

Building Interoperability for European Civil Proceedings Online

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COMPARATIVE TABLE: THE NATIONAL E-FILING SYSTEMS ANALYZED

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COMPARATIVE TABLE: THE NATIONAL E-FILING SYSTEMS ANALYZED.

	Money Claim Online MCOL	COVL (Central Department for Enforcement on the basis of Authentic Document)	CITIUS	Trial OnLine TOL
Project background (opportunity and challenges affecting the development of the project, and leading to a project with specific goals and features)	Lord Wolf report, difficult and expensive access to justice; attempt to modernize management and procedures, utilize of ICT in justice.	Registry Department of the Supreme Court wanted to find a solution for judicial backlog and efficiency of enforcement procedures by a reform of the system and developing custom made information technology solutions, fostering business process modifications, and changes of legislation.	Implementation of software then called H@bilus for overcoming traditional bureaucratic procedures that are seen as an obstacle for an appropriate functioning of the justice system.	Chronic problems of the civil justice and the advent of ICT as a way to reorganize completely proceedings.
Project Goals	Allow e-filing of civil claims online. To free county courts with repetitive paper-based work linked to money claims. Enhance the access to justice providing an easy to use service that every English and Welsh citizen may utilize.	Reducing judicial backlogs and improve efficiency of the enforcement procedures on a national basis.	CITIUS: (1) The reduction of the average length of a civil proceeding; (2) to cut down human resources concentrating some (3) easier access, mainly for lawyers to the content of the proceedings.	To manage, digitally, large part of information related to civil trial proceedings, all communications and information exchanges among the different players, simplify the activities of any player, promote proceeding transparency and timeliness.
The development strategy				
Role of the installed base	The system has been developed taking advantage of pre-existing technological and organizational components such as the CPC (data files validation	New centralized information modules. Scarce use of the installed base. Transition from a decentralized, bottom-up installed base to a centralized, top-down	It is a relatively recent project (middle of the '90s) with no important experience before as far as the technological installed base concerns. It can be	The technological installed base was not considered important but to abandon. The legal installed base has followed the TOL project development before it was

<p>function) and the CCBC (management of claims through CaseMan). Moreover, at the institutional level only a County Court (Northampton County Court) that now deals with all money claims filled online has been involved.</p>	<p>system.</p>	<p>considered a green field project. The legal installed base followed the organizational/technological ones (the civil procedure law was significantly changed for supporting the ICT adoption). Only when applications proved to be functioning properly regulations intervened to formalize the new proceedings. The organizational installed base demonstrated to support this innovation.</p>	<p>actually deployed (the civil procedure law was changed only marginally). The organizational installed base (laboratories) demonstrated its limits in supporting a project such as TOL.</p>
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<p>How “complexity growth” has been controlled (or functional simplification pursued).</p>	<p>Optimal exploitation of installed base already used to deal with claims filled electronically. Use of the Internet technology and of e-gif standards. Centralization on a single agency and a single Court of all procedures coming from the website for all jurisdictions. Use of plain English for the civil procedure that regulates civil claims. Possibility to switch to the paper-based procedure at any stage. Modularization. No signature necessary.</p>	<p>Included a wide variety of stakeholders in the process of designing the solution. Extensive input from internal and external users. Detailed analysis of the existing installed base (in all of the components) identifying obstacles, bottlenecks. No use of signature. Decision-making transferred from judges to clerks in a number of procedural activities. Pre-existing technological base completely replaced by the new solution, along with hardware. Service based on</p>	<p>A tendency to centralize has emerged, both from a technological point of view and an organizational point of view. (i.e. to move from local servers to national servers and the fact that only a jurisdiction is in charge of payment order procedures).</p>	<p>The Tribunal of Milan’s experience marks a turning point in the TOL development. From a comprehensive strategy to an incremental and iterative one.</p>
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CIF's strategic technological guidelines, such as three-tier architecture, modularity, re-usability, interoperability, vendor neutrality and independence, and open standards.

How the critical mass of users have been pursued or reached? The criteria established by Hanseth followed.

Easy to use service. Free access from the Internet. Publicized in County Courts or through County Courts Users' Associations.

Advertisement in Media (public) campaign (press, TV, broadcast).
Printout of a handbook, which shows how to use new services.
Presentation of the outcome of the project on a conference with external users and clients.
No special promotion activities to attract the users.
Only clarification of potential misunderstandings done mostly by regular communication with the media.

The Ministry of Justice provided a central application available to external users such as lawyers and solicitors: Citius.net. From 2008 the use of Citius.net is compulsory for payment order procedure.

Bar Associations had to provide their own access points limiting the creation of a critical mass of users. Only with latest regulations it is expected that a ministerial access point will be provided.

How legal changes have affected the configuration and the development

Legal changes have been contemporary to the development of the technological innovation. The rules that discipline the on-line procedure (Practice Directions) can be drafted rapidly and without the involvement of Parliament. Moreover, rules do not

Changes and amendments to primary legislation have been drafted with a number of by-laws in cooperation with the Ministry of Justice (including Civil Procedure Act, Enforcement Act, Courts Act, Criminal Code etc.). Civil Procedure Act allowed

Legal changes followed the introduction of applications already in use. Further, the civil procedure law was modified importantly in order to favor the introduction of such applications.

Several legal changes have accompanied TOL's development. Specifically access points have been object of three different regulations in few years pushing Bar associations to follow them

regulate in the specific but only generically the procedure so that developers had an useful space of maneuver.

all e-filings, Enforcement Procedure Act introduced the new department that deals with online claims.

Configuration of the system:

Technological Component 1	CaseMan: “multi-user relational database management system written in Oracle on a Unix operating platform” (Plotnikoff, 2001: 242).	New case management system. It uses all the collected information, creates a complete electronic case file, and enables an automated preparation of a final decision.	Organizational aspects: in 1999 a special registry with exclusive jurisdiction for payment order procedures was created in Lisbon and Oporto. In 2008, a general registry with national jurisdiction always for payment order procedures was established. It is located in Oporto and is composed only by clerks. Since 2008 the Citius-Small Claims (BNI -“National Desk for Payment Order Procedures”) procedure platform is available for lodging cases, paying fees and access the national registry. Lawyers and solicitors are forced to use it. This is not the case if requests are sent by parties directly.	External users: Certified email system (CEM) (communication and document exchange with the judiciary), access point provided by Bar Associations (to access registry), the Ministerial access point (to be realized).
Technological Component 2	Flex Foundation Screen Mock Ups	Web portal: (https://covl.sodisce.si) for filing of requests, and status	TrinNet also called Citius-Public Access is the application that offers	Central systems (national level) for managing CEM’s registries.

tracking. The B2G interface allows bulk filing of requests by large creditors. Automated postal dispatch system (a subsidy of the national Post Office) to optimize and expedite printing.

information to the general public. Through this application also the BNI is accessible.

Technological Component
3

Server provided by Logica.

Module for paper-based documents scanning. Tools for automated validation (verification) of requests' content.

Citius-Judges: this application is dedicated to judges and it allows the writing of decisions and their signature other than the electronic receiving and sending of proceedings to parties.

The case Management system (SICID) used by clerks and the Judge's console dedicated to judges for writing decisions, signing them and exchanging documents with clerks.

Semantic issues

Different languages: is it a problem?

No. However, the UK legislation states that official documents and laws should be provided both in English and Welsh. However, all the online procedure is not bilingual.

User interface is currently only in Slovenian language, but the system could relatively easily be adapted to enable filing in other languages facilitating creditors from EU or any other countries.

The question of a different language is not taken into consideration

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Understanding of procedures, and consequences of actions, decoding of signs.

Efforts to simplify the language, standardize the procedure, reduce uncertainty, make the procedure understandable. Use of plain English for Practice Directions and Civil Procedures. Very

Claim submission simplified by the use of Xml forms. Simple e-mail access sufficient for identification, no signature needed. Procedure is simple and do not need legal training.

Payment order procedures are based on a "form" defined by the Ministry of Justice in order to simplify and standardize them.

Payment order procedures have not been subject to significant changes and lawyers are in charge of them.

accurate instructions provided.

The functioning: court perspective

The court is basically excluded from the handling of the procedure. However, when at certain stage (as the enforcement stage) the Court needs to be involved only Northampton County Court deals with the claim.

New specialized court department established as a part of the Local Court of Ljubljana, that has exclusive jurisdiction over decisions on requests for judicial enforcement of an authentic document.

Payment order procedures are managed by clerks. Only in presence of an objection they acquire judicial nature and judges of the court territorially competent and not the Oporto's one are in charge of them

Payment orders procedures are managed as any other procedure.

The functioning: role of private company perspective

Private companies provide key components / segments of the activities. Logica, the most important which has an overarching contract with Ministry of Justice provides server and printing facilities.

Tasks such as coding of individual modules are usually performed by private companies contracted on the basis of public tenders. Private contractor provides Scanning of return of service slips and automated postal dispatch system.

A private company has been in charge of the auditing of the entire Citius system. On its basis and in collaboration with the Ministry of Justice Citius Plus (an updating of the Citius system mainly as far as security concerns) was introduced.

External access points are provided by private companies.

The functioning: user perspective

Users have access to the service through the Internet. They receive an identification number by login in the Government Gateway web-site utilizing their fiscal code. The claimant enters in the website and provides all data of the claim. Defendant may use the service as well

Requests for enforcement can be submitted on mandatory prescribed paper forms (available at the courts' front desk) or via electronic form (<https://covl.sodice.si>).

Citius.Net and TribNet are the access points respectively dedicated to lawyers (and solicitors) and the general public. From 2000 layers and solicitors were forced to submit documents in electronic format other than on paper. Then, from 2009, only the electronic way is available.

Access points represent the gateway to the judiciary. In the last few years their characteristics have changed three times hampering the rate of adoption.

when he receives the claim pack with all the information regarding the claim.

Circulation of agency

Identification:

ie. How “physical” identity is translated into a digital one
how is it provided, which components are needed, do users have an acceptable digital identity in their computer/pocket?

Identity is checked through the use of fiscal code in the beginning of the claim procedure and by providing an user and a claim number. No original signature is needed but only a statement of truth signed online.

The submitter is responsible for the veracity of the claims relating to the existence of an authentic document. Individual users (mostly creditors or their attorneys) can register online to receive a password to their e-mail account. No additional authentication is required, but a name and a valid e-mail address.

The Ministry of justice provides a digital signature system supported by a smart card to judges for signing documents. As far as external users’ concerns, CitiusWeb (Citius.Net + TribNet) is present through a digital signature system provided by the Portuguese Bar Association that relied on a private company. This Bar Association manages also the access point necessary to have access to applications and registries of the judiciary. The Chamber of Solicitors has a similar system to access the judiciary.

The Ministry of Justice provides to all justice operators a digital signature system supported by smart card to sign or countersign documents. The same system, in this case provided by Bar Associations, is used by external users. Electronic legal documents acquire legal validity only in consequence of a decree of the Director of the IT Department. This decree is related to the number of lawyers enlisted in a specific access point. In case of few registrations the decree will not be issued.

Access:
how is it possible to a user to get connected with the MJ system. Do the user need a special technology, components? How much is it accessible

The service is completely accessible. That is any user (lay user or lawyers) may have access to the service via Internet.

Users simply need to access to a web portal (<https://covl.sodisce.si>) was developed for registration of individual users, filing of claims and status tracking.

Digital signature based on smart card technology provided by the Portuguese Bar Association.

Smart card technology for user’s identification is necessary to access to an access point provided by a Bar Association. The exchange of documents and communication will take place through certified

				electronic mail
Signature: Is it needed? How does it work? Low or high requirements	No original signature needed.	No original signature needed.	Yes, it is digital and is based on a smart card technology. High requirements	Yes, it is digital and it is based on a smart card technology. High level requirements.
Data exchange: based on electronic docs (paper into digital), web forms (es. MCOL), mixed system also paper ---	Data are exchanged through web-forms. They are switched to paper-based documents when the claim-pack is sent to the defendant or in case the user wants to utilize the paper-based procedure.	Data can be exchanged through electronic Xml forms or by scanning paper forms.	Pay order proceedings are based on a form arranged by the Ministry of Justice (paper into digital). This solution is compulsory for lawyers and solicitors. Differently, also the paper form is available.	Both online (paper into digital) and paper solutions are available
Payment of Court Fees	Court fees can be paid through the Government Gateway facility with a credit card.	A module for payment of court fees is present in COVL; payments go directly to the Ministry of Finance and not to Courts; payments of Court fees can be paid with a credit card.	The fee amount is calculated automatically, by submitting a small claim procedure request electronically. Then it can be paid by ATM or home banking and the receipt is upload to finalize the procedure.	Two solutions have been envisaged for the payment of court fees. The first one based on revenue stamps. Of course, it is not attached to the document but its identification number communicated electronically. The second one consists in fee payment by bank order and the receipt is scanned and then attached to the request.