court is the highest body of judicial power in the state (the Republic of Slovenia) for the protection of constitutionality and legality and for human rights and fundamental freedoms. The Constitution of the Republic of Slovenia vests in the Constitutional Court almost all classical powers of judicial review that one can find in comparable legal systems. In the framework of these powers the Constitutional Court decides on the basis of applications. Among such the most frequent are petitions for the review of the constitutionality and legality of regulations and constitutional complaints against the individual acts of state authorities.

The number of applications has increased year after year. Thus, in comparison with the year 1999, the influx of cases was doubled already in 2004. Notwithstanding that, last year the Constitutional Court succeeded to resolve more cases than it received. It is my estimation that this was particularly due to the organizational measures that we had begun to implement some years ago. Such measures also include the increase of the number of legal advisers. Despite the fact that the majority of the new colleagues have already become very much familiar with their work, this year it seems impossible that the same number of resolved cases as those received will be achieved. Statistical forecasts namely show that the "increment" of cases will be 33% this year. Last year the Constitutional Court already resolved 28.7 % of cases more than in the year 2003.¹

Even if the resources of the services were unlimited, only the increase in the number of judicial personnel in itself would not foster the deciding of judges, if the manner of work is not changed. How then to ensure effective constitutional protection despite the ever increasing influx of cases? From the organizational point of view we have sought a solution in an appropriate computer supported system, which would enable faster access to the information needed by the judges and the judicial personnel, make the work and its organization easier, and shorten the time necessary to prepare and decide cases. Therefore, we have designed and introduced an electronic case management system which supports the operational processes as well as the decision-making.

II. The Goals of the Use of Information Technology (IT) at the Constitutional Court of the Republic of Slovenia

At the Constitutional Court the use of IT has in particular a double role, i.e. as support for the operational processes as well as support for the decision-making. The deciding of the Constitutional Court cannot be imagined without information on the existing constitutional case law and literature. Different legal information databases that are accessible both through the Internet and the Intranet enable quick access to needed information. Concerning the organization of work, access to this information must be ensured both for the judges as well as for other judicial personnel. The access to appropriate databases and the manner of their use (i.e. the methods of search, exclusion, and aggregation) must be adjusted to the needs of the particular service or the user. Thus, we try to ensure the use in every place where it is useful and meaningful for the operation and decision-making of the Constitutional Court. Certainly there exist also numerous links to other state authorities. Each of them uses their own IT, as the software and the manner of the use of IT are prescribed only for few segments of the public

¹ The data on the number of received and resolved cases are stated in the contribution of the Secretary General of the Constitutional Court.

administration. It concerns an internally homogenous system that can be externally linked in a manner typical in IT for the instances of linking different program tools.

One of the most important goals of IT is to make possible for every judge and legal advisor independent access to the needed information, and such in the easiest manner possible. The second important goal is to achieve modern transparent operation, with a regulated monitoring of document flow and the processes taking place. In order that IT operates as support for operational processes it must include the rules and the manner (i.e. the logic) of operation of the Constitutional Court. Despite comparable powers, the logic of the operation of constitutional courts differs from court to court as also their work is differently organized.

Notwithstanding different approaches to the organization of work, IT always makes possible the establishment of more effective and transparent operation. The more effective, as the work can to a great extent be standardized and certain more simple activities can even partially be automated, as the entry of data is generally made only once, and then such can be accessed in the digital form in different phases of the proceedings. This makes the administrative work easier, reduces the possibility of typing mistakes, and at the same time enables the employees to work at distance (from their homes) and to have access to documents through appropriately protected links. In addition to that, IT makes possible an easy search through the cases and documents, and easier knowledge management.

The operation and decision-making of the Constitutional Court is determined precisely, thus it can be described in a manner necessary for the use of IT. The mere inventory of rules and activities in proceedings of the review of constitutionality and in proceedings upon a constitutional complaint against an individual act include approximately 40 pages. By appropriate logical controls IT makes it possible for us to access only those activities in the proceedings that are in conformity with the regulations and internal rules of operation, and the possibilities of automatic warning regarding the prescribed time limits. The electronic form of the register can make the work of the Registry and of the administrative service easier. Simultaneously, the heads can follow the dynamics of work and have access to numerous data in order to prepare reports on work and on the planning of such in the future, or to the data which they need as the basis for the continuous improvement of work organization.

What is needed for every area of use is a detailed inventory of procedure with all the data that must be recorded, and the description of work organization. Such inventories and descriptions were the basis for the elaboration of our case management system.

As it turned out subsequently, these inventories and descriptions were also used in other areas. An appropriately structured Intranet can substantially alleviate the search of appropriate directions, information etc. This appeared to be very effective in particular when new legal advisors were introduced into the work.

III. The Case Management System as a Tool for Operation

In the continuation I am presenting a part of the case management system by means of which the Constitutional Court operates. It concerns an information documentation or case management system, in which the work on cases from within the jurisdiction of the Constitutional Court takes place. We call it the IDS-US (*Informacijsko dokumentni sistem Ustavnega sodišča* – the literal translation would be the "Information Documentation System of the Constitutional Court", although we could also translate it as the Case Management System of the Constitutional Court).

We have designed it as a working tool, and not just as a database and a document database. Thus, with every case beside the judges also all the services of the Secretariat are included in the operation.² In the first phase of the introduction of the IDS–US we wanted to establish a reliable, safe, and effective document management system, which would be linked to the operational system or the Register, and would comprise also the Incoming/Outgoing mail with the scanning of documents. In the phase of improving the system, it should make possible partial automation of the preparation of calling and recording the sessions of the Constitutional Court and its panels, and greater automation of the work with documents.

1. The Structure of the System

Into the system that we are using all the data on cases as well as all the documents are integrated. It combines the register, the electronic form of files, and the work with documents regarding cases from within the jurisdiction of the Constitutional Court.

The system is composed of several modules, including:

- the register, i.e. the electronic form of recording cases at the Constitutional Court;
- the incoming/outgoing mail with document imaging, which is the application for following and scanning mail;
- document and process management.

All the modules are joined in a functional whole, in which also the word processor is included. The IDS-US is thus not only a database and a document database, but also an expedient for work and the organization of work. It namely follows the procedure of decision-making of the Constitutional Court and office operation, and within the work process and the procedure of decision-making takes into account the powers of individual users. We have designed it in a manner such that it ensures optimal operation by the insertion of the same data as those that had to be kept manually, and by the maximal adjustment of the application to the manner of work of the judges and the services of the Secretariat. In other words, we did not want to have more work due to the IDS-US.

Thus, by the conversion of the data and documents concerning the cases which were entered into the previous electronically supported register and the word processor, we included also the cases on which the Constitutional Court had decided prior to the introduction of the new case management system. As the previous system did not contain all the documents or did not contain at all the documents concerning cases that had been considered prior to the introduction of the previous system, we scanned all the archived files from that period, and sorted out the scanned documents for reason of transparency in searching desired documents.

2. The Register, the Incoming/Outgoing Mail, and the Scanning of Documents

The basis of the system is the "case". The "case" includes the recording of all the necessary data on the petitioners, the challenged acts, the date of filing, the type of the case, the judge rapporteur, the legal advisor, the date of sessions, the manner of decision, the duration of proceedings, etc. are recorded. They concern the data that the Registry is obliged to enter into the register. This is why at present it is the Registry that is entering them into the electronically run register. The register contains the central records of the data on cases and proceedings before

² The Secretariat performs professional, judicial-administration, and administrative technical activities. It is composed of the professional service, i.e. the group of legal advisors, the Analysis and International Cooperation Department, the Documentation and Information Technology Department, the Registry, and the Department for General and Financial Affairs.

the Constitutional Court. This electronic type of records has completely substituted manually kept records and auxiliary books, and besides that also performs the function of the operational and production system of the Constitutional Court. Each application which is filed in the Constitutional Court is entered into the IDS-US with the data necessary for the definition of the case. These are general data, substantive data, data on the course and position of a case, data which originate in the post production. It concerns the records of the data necessary for the control and supervision of cases, and for monitoring the position of cases from the view of work processes.

The module of the incoming/outgoing mail is functionally connected with the register. An application which is filed in the Constitutional Court is first marked by the Registry as the incoming mail, and then scanned together with all the enclosures. The incoming mail which is considered as an application filed in the Constitutional Court is automatically entered among the "cases". The data, including the so-called meta-data which must be recorded in a particular case, are entered into appropriate fields. The entering of data is made easier by codes. The entering of data by virtue of selecting an appropriate possibility from a code also ensures the uniformity of entries, which are needed for both the functional operation of this system as well as for statistical databases and other databases.

3. The Documents

To each case all the documents are attached, i.e. those which have been made in connection with the case, as well as all those (digitally) scanned received and sent documents. Each document is marked with the data which make easier the search in the list of documents. Furthermore, by means of the system of the so-called "statuses" of documents we have achieved the keeping of those documents that had been otherwise kept in the "original" file, which is kept in the physical form (i.e. in the file on paper). Therefore, it is important that the system makes possible an easy search of existing documents by full text and by meta-data.

The IDS-US has to a great extent alleviated the work with documents, as it includes the system for making documents. This enables an easy selection of the type of a document that we wish to create. The system namely includes the templates of documents. By appropriately defining the use of these documents, on the basis of the two-way connection and integration with the register, we have achieved that the system offers only the documents which can be used in such type of a case. For a better selection among them we have also sorted them out appropriately. Concerning the selection of a document, all the necessary data on the document generally appear. If the pre-set data do not match with the concrete case they can still be altered. An advancement of this part of the application is being prepared, which will in certain cases make possible an automatic selection of the template concerning the data entered regarding a case (it concerns easy management with working processes, not artificial intelligence).

However, the system does not only make possible the selection of a document, but also enters into the document itself appropriate data that are entered concerning the "case". In such a manner we do not need to always write out the addressee or the definition of the case (which can sometimes be very long). The mentioned advancement of this part of the application will include also substantive improvements that will make the work easier. The templates will contain even more automatic formulation of the text, besides that the templates will include appropriate instructions or warnings.

I have mentioned numerous rules that regulate the manner of operation of the Constitutional Court. We will include these rules, in the form of side remarks seen only on the screen, already

in the templates. At the same time, we will upgrade the IDS–US such that it will automatically include in the document a standardized text of reasoning, which corresponds to a concrete case. At the moment, we are working on decisions on the inadmissibility of a constitutional complaint. The statements of reasons of these rulings have been standardized for some time, however, in every single case we "manually" select the part of the text that fits with the rest. The templates for every procedural prerequisite could already have been elaborated, but there are a few such procedural prerequisites, and the Constitutional Court Act also allows exceptions, where a constitutional complaint can be accepted for decision-making although the procedural prerequisites have not been fulfilled.

All this makes the work of the professional service easier. What about the work of judges? According to our experiences, the standardized statements of reasons foster the judges' decision making in the part in which they would otherwise spend time on forming statements of reasons or on examining whether draft statements of reasons are correctly prepared. It is well-known that a meaning of words can be changed already by a differently set punctuation mark, or by the use of the word "and" instead of "or". The so prepared templates for deciding make the judges' work easier in that part in which the examination of the standardized parts of the text is not needed, which means that they are left more time for reflection on the substantive issues of the remaining text.

4. The Logic of the Operational Processes

The IDS-US partially covers also the workflow. Certain possibilities of the electronic taking of positions of the judges have already been installed. A judge may namely propose the priority consideration of a case. They may also propose that a motion for temporary suspension be decided at a session. For the time being the judges have not yet used this possibility, although they could. Their written proposal for such is electronically recorded by the Registry. The electronic recording automatically actuates the informing of all the judges and the court personnel which is obliged to prepare everything for the calling of sessions.

The IDS–US supports also the electronic "manual". This embraces all the time limits that are determined concerning a specific case. Thus, e.g., the judges have on the list of cases in the so-called circulation all decisions of the panels on the examination of constitutional complaints only 15 days at most, which is the duration of such circulation prescribed by law. Of the expiry of certain time limits determined for the operation of the Constitutional Court, the system automatically informs those that must receive such information. These are generally the judges and the legal advisor working on a particular case. Sometimes the procedure of informing the legal advisors is the mirror image of informing the judges. The judge receives the information on an event, and the legal advisor the information how the judge reacted to such.

The judge rapporteur and the legal advisor who was assigned a case receive the information that the time limit for the addressee to respond, i.e. the time limit which was set in the call to the addressee, has expired. The time limit for response is entered by the Registry when it sends off a document, and the system begins to count such after the entry of the date of delivery. The system warns the Registry also of the cases of non-delivered mail.

The work regarding a case does not end with sending off a decision or a ruling, by which the application was finally decided. The Analysis and International Cooperation Department and the Documentation and Information Technology Department deal with every completed case in terms of constitutional records data (the legal basis for the decision and appropriate keywords are entered, etc.), and prepare the decisions to be put on the databases accessible to the public.

IV. The Case Management System as Support for Work Organization

As the IDS-US is completely adapted to the work organization at the Constitutional Court, first, few words on the work organization of particularly the services of the Secretariat are necessary. The Secretary General provides that the activities of all the services of the Secretariat are harmonized. A part of her powers may be delegated to their deputy and the assistants. Thus, the Secretary General assistants and her deputy are obliged to organize work concerning the cases that are considered by the panels for the examination of constitutional complaints. The Secretary General assistants and her deputy are at the same time members of the professional service, i.e. the group of legal advisors. The legal advisors are not assigned to a particular judge, but work on cases regarding specific areas of law, which can be assigned to different judges-rapporteurs.

We have adjusted the IDS-US to individuals, i.e. the users of the system, in view of their "role". Thus, every judge and legal advisor has the actual list of cases that are assigned to them. It actually concerns several lists that we defined according to various criteria: unresolved cases, resolved cases, priority cases, cases in which a ruling on the temporary suspension of the implementation of a challenged act was issued, etc. Such lists are intended for the personal organization of work, as the information technology simultaneously shows us the order of precedence according to which cases must be resolved.

The lists are composed of "cases", thus they contain all the data of a case and all the documents concerning the case. The basic view of the lists makes possible the view of the most important data such that it is not necessary to "open" the case. We have achieved such by the presentation of coded data and signs or the symbols of individual events. Thus, e.g., in the list of all unresolved constitutional complaints it is already at first sight discernible in which cases a panel of the Constitutional Court has already adopted a ruling on non-acceptance or rejection, while the procedure of "circulation" (the so-called correspondent taking of positions of the remaining judges) is still taking place.³

Also, other cases are accessible to all the judges and legal advisors in the same manner. Therefore, the judges have wide access to cases, as they participate in the decision-making on every case. The legal advisors also need such wide access in particular due to easier access to the decisions or positions of the Constitutional Court. This is made possible by different search tools. I have already mentioned the function of the full-text search. In the application we have also inserted a special search tool, concerning which we envisaged a greater number of possible criteria of search.

In view of the fact that different legal advisors work on cases assigned to a same judge, the judges have also the possibility of a special view of the list of cases assigned to legal advisors. Additionally, they have access to several different lists of cases that are formed concerning the criteria which are important for the deciding of judges and for the organization of their own work.

³ In the cases of constitutional complaints, a three-member panel decides first (the Constitutional Court has three such panels) on the acceptance of a constitutional complaint, i.e. on the examination of a constitutional complaint. Concerning the fact that any three judges may accept a constitutional complaint, the panel's decision is followed by the correspondent taking of positions of other six judges. This means that every judge takes part in the deciding on every constitutional complaint, irrespective of the fact whether it concerns a decision on its inadmissibility or evident non-substantiality. If a constitutional complaint is accepted for consideration, its substantiality is decided on at the plenum. Concerning other cases, the plenum decides not only on the substantiality of applications, but also on their admissibility. By the correspondent taking of positions the judges also reach certain interim decisions.

Furthermore, the Secretary General has access to even more different lists of cases, including such possibility being also available to her assistants and the deputy, who compose the same group of users. These lists are formed particularly with the purpose of ensuring an easier monitoring of the work of the services of the Secretariat. The Secretary General can take effective organizational measures only on the basis of a comprehensive view of the operational process.

The Secretary General is also the professional leader of the Secretariat's services. Wide and structured access to cases makes possible an essentially easier supervision over the correctness and efficiency of the work of both the services and the individuals. Crucial advantages of the case management system are particularly the possibilities of the on-line view of cases and of different lists of cases, and the possibility of actual collected data and statistical surveys.

Thus, e.g., already the Registry examines for every new case whether there has been filed with the Constitutional Court an application which refers to the challenging of the same act, and whether the filer of this new case has already challenged also some other acts before the Constitutional Court. Such inquiries are made possible by the computer run register of cases, in which also the assigned legal advisors are entered. Thus, the applications by which the same regulation is challenged are assigned to one legal advisor. So far it has appeared that the effect of the work of legal advisors can be greater if they are assigned cases according to certain areas of law. The legal advisors are namely not assigned to a single judge, but work on cases relating to specific areas of law, which can be assigned to different judges-rapporteurs. The field of work of a legal advisor is not determined according to the substance of constitutional issues, but in view of the area of law that is generally narrower than the general division into criminal, administrative, and civil areas of law. The specialization of legal advisors makes possible faster dealing with cases at least concerning that part in which a substantive legal regulation or a special decision which is allegedly contrary to the Constitution is to be studied. Such a manner of organization makes it possible for the case to be assigned to that legal advisor who is able to deal with the case fastest. Therefore, it is extraordinarily important that the one who assigns a case to a legal advisor knows the case and precisely knows who of the legal advisors will study and prepare such for the consideration and decision-making of the Constitutional Court easiest and fastest.

The computer supported system of operation also makes possible the view of the caseload of individual legal advisors. One indicator is the number of assigned cases, however, for a more realistic assessment of the caseload these data do not suffice. Undoubtedly there is much work with a case in which several inquiries in the proceedings of its resolution must be made, or with a case that has been accepted by the Constitutional Court for consideration. Likewise, a case concerning which the parties' motions for the temporary suspension of the implementation of a challenged act, or for priority decision-making, must be studied requires more work. However, all the cases are not such. The Secretary General or her assistants and the deputy must provide that the legal advisors are equally burdened. This is also the way to achieve the consideration of cases by the order of precedence.

In certain cases, already at the definition of a case, its extraordinary demanding character can be established. However, the overall extent of work to be invested in the consideration often appears only during the proceedings. The view of cases assigned to individual legal advisors, which contains the data from which the demanding character of the case can be ascertained, is, according to our experience, a useful basis for the estimation of the caseload of an individual legal advisor. Thus, on the basis of such estimation we make decisions as to the possible subsequent re-assignment of cases to other legal advisors. The order of precedence according to

which the Constitutional Court is to consider cases cannot namely depend on the case(over)load of an individual legal advisor.

Information technology has proved to be effective also at the sessions of the Constitutional Court. By virtue of the case management system, the Secretary General, who takes part in the sessions, can in a relatively short time find information for which it would turn out only at the session that the judges need for the consideration and deciding on a certain case. Prior to that, the consideration of a case was to be postponed to the next session so that certain information was obtained. The collections of decisions of the Constitutional Court are always there to be used at sessions, however, as the source of information they can only be used if we know which case we are searching and if we know at least the approximate data of the decision on such a case. Such ad hoc access to the needed information can essentially shorten the time of the consideration of a case if the case can be thus decided already at the first session. The postponement of the consideration of a case to another or one of the next sessions namely entails that, prior to the next consideration, the judges must study the case again or at least refresh their memory, which means the additional using of their time.

The advantage of the comprehensive electronically supported system is also the shortening of time necessary for the preparation of the calling and recording of sessions of the Constitutional Court and its panels. The above-mentioned manner of work with documents and the system or making of statuses of individual documents enables us to follow the work on a case. Besides the judge-rapporteur, also the Secretary General can examine which documents are prepared for a judge's supervision or signing, and which have already been supervised and signed. If the matter concerns draft decisions or reports on cases, the signed documents have the status of the documents for a session. In the advancement of the system, which we are preparing, these data are going to be the basis for the preparation of the calling of sessions. From the documents with such a mark the draft minutes of sessions will be made. The Secretary General is already at present provided draft minutes of a session at the session, only that this draft is now prepared in the manner of "copy/paste" from the draft decisions and rulings. As it is written in the form of an electronic document, the Secretary General can simultaneously correct such at the session.

In a similar manner as for cases from within the jurisdiction of the Constitutional Court, we are going to establish also a case management system for the matters of the so-called judicial administration. As the logic of operational process in these matters is different than in the cases from within the jurisdiction of the Constitutional Court, we have decided to develop this system separately. With regard to the experiences regarding the introduction of the existing system, we expect no special problems concerning the elaboration of this part of the information support for the operation of the Constitutional Court.

V. Conclusion

The case management system that I have presented was introduced in June, 2004. Concerning the fact that we have not noticed any obstacles in work, I estimate that the introduction into the new manner of work did not cause users special problems particularly due to the fact that we have designed such according to the logic of the operation of our Constitutional Court, i.e. we have made it to measure. The greatest problem for users was only the requirement concerning the double saving of documents. The modules of the case management system are namely elaborated in the Lotus Notes program, while the documents are created in the Word program.⁴

⁴ The presentation of reasons for such combination of the platform exceeds the framework of this contribution. It namely concerns particularly the reasons of organizational nature, which have to a great extent been conditioned by the state of the techniques as existed when we began to develop the information system.

If a document is not saved according to a correct procedure, it cannot be found among the documents on cases. We are still seeking a solution for this technical or functional deficiency, although the employees have already become adjusted to the particularities concerning the saving of documents.

Notwithstanding that, the so far experiences of work with this case management system have proved it to be justified. Thus, we are going to upgrade it. As in designing the case management system, also in its upgrading or improving we will follow the same starting point that the case management system is to "serve" users, not vice versa (users "serving" the system).

Ljubljana, 29 August 2005