



# Report on e-enforcement system on the basis of the authentic documents

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## Report on e-enforcement system on the basis of the authentic documents

Sarajevo, 2016

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# LIST OF ABBREVIATIONS

<b>AD</b>	Authentic Document
<b>AAPC</b>	Age of Active Pending Cases
<b>B2G</b>	Business to Government
<b>BLOB</b>	Binary Large Object
<b>BPM</b>	Business Process Modelling
<b>C2G</b>	Citizen to Government
<b>CCBC</b>	County Court Business Centre
<b>CMS</b>	Case Management System
<b>CR</b>	Clearance Rate
<b>DMS</b>	Document Management System
<b>DT</b>	Disposition Time
<b>ESP</b>	External Service Provider
<b>G2B</b>	Government to Business
<b>G2C</b>	Government to Citizen
<b>G2G</b>	Government to Government
<b>GUI</b>	Graphical User Interface
<b>ICT</b>	Information and Communication Technology
<b>KPI</b>	Key Performance Indicators
<b>LoC</b>	Law on Courts
<b>LoCP</b>	Law on Civil Procedure
<b>MS</b>	Member State
<b>MCOL</b>	Money Claim Online
<b>NAP</b>	Not Applicable
<b>OCR</b>	Optical Character Recognition
<b>RCC</b>	Regional Cooperation Council
<b>RDBMS</b>	Relational Database Management System
<b>SaaS</b>	Software as a Service
<b>SOA</b>	Service Oriented Architecture
<b>SSO</b>	Single Sign-on
<b>XML</b>	Extensible Markup Language

# 1 EXECUTIVE SUMMARY

The effective execution of court decisions is an integral part of compliance with Article 6 of the European Convention on Human Rights. Backlogs in the enforcement procedures usually represent a major proportion of all backlogs in accession process economies. Systemic and organisational problems could be identified as the reasons for the backlogs and inefficiency of the business process in most of the Beneficiaries in the region. The territorial jurisdiction is shared among several stakeholders although the business process in the first phase is straightforward and without personal contact with creditors and debtors. Additionally, the lack of the ICT support could be the obstacle.

In order to perform analysis of the existing systems of judicial e-enforcement based on authentic documents (ADs) in the Beneficiaries, it was necessary to analyse the recent reforms in this field and identify necessary changes of the regulatory framework allowing for e-enforcement, as well as to assess human resources and technical capacities needed for implementation of the e-enforcement based on authentic documents. Therefore, a questionnaire was drafted (Annex 1 - Questionnaire) and sent to contact persons. Questionnaire covered legal, organisational and ICT part of the field. Experts received completed questionnaires from Bosnia and Herzegovina, Montenegro, Serbia and The Former Yugoslav Republic of Macedonia. The questionnaires from Albania and Kosovo\* were received after the final deadline. In order to obtain some additional information, desk research and in-depth review of Beneficiaries on the existing system of judicial e-enforcement on the basis of ADs, was performed. Experts would like to express gratitude for the cooperation with respondents who completed the questionnaires and also provided additional clarifications needed during the research. In addition, desk research of the best practice examples in some EU countries was conducted in order



to identify the systems which could be applicable in the Beneficiaries.

Based on CEPEJ Report on “European judicial systems - Edition 2014 (2012 data): efficiency and quality of justice”<sup>1</sup> data backlogs in non-litigious enforcement cases (including enforcement on the basis of ADs) represent substantial proportion of backlogs in most Beneficiaries. In most EU MS the problem was solved at the level of legal, organisational and ICT interventions and improvements. In the limited time (30 days) and with limited resources (two experts) it was unrealistic to perform analyses of all EU MS. Applicable best practices could be identified in Germany (Mahnverfahren), Slovenia (COVL - Central Department for AD and access to registers) and UK (Money Claim On-line).

The Report focuses on analyses of the existing legal, organisational and technical environment in

<sup>1</sup> [http://www.coe.int/t/dghl/cooperation/cepej/evaluation/default\\_en.asp](http://www.coe.int/t/dghl/cooperation/cepej/evaluation/default_en.asp)

\* This designation is without prejudice to positions on status and is in the line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

Beneficiaries. Regarding enforcement on the basis of ADs, all three models could be identified in the region: court jurisdiction, competence of the notaries and/or bailiffs and mixed system with the court and private enforcement officers. In order to support all models experts were challenged with how to define the approach which would support heterogeneous environments and consequently facilitate preconditions for more efficient enforcement procedure and consequently a more efficient judiciary. In any respect the Report should not be considered as recommendation or even requirement for the solution proposal, although, based on the Tender Dossier (p. 14), the proposal of e-enforcement model and IT support acceptable to all Beneficiaries, as a basis for the improvement of e-enforcement system based on ADs and its implementation, as a segment of cross-border cooperation and the improvement of the efficiency of judiciary, was required. Any further development in this regard is exclusively within the competence of RCC participants.

The ultimate goal should be the improvements in the field of enforcement on the basis of ADs in the entire region through legislative, organisational and ICT measures. The key challenge, which Beneficiaries will be faced with, is to evaluate new visions at the level of further regional cooperation, how to implement the new approach and solution - the standardised e-enforcement model. The proposed approach based on concentration of the business process (good practices were identified in Bosnia and Herzegovina and The Former Yugoslav Republic of Macedonia) should support the business processes regarding the enforcement on the basis of ADs in all Beneficiaries' environments and function in heterogeneous organisational and ICT environments. This will create conditions for the efficient and effective procedure in the entire judiciary. If decided for the proposed approach, a strong sponsor who will stand behind, support and push the entire concept will be needed in every Beneficiary. Important basic precondition and ultimate goal should nevertheless be indisputable: the system has to operate completely electronically and paperless, including interoperability with external registers and electronic communication with parties on IN/OUT level.

Based on the research of the existing e-enforcement systems in Beneficiaries and some EU member states, it was established that currently there is no e-enforcement system available which would fulfil the requirements of all Beneficiaries. However, many good practices, materialised as functional modules, were identified as applicable to all Beneficiaries. Experts believe that design and development of a common e-enforcement system for all Beneficiaries would be a viable option. However given the considerable differences between the Beneficiaries, implementation of such a system would inevitably present a fairly complex task and is not foreseeable.

Many strategic decisions regarding the project were identified during research and discussed in this report. However, they will have to be made by the future owner(s) of the project. Some of them are considered fundamental and will determine the path of the entire project; therefore they will have to be reached even before starting the project. The proposed concept covers all aspects of the project, from operating mode of the target system, its architecture, design and development principles, to chosen technology, licensing principles, user training and functional requirements.

The final acceptability and commitment to the proposed concept would be *conditio sine qua non* for further development in this regard and its final implementation in the business process, which would guarantee the success of the mission. However, good practices in the field and the existing cooperation, which launched the entire idea, inspire optimism.

The Rapporteurs would like to express their conviction that the Report could be read also as a strategic document and proposal of the architecture of the future IT system. It could be also used as a checklist for further tender activities in every single Beneficiary's administration in order to successfully introduce the concept applicable not only for the enforcement on the basis of ADs but also for other CMSs in the field of justice.

## 2 DESCRIPTION OF THE MAIN TERMS TO BE USED

### Authentic Document

- ADs is used as a generic term for a number of classes of monetary claims, which includes an invoice, bill of exchange or check with a protest and reversible account, when it is needed for initiating claim, public title, and certificate from registered company books, registered private title according to the law and titles which according to separate regulations have the status of a public title. Calculation of interest is also considered as an invoice<sup>2</sup>.

### E-enforcement

- entire enforcement procedure or a part of it fully performed (filing, processing, serving) through the electronic means. Beneficiary does not use any paper within the business process. Any paper, which is delivered to the court is immediately digitalised and further processed. Paper version is stored separately and is only used in exceptional cases.

### Centralisation of business process

- implementation of the organisation unit competent for particular business process (e.g. enforcement on the basis of ADs) on one or few locations instead of general territorial jurisdiction exercised by all first instance courts or bodies performing public service.

### Concentration of business process

- implementation of the organisation where individual business processes (e.g. printing, shipment) which are performed in the distributed way are performed only on one place within the individual organisation.

### Key Performance Indicators (KPI)

- basic indicators used for evaluation of the performance of the court, the part of the judicial system

or entire judiciary. Three basic KPI are meant in this regard: Age of Active Pending Cases (AAPC), Clearance Rate (CR) and Disposition Time (DT).<sup>3</sup>

### E-filing

- functionality of an IT system to provide services related to the filing of submissions in electronic form.

### Document management system

- an IT system, used to track, manage and store documents and their meta-data in electronic form.

### Electronic case file (E-file)

- a group of documents stored in electronic form, together constituting a particular case. Also: functionality of accessing and viewing such group of documents.

### E-case management system (CMS)

- an IT system designed to support and automate case management practices of courts.

### (IT) Project

- a project is defined as a collaborative effort, involving research or design that is carefully planned to achieve a particular goal in a given time.

### Project owner

- Entity that initiates a project, finances it, contracts it out, and benefits from its deliverable(s).

### Unique system

- Standardised system, which is exclusively used in order to support the particular business process and is implemented as a uniform tool in particular organisational environment.

<sup>2</sup> The Former Yugoslav Republic of Macedonia, Law on Enforcement, Article 16-c

<sup>3</sup> [http://www.coe.int/t/dghl/cooperation/cepej/Delais/default\\_en.asp](http://www.coe.int/t/dghl/cooperation/cepej/Delais/default_en.asp), <http://www.courttools.org/Trial-Court-Performance-Measures.aspx>,

# 3 GOALS AND BENEFITS OF E-ENFORCEMENT SYSTEM AS A CONDITION OF THE EFFICIENT JUDICIARY



Backlogs in the enforcement procedure usually represent a major proportion of all backlogs in accession process economies. Systemic and organisational problems could be determined as the reasons for backlogs. Local courts, where applicable in the region<sup>4</sup>, are mostly overburdened with cases concerning enforcement on the basis of ADs, which in most EU countries are part of civil procedure concerning a payment order.

<sup>4</sup> Montenegro and The Former Yugoslav Republic of Macedonia have different organisation where the decision which authorises enforcement based on an authentic title is issued by a notary (The Former Yugoslav Republic of Macedonia) or bailiff (Montenegro).

Additionally, from the organisational point of view, the enforcement procedure can be extremely fragmented. In practise, where applicable in the region, judges and also clerks cover the field of enforcement only in a part-time manner. No accurate data regarding human resources allocated to enforcement cases is available, except partly for Serbia. This is costly and unacceptable, especially considering judges, as enforcement on the basis of ADs is primarily a straightforward procedure that can be performed mainly with lower levels of competence. In addition, the process could also be centralised on one or some locations. Specific business functions could further be concentrated within one location through the adequate ICT support.

Additionally, the most critical issue in the enforcement procedure is obtaining data from different external registers (e.g. The Former Yugoslav Republic of Macedonian Law on Enforcement reports on 17 different public books and registers relevant to the enforcement procedure).<sup>5</sup>

These are the reasons which should lead to the reflection on the appropriate actions which should be taken in order to improve the performance of enforcement procedure, especially e-enforcement procedure on the basis of ADs. The primary goal should be sought in fully ICT supported enforcement procedure throughout the entire business process, which also supports its central operation.

<sup>5</sup> The Former Yugoslav Republic of Macedonia, Law on Enforcement, Article 11, Item 8

Goals and benefits of e-enforcement system, which will safeguard the conditions of the efficient judiciary, should consider all three components within the field: legislation, organisation, and ICT. The strategic goal of such initiative should be to reduce judicial backlogs and improve the efficiency and effectiveness of the entire judicial system, including enforcement procedures. Ambitious business objectives should be set accordingly - the DT should be set to a few working days, backlogs should be considerably reduced and AAPC should decrease.

One important basic precondition and the ultimate goal should be indisputable: the system should operate completely electronically and paperless while G2G interoperability with external registers and electronic communication with parties should be implemented.

Regarding enforcement on the basis of ADs (based on completed questionnaires) three systems could be identified in the region:

- ▶ System with exercising enforcement within court jurisdiction (Bosnia and Herzegovina);
- ▶ System with exercising enforcement within competence of the notaries and/or bailiffs (Montenegro, The Former Yugoslav Republic of Macedonia);
- ▶ Mixed system where court enforcement is initiated before the courts and implemented before a court enforcement officer or private enforcement officer (Serbia), depending on the choice of the creditor, except in cases of exclusive competence of courts. However, in proceedings for the collection of receivables based on utility and similar services (type of authentic documents), private enforcement officers have exclusive jurisdiction and enforcement is initiated and implemented before them.

If all above mentioned concepts are implemented, the entire judiciary in the region will be challenged for the paradigm shift towards E-justice. Good practice from Slovenia (discussed on page 17) could be used in this regard. Modules and concepts developed and introduced through the

e-enforcement project are designed as independent modules, which can be implemented in any environment and work with every CMS developed in line with SOA standards<sup>6</sup>.

Some good EU practices could be considered before reaching the final decision on implementation of the project<sup>7</sup>. In order to build a state-of-the-art system some basic e-justice concepts, principles and improvements regarding the business process should be implemented consequently:

- ▶ system should use electronic legal communication in its full extent (e-filing, e-services, e-serving, bulk printing);
- ▶ centralisation and concentration of business processes;
- ▶ the process is performed mainly with lower levels of competence;
- ▶ electronic access to external registers;
- ▶ case files should exist only in electronic form;
- ▶ the organisation should be entirely paperless but communication (filing, serving) should remain also in the conventional form;
- ▶ printing service should be provided centrally in one location within the enforcement process or entire judiciary (or transferred to an off-site service provider).

In order to enable and implement new concepts, new organisation and e-enforcement (including electronic legal communication and e-file) revisions of several laws, by-laws and regulations will have to be considered (e.g. Law on Courts, Law on Civil Procedure, Law on Enforcement, Law on Court Fees, Law on Digital Signature, Law on Electronic Document, Book of Rules and some specific regulations) and additional functionalities, services, CMSs and document management systems will have to be developed.

<sup>6</sup> Slovenian judiciary which firstly implemented e-enforcement on the basis of ADs in full extent covered also some other court procedures (Land Register, Insolvency procedure)

<sup>7</sup> E.g. the enforcement based on ADs – [http://www.sodisce.si/sodni\\_postopki/izvrsta/](http://www.sodisce.si/sodni_postopki/izvrsta/), the payment order in Germany – <http://www.mahngerichte.de/> and the on-line money claim in the UK – <https://www.moneyclaim.gov.uk>

In order to achieve full electronic operation the following important concepts should be taken into consideration for the future implementation for the “Automated System for E-enforcement on the Basis of ADs”:

- ▶ **Concentration and centralisation of the business process** - The future business process should no longer be distributed among several stakeholders but should instead be centrally managed and operated in each Beneficiary.
- ▶ **Filing (IN)** - The predominant approach should be electronic communication on all levels of the business process. The clients should be motivated to use electronic means of filing (e-filing) and should also be encouraged to implement e-communication in their back-office environments. Bulk e-filing option should be made available for large clients. However, the conventional (i.e. “paper”) filing should be supported to maintain unrestricted accessibility of the court to the customers.
- ▶ **Fast track procedure** - The enforcement procedure on the basis of ADs is an extremely straightforward business process. Thus, fast track concepts can be implemented and ambitious business objectives should be defined consequently. Additionally, the fast track approach re-engineers the business process and unburdens judges and court staff in the sense of lowering the level of decision-making to the lowest possible one, and enables them to focus on the substantive part of the process.
- ▶ **The electronic case file (e-file)** - The new organisational form should operate entirely paperless, with case file existing only in electronic form. As a consequence, all incoming documents filed in paper form will be digitalised (scanned) upon submittal and transferred to CMS in electronic form.
- ▶ **Interoperability** - Automatic collection of data on debtor’s assets and other information relevant to the procedure should be obtained electronically from external registers (e.g. company register, business register, bank accounts, debtor’s employer, land register,

clearing house register, tax register, health insurance register, register of spatial units, and register of citizens). The implemented standardised G2G services with well-defined data exchange formats, based on SOA standards, will considerably improve the quality of the process and dramatically unburden human resources. Additionally, the system should not only be able to access external registers but also provide information acting as an external register (e.g. access to case information for clients). Finally, the interoperability with other CMSs should be considered (e.g. transfer of cases, cross-border information exchange).

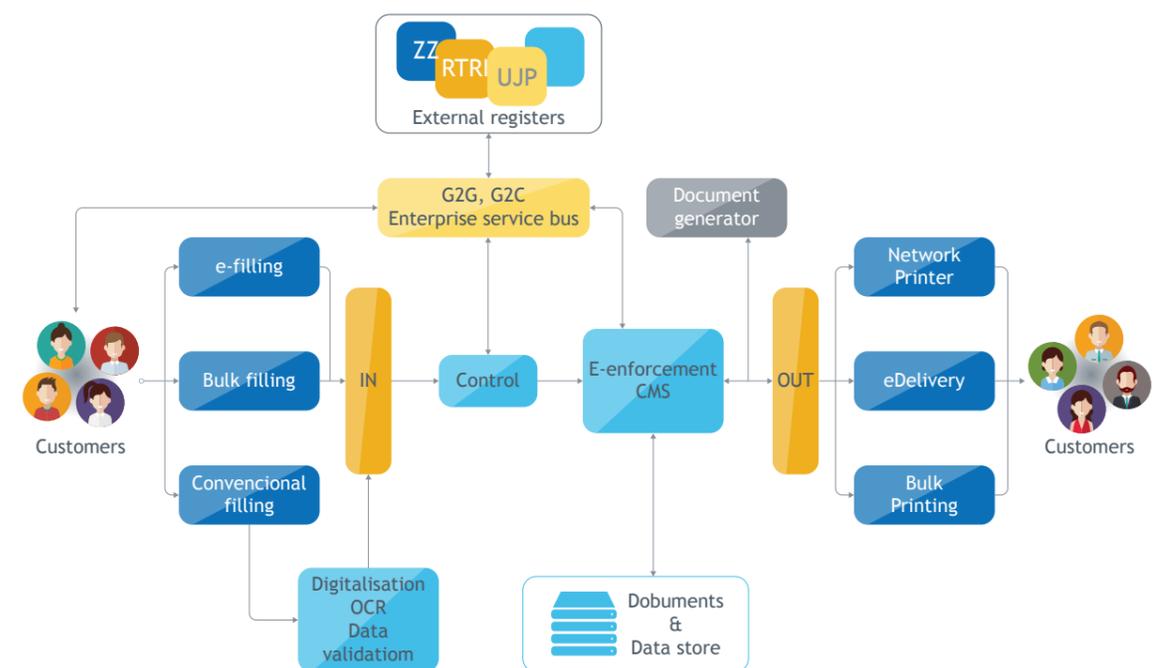
- ▶ **IT supported generation of court writs** - Fast track concepts in court procedures usually involve automating (to a certain extent) the process of compiling the (final) court documents. The support considered can range from basic (using templates, automatic insertion of data fields from CMS) over advanced (recognising process events, adapt the document accordingly) to automatic (possible only in some cases). Nevertheless, any IT support in this field can have tremendous positive effect in speeding up the compilation of judicial writs and harmonisation of judicial practice.
- ▶ **Centralised dispatch and shipping procedures (OUT)** - Dispatch and shipping procedures are an important part of court operations, taking up a big fraction of employees’ daily work due to logistics. Centralising and supporting those procedures by IT automation could bring substantial cost reduction and improve the quality and speed of serving court writs. For successful implementation of such centralised system supporting the delivery of court’s output documents, a central IT system should be implemented. It should support all possible delivery methods (local printing, secure electronic servicing, bulk printing and enveloping, e-mail and fax among others). It is recommended that this system should be implemented as a modular, standalone set of services to provide interoperability with core business IT systems of other courts by using web

services calls to control interaction, message and data exchange.

- ▶ **Bulk printing** - All documents delivered by the CMS are to be printed centrally and automatically enveloped. Due to large quantities this task requires industrial scale printing and enveloping facilities and would therefore probably not be performed at the court, but more often by an off-site external service provider (ESP) contracted through a public procurement procedure.
- ▶ **Modular design** - The design of the system should follow a modular design approach. Services functioning as a complete unit (bulk printing, e-filing, e-access to external registers) should be implemented as independent (external) service modules in the system. This way they could be made available as external standard services to other CMSs implemented in

the court business process (e.g. insolvency, land register, CMS).

- ▶ **Reducing backlogs** - Given that such a system is much more effective it will be expected that backlogs will be considerably reduced after the implementation of the new concept. In order to monitor the entire business process, KPI and realistic objectives will be set.
- ▶ **Reusability** - Once developed and implemented, the concepts could be reused in some of the applicable business processes which have similar characteristics (e.g. land register, company register). It should not be neglected that such concept also enables virtual court which means that it allows decentralised organisation if this would be appropriate due to other (e.g. social) reasons.



Picture 1: Automated System for Enforcement on the Basis of an AD

# 4 ANALYSIS OF THE EXISTING SYSTEMS OF JUDICIAL E-ENFORCEMENT BASED ON ADS IN THE BENEFICIARIES

In order to perform analyses and obtain all relevant information on the existing system of judicial e-enforcement based on ADs, the questionnaire was drafted (Annex 1 - Questionnaire) and sent to all representatives (contact persons) of all Beneficiaries. Three components of the e-enforcement based on ADs were considered in this regard: legislation, organisation, and ICT. Experts received completed questionnaires from Bosnia and Herzegovina, Montenegro, Serbia and The Former Yugoslav Republic of Macedonia and after the deadline also from Albania and Kosovo<sup>8</sup>.

Based on available data obtained through questionnaires and desk research a matrix was elaborated (Table 1). More thorough and comparative elaboration of answers is evident in separate matrix.

Regarding the implementation of e-enforcement on the basis of ADs the matrix covers all three components and identifies main issues and challenges, necessary changes, benchmarks and potential risks in different fields: Regulatory Framework, Civil and Enforcement Procedure, Electronic Legal Communication, Organisation, ICT in all Beneficiaries. Where appropriate, concrete answers are additionally stressed below and further elaborated in Sections 6 and 7. It should be explicitly stressed that the business process supporting the procedure regarding the enforcement on the basis of ADs is a straightforward procedure which mostly does not require any direct contact with the creditor or debtor and is based on ADs which could not be in most cases efficiently contested by the debtor.

Table 1: Matrix - Issues, challenges, necessary changes, benchmarks and risks

Component	Inventory	Main Issues / challenges	Necessary changes	Benchmarks	Risks
Legislation	Organisation of enforcement on the basis of ADs	Distributed vs exclusive territorial jurisdiction	Legal implementation of exclusive jurisdiction	Amendments to legislation regulating jurisdiction	Reluctance among particular stakeholders
	E-signature	Legal implementation of all e-justice components	Legal implementation	Amendments to legislation	No potential risks could be identified
	E-document				
	E-filing				
	E-serving				
	E-payment				
	Access to external registers	Upon request, on-line access, no G2G interoperability	Legal implementation of the G2G communication	Amendments to legislation regulating court administration	Personal data protection issues
	Access to court register (docket)	Provisions regarding court administration allow limited access <sup>8</sup>	Legal implementation of the G2B, G2C, B2G and C2G communication	Amendments to legislation regulating e-access	No potential risks could be identified
	Access to file				
	Competences of Judicial Assistants	Judicial Assistants do not have fully independent role	Legal implementation of the competence regarding conducting particular proceedings and issuing decisions	Amendments to legislation regulating civil service posts and competences of judicial assistants	Possible reluctance among judges
Court fees	Stimulation of electronic communication	Reducing court fees for e-filing	Amendments to the legislation regarding court fees - discounts	No potential risks could be identified	
Organisation	Business process reengineering	IN/OUT organisation, concentration & centralisation, coherent regional development	New organisational units	Implementation of new organisation, training	Change management
	The role of the party in the procedure	Different positions of "large" and "small" creditors	Implementation of bulk filing	Implementation of portal and package filing	Change management

<sup>8</sup> Beneficiaries' Laws on Courts or Court Rules provide mostly limited access to registers or files except in Bosnia and Herzegovina /RS entity/ where regulation regarding access to Court Register (docket) is not clear.



Component	Inventory	Main Issues / challenges	Necessary changes	Benchmarks	Risks
	Engagement of Judicial Assistants	Implementation as a higher judicial officer performing the functions of non-contentious jurisdiction	Organisational changes regarding business process (triage fast track), improved competence	Training, concentration, triage - fast track	Possible reluctance among judges
	Courts' performance	Implementation of KPI and benchmarking	Definition of business objectives	Time standards set by the competent authority  Definition of KPI: - DT - CR - AAPC	No potential risks could be identified
ICT	E-signature	Establish qualified digital signatures as common building block in ICT development	Provision of support to existing and future IT systems	Application development/upgrade, education, providing infrastructure	Possible reluctance, additional costs not accepted, availability of digital signatures
	E-document	Establishing legal validity, providing long-term preservation, providing adequate access to the users	Provide electronic signing functionality, provide storage infrastructure, user-friendly GUI	Implementation of digital signatures, time-stamping, prescribing document format, implementation of digital content management system	Reluctance, additional costs not accepted
	E-filing	Implement e-filing infrastructure, provide legal validity and security of e-filed submissions, prescribe acceptable formats of submissions	Provide web infrastructure (portal), develop and implement additional web services, implement interfaces to CMSs	Development of web-portal, web services, CMS interface, providing digital signatures, time-stamping functionality	Low usage, high implementation costs

Component	Inventory	Main Issues / challenges	Necessary changes	Benchmarks	Risks
	E-serving	Implement secure, legally valid electronic service, provide access to users	Provide supporting infrastructure, implement new delivery methods to support the existing procedures	Development and implementation, providing secure mailboxes for users	Low acceptance, distrust
	E-payment	Adapt existing systems to accept e-payments	Provide e-payment infrastructure	Include payment module in workflows, promote e-payments	Low acceptance
	Access to external registers	Implementation of G2G service bus, security	Development, implementation, adaptation of existing software	Service design and development, message format standardisation	Lack of cooperation, security (data protection) concerns
	Access to court register (docket)	Authentication, authorisation, security	Development, implementation	Providing web access, security system access logging	Reluctance, security concerns, additional costs not accepted
	Access to file				
	Usage of forms	Improving quality of submissions, gathering meta-data on the submission	Implement smart web forms, using process rule engine	Design of resulting submission format (XML), Implementation of web forms	Lack of substantive support regarding verification
Interoperability	Cross-border enforcement, transfer of cases between instances	Standardisation of submission and case format, supporting transfer and e-filing	Design and implementation	Reluctance, additional costs	



In Bosnia and Herzegovina and Serbia first instance courts of general competence exercise enforcement on the basis of ADs while in Albania, Kosovo<sup>9</sup>, Montenegro and The Former Yugoslav Republic of Macedonia courts do not have such jurisdiction (**Question 1.c.9**).

In all Beneficiaries where enforcement on the basis of ADs falls within the court jurisdiction all first instance courts will conduct enforcement proceedings. No exclusive territorial jurisdiction is currently introduced in any judicial system in Beneficiaries (**Question 1.c.7**). These courts are especially overburdened with cases concerning enforcement on the basis of an AD. Also considerable share of the workload and backlogs is attributed to the enforcement on the basis of ADs. Based on data obtained through the questionnaires and also publicly ac-

cessed data (e.g. CEPEJ 2014 Report on “European judicial systems - Edition 2014 (2012 data): efficiency and quality of justice”<sup>9</sup>, and other data available on Internet), more than 80% of pending cases in the group of non-criminal cases in Bosnia and Herzegovina, Montenegro and Serbia represent non-litigious enforcement cases where enforcement on the basis of ADs could also be classified (**Table 2**). Data for Albania and The Former Yugoslav Republic of Macedonia is not applicable due to different system of enforcement. Data for Kosovo<sup>9</sup> is not available. No accurate data regarding human resources allocated to the field enforcement cases is available (**Question 2.c.**).

<sup>9</sup>[http://www.coe.int/t/dghl/cooperation/cepej/evaluation/default\\_en.asp](http://www.coe.int/t/dghl/cooperation/cepej/evaluation/default_en.asp)

*Table 2: Statistical data regarding other than criminal cases, non-litigious enforcement cases and Disposition Time (DT) in days for resolved and pending cases and resolved and pending case per 100.000 inhabitants*

Source: CEPEJ 2012	Total of Other than criminal cases			Non litigious enforcement cases (e.c.)		Total of other per 100.000 inhabitants		Non litigious e.c. per 100.000 inhabitants		Share Non litigious e.c.		
	resolved	pending	DT (days)	resolved	pending	DT (days)	resolved	pending	resolved	pending	resolved	pending
Albania	86.327	17.649	75	NAP	NAP	NAP	3.112	636	NAP	NAP	NAP	NAP
BIH	967.379	2.014.768	760	287.221	1.654.653	2.103	24.986	52.039	7.419	42.738	30%	82%
Kosovo*	No data available											
Montenegro	108.449	183.070	616	77.110	164.511	779	17.453	29.462	12.409	26.475	71%	90%
Serbia	1.123.926	2.545.947	827	643.750	2.291.709	1.299	15.689	35.538	8.986	31.989	57%	90%
The The Former Yugoslav Republic of Macedonia	78.998	46.418	214	NAP	NAP	NAP	3.749	2.203	NAP	NAP	NAP	NAP



In Bosnia and Herzegovina, Montenegro and Serbia in particular enforcement on the basis of ADs represents significant problem as DTs are exceptionally lengthy - between 1545 and 1748 days in 2013. Comparing the number of resolved enforcement cases

in 2012 and 2013 and consequently DTs it is evident that the number of resolved cases in Montenegro and Serbia substantially increased while the trend in Bosnia and Herzegovina was positive (Table 3).



Table 3: Statistical data regarding influx of cases, resolved and unresolved cases, Disposition Time (DT) in days and Clearance Rate (CR) for the entire judiciary, enforcement cases and enforcement cases on the basis of ADs

	2012										2013										2013-2012				
	influx	resolved	pending	DT (days)	CR	judges	pending	influx	resolved	pending	DT (days)	CR	pending	influx	resolved	pending	DT (days)	CR	pending	influx	re-solved	pend-ing			
Montenegro (Source: Judicial Council)																									
621.383	64.800	64.007	161.084	919	99%	258	161.084	63.399	54.173	170.310	1.147	85%	0%	-2%	-15%	6%									
entire system	13.703	15.891	7.281	167	116%	258	7.281	13.731	14.557	6.455	162	106%	-2.3%	0%	-8%	-11%									
AD	50.086	49.756	158.320	1.161	99%	158	158.320	48.128	39.442	167.006	1.545	82%	0%	-4%	-21%	5%									
Serbia (Source: Questionnaire)																									
7.164.000	1.350.774	1.498.556	2.710.073	660	111%	2472	2.710.073	1.198.844	1.456.415	2.451.400	614	121%	-5%	-11%	-3%	-10%									
entire system	191.037	162.878	218.491	490	85%	2472	218.491	192.686	151.958	259.091	622	79%	15%	1%	-7%	19%									
AD	332.596	454.050	2.067.004	1.662	137%	2472	2.067.004	121.329	387.320	1.800.269	1.697	319%	-6%	-64%	-15%	-13%									
BiH (Source: Questionnaire)																									
3.871.643	838.986	781.198	2.111.622	987	93%	945	2.111.622	825.845	780.263	1.993.081	932	94%	3%	-2%	0%	-6%									
entire system	39.358	29.433	165.465	2.052	75%	945	165.465	39.553	35.048	167.883	1.748	89%	6%	0%	19%	1%									
AD	354.221	264.901	1.489.188	2.052	75%	945	1.489.188	355.974	315.435	1.510.943	1.748	89%	6%	0%	19%	1%									

The independent role of judicial assistants is limited (**Question 2.d.1**). In Federation of Bosnia and Herzegovina, Brčko District of Bosnia and Herzegovina court counsellors or judicial assistants independently conduct particular court proceedings or decide in judicial matters. In Serbia, a judge's assistant in the proceedings may take all judicial actions, except those which are related to decision-making and may perform duties of bailiff/court enforcement officer in the process of enforcement by order of the judge (**Questions 2.d.2.7 and 2.d.2.8**). Further, in Serbia, a court counsellor/judicial assistant is not entrusted with decision-making competences. When the decision on enforcement based on an authentic document by which the execution debtor is obliged to settle the claim is contested in whole or in part, the judge who issued the enforcement order decides on the complaint. In the special proceedings for the enforcement of claims for utility and similar services, a complaint against the decision of the self-employed enforcement officer is decided by the higher court on whose territory the seat of enforcement creditor is located.

Bailiff systems in the Beneficiaries' systems of enforcement on the basis of ADs vary (**Question 2.j**). The status of enforcement agents can be public, private or mixed. Enforcement agents have private status in Albania, Kosovo, Montenegro and The Former Yugoslav Republic of Macedonia; in Bosnia and Herzegovina, they have a public status and in Serbia a mix of statuses was implemented.

Nearly all Beneficiaries have implemented appropriate legislation regarding digital signature, electronic document and consequently personal data protection. Federation of Bosnia and Herzegovina and Kosovo have not yet adopted the Law on Digital Signature and the Brčko District Law on Digital Signature is not valid since 20 January 2015. Regarding legislation on electronic document and consequently the status of e-decision (**Question 1.d.4.3**) the legislation in Federation of Bosnia and Herzegovina and in Republika Srpska does not apply to courts and the Brčko District Law on Digital Document is not valid since 20 January 2015. The legislation in Montenegro, Serbia and The Former Yugoslav Republic of Macedonia is adequate. Appropriate data for Albania was not available.

Legislation regarding electronic filing in civil and enforcement procedures is appropriate for Bosnia and Herzegovina, Kosovo and Serbia, while legislation in Montenegro and Albania does not allow electronic filing. In The Former Yugoslav Republic of Macedonia, electronic filing does not apply to enforcement procedure (**Question 1.d.4.1**).

Parties are identified through the qualified digital signature in Bosnia and Herzegovina, The Former Yugoslav Republic of Macedonia and Serbia (**Question 1.d.4.2**).

No discount in paying courts fees in case of using electronic communication is implemented in any of the Beneficiaries (**Question 2.g.5**).

Electronic serving (**Question 1.d.4.5**) is not implemented in the legislation or judiciary of Bosnia and Herzegovina, Kosovo and Albania while legislation in Montenegro and Serbia is adequate. The electronic serving does not apply to enforcement procedures in The Former Yugoslav Republic of Macedonia.

Electronic payment (**Question 1.f.4**) is partly implemented in Bosnia and Herzegovina. Parties can pay electronically (using e-banking), but only a hard-copy of payment order verified by wet signature and stamp is accepted as a proof of payment. In judiciary of Montenegro, Serbia, The Former Yugoslav Republic of Macedonia and Kosovo, electronic payment is not implemented. Appropriate data for Albania is not available.

The important issue which burdens the enforcement procedures on the basis of ADs is also inefficient accessibility of external registers (**Question 2.f**). All Beneficiaries implemented legal provisions regulating the access to external registers needed for the efficient enforcement. Nine different registers or providers were encountered in the questionnaire: Register of Citizens, Register of Spatial Units, Business Register, Tax Registry, Register of Bank Accounts, Health Insurance Register and Central Securities Clearing Corporation. The electronic access to any of them provides the efficient and swift court procedure not only regarding enforcement but also other court procedures. The access is basically limited to "upon request" or in



some very limited examples to the on-line access. No G2G interoperability, which would introduce electronic communication at the level of different CMSs, is provided.

From ICT perspective, the responses to the questionnaire revealed that the functional modules, identified as precondition for successful implementation of e-enforcement based on authentic document, are mostly not implemented in the Beneficiaries.

While the use of qualified digital certificates in digital signatures is mostly properly regulated, there are virtually no IT solutions in production (with the exception of Bosnia and Herzegovina) using digital certificates for electronic signing (**Question 5.c.2**) let alone for authentication and authorisation of users and clients.

Additionally, only two Beneficiaries, Bosnia and Herzegovina and Montenegro, are supporting electronic case files, however legal validity and long-

term preservation of e-documents depend highly on the use of electronic signatures. Therefore, implementation of digital signatures and long-term preservation standards are necessary in order to implement a compliant digital content management system. From those two, only Bosnia and Herzegovina is providing users with access to electronic case file (**Question 5.c.4**).

Similar situation was identified in electronic filing functionality (**Question 5.c.1**) where only in Bosnia and Herzegovina it is possible to file e-enforcement claims electronically; however, only as batch and by a limited group of users (utility companies). Electronic filing using forms (web or paper) is not implemented in the Beneficiaries.

Further, electronic serving (e-serving) is not implemented in any of the Beneficiaries (**Question 5.c.3**), with the exceptions of The Former Yugoslav Republic of Macedonia, where it does not apply to enforcement procedure.

It also seems that interoperability (cross-border, between systems) was not commonly recognised as a strategic issue during implementation of the systems (Question 5.e). Only Bosnia and Herzegovina implemented some interoperability between the SOKOP-Mal<sup>10</sup> system and back-office CMS systems, while providing information to other systems. Additionally, only two Beneficiaries have implemented access to external registers, Bosnia and Herzegovina (access to registers of IDDEEA - Agency for Identification Documents, Registers and Data Exchange) and Montenegro (central register of citizens).

Considering the current status of electronic commerce, there seems to be no appropriate solution which could be used immediately as a functional module of the proposed system.

The system in Bosnia and Herzegovina appears to be most advanced in terms of implemented features of electronic processing, and seems to fulfil a significant number of prerequisites for the target e-enforcement systems. However, the system was designed for a relatively narrow range of cases and concrete target environment (judicial and technical); therefore the efforts to adapt the system to all Beneficiaries would not be negligible. It is recommended, however that the system should be thoroughly analysed during the design phase of the new system, and that compatible modules, good practices, knowledge and concepts should serve as input for the new system.



## 5 OVERVIEW OF THE LEGISLATION IN FORCE AND BEST PRACTICES IN SOME APPLICABLE EU MS

### 5.1 Slovenian Central Department for Authentic Document (COVL)<sup>11</sup>

Initially, forty-four local courts in Slovenia exercised the jurisdiction concerning enforcement on the basis of ADs (a generic term for a number of classes of monetary claims, which includes invoices, bills of exchange, cheques, etc.).

From the organisational point of view, the enforcement procedure was extremely fragmented, most local courts did not have a separate enforcement departments or judges and clerks (slo. referent) specialised in enforcement. In practice, the judges and also clerks only partially covered the field of enforcement.

These were the reasons that led the Supreme Court to the decision to launch the Project “The Central Department for Enforcement on the Basis of an Authentic Document (COVL)”. COVL is a Slovenian acronym for “Centralni Oddelek za Verodostojno Listino”. The basic concept behind the idea of establishing a new central organisational unit was concentration and also centralisation of this particular business function in one place, maximising the use of ICT technology and paperless process.

The Project was divided into legislative, organisational, technological, and public relations components. The strategic goal of the Project was to reduce judicial backlogs and improve the efficiency of courts in enforcement procedures. It was decided that some basic e-justice concepts and improve-

ments were to be implemented from the very beginning of the Project:

- ▶ e-filing;
- ▶ centralisation of business processes;
- ▶ access to (external) official registers;
- ▶ case files would only exist in electronic form;
- ▶ central printing and enveloping provided by an off-site ESP.

In order to enable and implement e-filing, procedural codes (the Law on Civil Procedure<sup>12</sup>, the Law on Enforcement and Securing of Civil Claims<sup>13</sup>) were amended and additional functionalities were developed. XML schemas supporting bulk filing for larger clients were developed and published in order to help large clients adapt their business ICT systems to support bulk filing. In order to facilitate centralisation of business process at one location, the Law on Courts was amended<sup>14</sup>. In accordance with the mentioned amendments to the Law, the Local Court in Ljubljana assumed jurisdiction for such and a special organisational unit (The Central Department for Enforcement on the Basis of an ADs) was established. The Law on Enforcement and Securing of Civil Claims also introduced the exclusive competence of the Higher Court in Ljubljana for appeals against the decisions of the Local Court in Ljubljana<sup>15</sup>.

<sup>10</sup> <http://www.pravosudje.ba/vstv/faces/kategorijevijesti.jsp?ins=10001&modul=7694&kat=10748>

<sup>11</sup> [http://www.sodisce.si/sodni\\_postopki/izvrsba/](http://www.sodisce.si/sodni_postopki/izvrsba/)

<sup>12</sup> Official Gazette, No. 52/2007, Articles 16a, 23, 105, 105b, and 132 (use of the e-file, e-signature, e-filing, e-delivery, and access to the CMS was introduced)

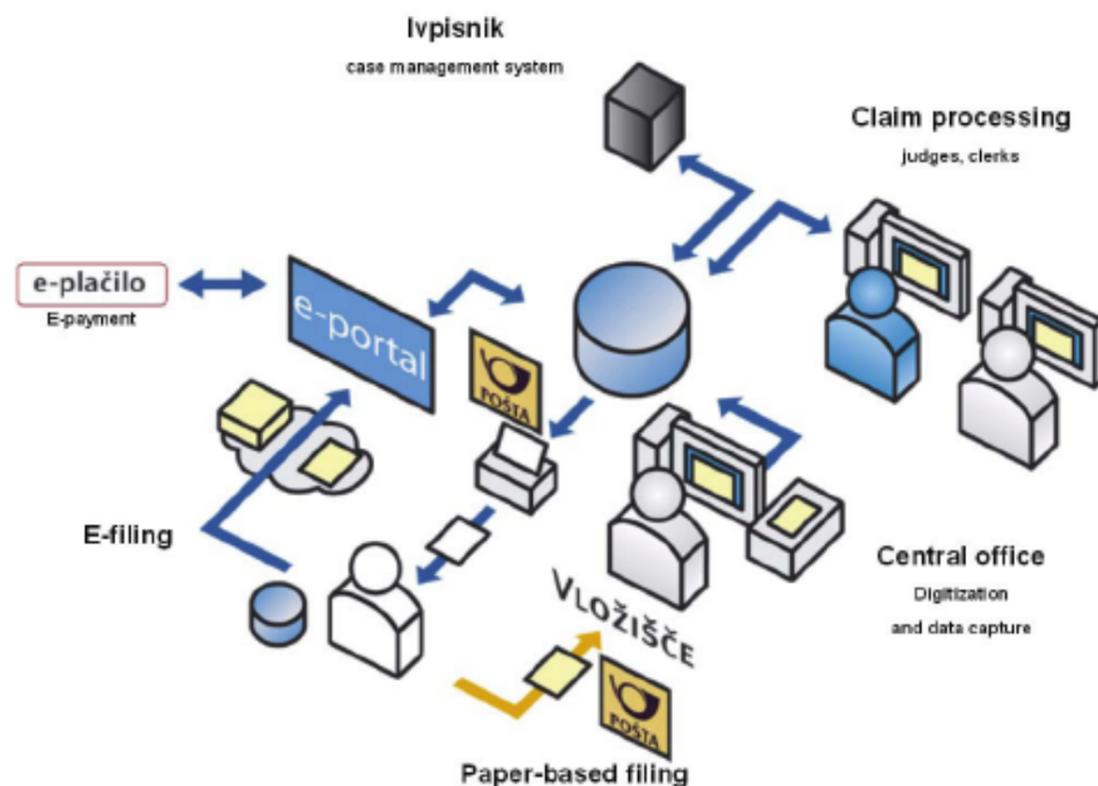
<sup>13</sup> Official Gazette, No. 115/2006, Articles 6a and 29

<sup>14</sup> Official Gazette, No. 127/2006, Article 99a

<sup>15</sup> Official Gazette, No. 115/2006, Article 6a

The approach and design of “Automated System for Enforcement on the Basis of an ADs (COVL)” Project was recognised by Slovenian judiciary as a good practice which was also implemented in the “Redesign of the Land Register” Project in 2010, with the exception that 44 local courts continued to be competent to decide in the registration procedure, but with the abrogation of territorial jurisdiction concerning the filing of applications and jurisdiction according to *lex rei sitae*. This enabled the assignment of cases to clerks based on the amount of their workload thus balancing the workload of the land register personnel throughout

the accession process economy. Electronic filing of all applications and their attachments through the unique E-Justice Portal for all professional users (notaries, attorneys-at-law, real estate companies, and certain state administrative bodies) became mandatory. Furthermore, the exclusive jurisdiction of the Higher Court in Koper to hear appeals, which ensured unified case law, was introduced. Additionally, the project benefited from reusing the modules and services, developed during the CoVL Project, making the modules and services a sound foundation for further development of CMSs.



Picture 1: Automated System for Enforcement on the Basis of an Authentic Document

### 5.2 German order for payment procedure (Mahnverfahren)<sup>16</sup>

The German order for payment - *Mahnverfahren*<sup>17</sup>, which was introduced to the German judicial system in 1982, is a court procedure that serves as a simplified enforcement of money claims. In the Federal Republic of Germany the respective issues

of the mass recovery of outstanding but often uncontested debts and of small claims litigation are addressed within the framework and structure of the procedural system. It is regulated in the Book 7 of the Law on Civil Procedure, Article 688 and following<sup>18</sup>. This *order for payment procedure* provides a cheap, rapid and efficient way for a creditor to enforce a money claim by an ex parte court order for payment. The underlying idea is to avoid costly and time-consuming lawsuits, and especially

<sup>16</sup> For more details see: <http://www.iuscomp.org/gla/literature/sijanski.htm>

<sup>17</sup> <http://www.mahngerichte.de/onlineverfahren/>

<sup>18</sup> Official Gazette, No. 72/2005



to avoid court hearings in cases where debtors are aware of their obligation but are either unwilling or unable to pay. The court costs and lawyers' remuneration for the order for payment procedure are calculated by the court automatically and are included in the respective orders. Thus in automated handling of cases the claimant is not obliged to compute these costs and to state them in his/her application, in contrast to the conventional (i.e. non-automated) order for payment procedure. Regarding the application for the issuance of an order for payment under the automated procedure there is no prerequisite of paying the court costs in advance.

The *Mahnverfahren* allows the enforcement of a money claim without legal action, including without judgement. Although it is part of the civil procedure, it is in its function similar to the enforcement procedure on the basis of ADs within the region. The procedure is entirely performed by the senior court officer - *Rechtspfleger* or even in a fully automated manner. The *Rechtspfleger* has a legal education, usually obtained through the internal judicial training, but is not a judge. The *Rechtspfleger* is in particular responsible for handling non-electronic data-processing cases.

The applicant does not need to submit the documentary evidence, and facts, if applicant is entitled to the payment, are not considered. These characteristics guarantee the quick and cost-saving alternative to ordinary civil procedure and it is particularly suitable for uncontested claims. The objective of the procedure is to persuade the debtor to pay and does not prevent the enforcement order if debtor does not pay. It represents the enforcement title by which creditors may enforce their money claim.<sup>19</sup>

The entire business process and court procedure is concentrated and to large extent formalised and automated. Once the application is submitted or entered to the computer system, the system itself deals with both the processing of the claim and all further interaction with the parties. This fully automated checking of applications not only relieves the court staff of time-consuming routine work but also considerably enhances the quality and accuracy of the procedure. It is performed by the central local court - *Mahngericht* under the responsibility of the senior court officer - *Rechtspfleger*<sup>20</sup>. All information

<sup>19</sup> Law on Civil Procedure, Official Gazette, No. 72/2005, Article 794, Paragraph 1, no. 4

<sup>20</sup> Law on Court Officers, Official Gazette, No. 18/2013, Article 20

stored in the system is used for further processing and issuing of the payment and enforcement order. The process is centralised - only one local court in every German state, as a rule outside of civic centres, is competent to perform the procedure.

A claimant can apply for an order for payment by way of several methods:<sup>21</sup>

▶ **Through the web transfer using web services (EGVP) for qualified users;**<sup>22</sup> - The e-filing through the EGVP<sup>23</sup> or other qualified communication and transmission software is intended for Beneficiaries or their representatives, which already have business software for creating data sets (special commercial software products that facilitate the data entry of applications for an order for payment are available). The applications with generated data are then using the provided free of charge Internet application or any other approved software transferred to the competent court. The data is encrypted and signed with a qualified signature. For this purpose, the use of a signature card and a suitable card reader is also needed. The application using EGVP or other approved software is possible for all central courts for the payment order:

▶ **Using the online portal with digital signature;**<sup>24</sup> - For claimants who do not use their own software filing of an application through the portal is available. In an interactive application form, the entered data, which are later needed for the efficient court procedure, are thoroughly checked and validated, so errors in claims are largely excluded. Once data are entered they are encrypted and sent to the competent court with a qualified signature using the EGVP infrastructure. After the transfer is complete, the applicant receives the confirmation of filing the claim. Prerequisite for this method is the use of a signature card and a suitable card reader. All central courts accept this type of application for the payment order.

<sup>21</sup> <http://www.mahngerichte.de/verfahren/antragstellung/einreichungsart.htm>

<sup>22</sup> <http://www.egvp.de/>

<sup>23</sup> Elektronischer Gerichts- und Verwaltungspostfach - electronic court and administrative mailbox

<sup>24</sup> <https://www.online-mahnantrag.de>

▶ **Using the online portal and bar-code;** - Claimants who do not possess electronic signatures or those who perhaps submit an application only occasionally, can use the online forms. The online application form leads the claimant step-by-step through the data entry of his/her application, simultaneously examining each entry for procedural errors, and helping the claimant to avoid mistakes that would lead the court to reject the application. Afterwards the application data may either be printed out on an official form, to be signed and sent as a paper application by letter to the court, or may be submitted electronically. If the application is sent in a paper form it is later scanned with OCR technology. The printed application makes use of the barcode which is very similar to the electronic form but all data entered into the form are simultaneously stored into the system. Automatic control of entered data and the consistency of the inputs are implemented. A claimant just prints out the form with the barcode on the back side, signs it and sends it to the court which later takes over the data based on this barcode. Conventional, paper-based application use pre-printed application forms.

The system in the back-office thoroughly checks the electronic applications. Some of more substantive checks, which cannot be performed by the software, can be also performed by *Rechtspfleger*. If formal conditions are fulfilled, then the order for payment is issued and served to the respondent without any prior possibility for the respondent to participate in the procedure. Public notification through the Court Bulletin Board is not allowed so the debtor's correct address is very important. Should the respondent wish to contest the claim within the order for payment, he must submit an objection against the order for payment. After the order for payment becomes final claimant may request for the order of enforcement through a special form, which is to be used mandatorily.

### 5.3 Money Claim Online<sup>25</sup>

In the UK Money Claim Online (MCOL) is part of the County Court Business Centre and was set up in

<sup>25</sup> <https://www.justice.gov.uk/courts/northampton-business-centre/money-claim-online>

2001 to support government policy in making justice affordable and accessible to all.

This online service, which features a fully automated back-office, allows county court claims to be issued for fixed sums up to £100,000 by individuals and organisations over the internet, anywhere, any time. In 2010/11 MCOL issued more claims than any local county court - 133.546.

MCOL<sup>26</sup> enables a claimant to request a claim online, check the status of the claim and, where appropriate, request entry of judgement and enforcement by warrant of control. Payment of the court fee can only be made using a credit card, debit card or any other method which Her Majesty's Courts and Tribunals Service may permit.<sup>27</sup> Any refund of fees is entirely at the discretion of the Court Manager. Defendants can also use MCOL to reply to and check the status of their claims online. The service allows both electronic issue of claims and electronic responses to those claims, with uninterrupted 24-hour access to check on the progress and status. MCOL represents a simple, convenient and secure way for claimants to issue a money claim using the internet rather than having to attend the court to register their claim. No electronic signature is needed - the applicant just needs to register via internet and settle the court fees.<sup>28</sup> Two types of applicants are foreseen: individuals and solicitors or organisations. A comprehensive Money Claim Online user guide is available for MCOL users along with the Customer Help Desk.<sup>29</sup>

It is required that the money claim has to be verified by a statement of truth.<sup>30</sup> This applies to all online forms. Proceedings for contempt of court may be brought against a person if he/she makes, or causes to be made, a false statement in a docu-

<sup>26</sup> Civil Procedure Rules, Practice Direction 7E - Money Claim Online

<sup>27</sup> Civil Procedure Rules, Practice Direction 7E - Money Claim Online, 1.4

<sup>28</sup> <https://www.moneyclaim.gov.uk/web/mcol/welcome>, Civil Procedure Rules, Practice Direction 7E - Money Claim Online, 3.2

<sup>29</sup> <https://www.gov.uk/government/publications/money-claim-online-user-guide>

<sup>30</sup> Civil Procedure Rules, Practice Direction 7E - Money Claim Online, 22

ment verified by a statement of truth without an honest belief in its truth.<sup>31</sup>

For the purposes of running the MCOL the County Court Business Centre (CCBC) was established. The CCBC is a county court in England and Wales created to deal with claims by the use of various electronic media. Claims started using MCOL will be issued in the CCBC and will proceed at the CCBC unless they are sent to a County Court hearing centre.<sup>32</sup> When the court issues a claim form, it will serve a printed version of the claim form to the defendant and send the claimant notice of issue. The claim form features a printed unique customer identification number or a password by which the defendant may access details of the claim on Her Majesty's Courts and Tribunals Service website.

Instead of submitting an individual claim form along with an individual payment of the correct fee for each case, CCBC users submit a single file containing each of the claims they wish to issue on a particular day as a data record in a specified format. Fees for all of these cases can be paid in a lump sum. As of October 2014 there is a secure web service available to CCBC customers.

### 5.4 Slovenian model of G2G access to different registers

G2G communication with registers and external systems was implemented based on Finish best practices regarding interoperability among judicial CMSs and public registers by the amendments to the Law on Courts<sup>33</sup>. According to the Law provision a court shall *ex officio*, for the needs of judicial proceedings, acquire the judgements of courts and decisions by administrative authorities, which the parties of judicial proceedings indicate and/or the acquisition of which a party proposes and which are relevant to the parties and/or their cases. In the exercise of their offices, government bodies and bodies exercising public powers are obliged to provide the courts with requested assistance, which shall be free of charge, unless otherwise provided

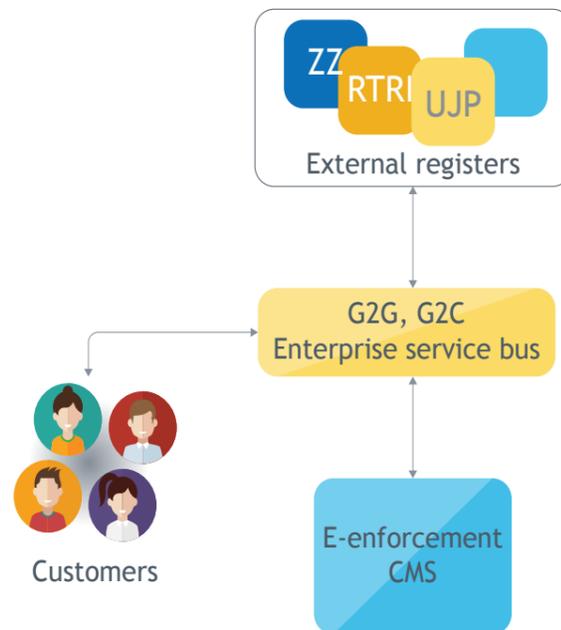
<sup>31</sup> Civil Procedure Rules, Practice Direction 7E - Money Claim Online, 32.14

<sup>32</sup> Civil Procedure Rules, Practice Direction 7E - Money Claim Online, 1.4

<sup>33</sup> Official Gazette, No. 45/2008, Article 13.

by law. Administrators of official records, registers and public registers and other protected data needed by a court to establish or examine the facts in connection with conducting proceedings or to adjudicate in proceedings falling within the competence of courts, shall, free of charge, provide the courts with the requested data as soon as possible. If these data are kept in a computerised form and the technical possibility of direct electronic access to these data is provided, the courts shall have the right to direct, free of charge electronic access to them. Access to data and the possibility of their suitable transfer shall be provided by the administrator of the records, registers or public registers. A judge, or another member of court staff authorised by a judge or president of the court, in his/her request for transmission of data or direct access to data shall indicate the requested data, personal name and date of birth or personal identity number or address of residence of the party or other persons whose data is requested by the court and the unique court case number and, if necessary, also a deadline by which the requested data should be sent to the court. A court information system may, in order to establish or examine facts in connection with the conduct of proceedings or to adjudicate in proceedings falling within the competence of the courts, link up with official records and public registers that the court needs in order to establish or examine facts in connection with the conduct of proceedings or to adjudicate in proceedings falling within the competence of the courts. Linking up shall be made with a personal identity number or tax identification number of the party or the address of residence of a party or other data, which, in connection with the personal name of the party ensure unique identification of the person whose data is required.

Law amendments enabled connectivity between several IT systems and registers provided by courts or different state bodies (the Land Register, the Register of Spatial Units, the Register of Bank Accounts, the Tax Register, the Clearing House Register, the Central Register of Citizens, the Public Payment Administration, the Employment Office, the Companies' Register and the Business Register).



Picture 2: G2G - Access to external registers

In practice CMS (Picture 2), if appropriate, automatically (without any human intervention) requires data from external source registers in order to perform the procedure of efficient enforcement. At the beginning of the court procedure, data regarding parties and the claim are checked or obtained from different registers (the Central Register of Citizens, Business Register, the Companies' Register, Register of Spatial Units, Land Register, and Cadastre). In the enforcement phase, other data regarding enforcement assets (the Land Register, the Register of Bank Accounts, the Tax Register, the Clearing House Register, the Public Payment Administration, the Employment Office) are also obtained. In order to establish efficient exchange of data, all service providers offer appropriate services, enabling the communication in line with legal provisions on personal data protection. Based on Article 13 of the Law on Courts all these data are provided free of charge and a special protocol with every individual service provider (competent state body) is signed before starting the communication. As almost all judicial CMSs are designed based on SOA concept, no additional costs were needed in order to implement appropriate services.

## 6 REPORT AND ANALYSIS OF THE EXISTING IT SYSTEMS IN THE BENEFICIARIES - PROPOSAL OF THE COMPATIBLE DEVELOPMENT OF THE SYSTEMS

From the above mentioned perspective (Section 4), most of Beneficiaries in the region have common issues, which cannot be resolved through the classical approaches of the backlog mitigation in the judiciary, which are mostly focused on swifter and more efficient adjudication. A new concept, which will take into account the nature of the business process of the enforcement on the basis of ADs in very heterogeneous environments, will have to be considered. In order to implement the new concept, considerable legal and organisational interventions and improvements, supported through the extensive usage of the ICT, will be required.

It should be repeated that the business process supporting the procedure regarding the enforcement on the basis of ADs is a relatively straightforward procedure, which mostly does not require any direct contact with the creditor or debtor, and is based on ADs which could not be efficiently contested by the debtor. Substantial backlogs and delays in the business process require new organisational approach, where the jurisdiction and the entire business process would be centralised in one or several different locations in each Beneficiary, and concentrated within the competent organisational unit.

In order to improve the efficiency of the business process, the competences regarding performing specific judicial tasks should be transferred to lower levels. Judicial assistants shall, among others, conduct proceedings and issue decisions, allowing

enforcement on the basis of ADs, but also perform tasks outside of the project scope: issue decisions and orders on advance payments, bail and costs of proceedings and on court fees, decide at first instance on entries that under the law regulating the land register are not decided by an individual judge of the land registry court, and decide in probate matters of hereditary succession when the subject of succession is movable property only. Legal remedies challenging the decisions taken by judicial assistants could be decided by the first instance judges in order to unburden second instance courts.

If an IT solution regarding e-enforcement on the basis of ADs is to be implemented, electronic access to court register (docket) and access to files will also have to be provided. Parties and their representatives shall have the electronic access to all available information through the electronic means in order to unburden the court and also facilitate the access to justice and procedural fairness.

Good practices, which are explained above, justify such concept (see: Section 5). Common denominator in Beneficiaries, which provided statistical data (Bosnia and Herzegovina, Montenegro, Serbia and The Former Yugoslav Republic of Macedonia) or data was available through desk research, is that all systems are facing considerable inefficiency concerning enforcement. The proposed approach based on concentration of the business process on



one or several Beneficiaries' locations should support the enforcement on the basis of ADs in all Beneficiaries and function in heterogeneous organisational and ICT environments. The key challenge which Beneficiaries, deciding to implement such a solution will be faced with, is harmonisation of visions within the professional community on how to implement the proposed approach and solution: the standardised e-enforcement model for individual Beneficiary. It should be emphasised that comparable approach has been already implemented in Bosnia and Herzegovina for utility cases and gives very positive results.

From the ICT perspective, harmonisation of visions is only the first precondition before commencing such a project in individual Beneficiary. Harmonisation and standardisation of many different visions regarding ICT will have to be achieved before start of the project, as well as adjusted constantly during the project.

Given the considerable differences between the Beneficiaries in this regard, identifying and proposing functionality as a common denominator for each of them, presented a very complex task.

The general part of the ICT questionnaire was focused on organisation and strategy, followed by ICT

architecture and infrastructure, in order to identify the differences between Beneficiaries and to assess the necessary effort to harmonise the visions across the Beneficiaries. All Beneficiaries responded to the ICT questionnaire.

One of the most descriptive indicators of the ICT domain is an adopted ICT strategy, as it suggests that views on all ICT aspects have already been standardised at the level of each Beneficiary. All respondents with the exception of Bosnia and Herzegovina and Albania stated that they have an adopted strategy (Question 4.c.3), while many of them (The Former Yugoslav Republic of Macedonia, Montenegro, Serbia) seem to be currently in the process of renewing their strategies. Additionally, Kosovo\* judicial ICT strategy was found online during desk research.

Afterwards, some strategic recommendations regarding architecture, design and development relevant to the project are presented, based on the research performed. An agreement on those strategic issues should be reached by the project's owner or alternatively, among Beneficiaries, before the start of the project.

### 6.1 System architecture

Uniform system architecture is regarded as one of the preconditions for successful development and implementation of an IT system.

In order to best meet those requirements it is recommended that the system should be designed and developed as a service oriented (SOA) application consisting of three tiers:

- ▶ presentation tier: user interface providing interaction between the user and the system;
- ▶ service tier, where the entire business logic of a solution is implemented and exposed in the form of services, also suitable for use by other IT solutions;
- ▶ database tier, which represents the level of persistent storage and retrieval of data in the information system.

This recommendation would not present additional complexity to the Beneficiaries according to question 4.l.1, where only Serbia seems to operate its judicial IT system in client/server architecture. For Kosovo\*, a clear commitment towards implementation of SOA was also stated in its publicly available ICT Strategy.

### 6.2 Modular structure

The system should be designed as a modular application in a way that all services providing functionality that can be used by several systems should be consistently joined into independent service modules and later made available to other IT systems. Additionally, they should also remain independent in terms of installation, implementation and upgrades, thus maintaining interoperability with the existing systems.

Communication (information exchange) between modules and systems should be asynchronous, using well defined service calls and messaging, with standardised messages wherever possible.

Modular design enables independent development and implementation of new functionalities in form of modules, which can be used as common building blocks by several IT systems simultaneously.

### 6.3 Database considerations

The system should be based on relational (also known as E-R, or entity-relationship) database model.

The data used by the proposed system should be stored in its own independent database structure, capable of storing conventional data (as records), meta-data and digital documents (in form of BLOB or XML fields) in the database for several reasons:

- ▶ providing data isolation between different IT solutions;
- ▶ enabling quick access to documents and meta data;
- ▶ better support for data search and reporting.

The database could however coexist with others within the same RDBMS (in form of multi-tenant separate tablespaces/schemas), along with data belonging to other IT system(s), in order to provide easier maintenance (support, backup, administration) of the database system.

The persistent storage for storing digital content (documents) and meta data can alternatively be implemented in a form of a dedicated document management system (DMS), as long as it is providing equal functionality to the DBMS in form of services for management (searching, retrieving and storing) of digital content.

The proposal is based on the fact that such (E-R) model is widely used and that virtually all analysed systems (among Beneficiaries and EU cases) already own and use some kind of relational database management system (Question 4.l.2).

This way, some additional benefits could be reaped based on the following facts:

- ▶ the expertise and knowledge on RDBMS (administration, use, modelling) is already present
- ▶ the implementation of proposed system would bear little or no additional costs.

However, in order to achieve this, the development of the system must follow some restrictions:

- ▶ the system should be designed and developed as database-agnostic (not bound to a certain RDBMS system) which means somewhat limited tools for data processing (avoiding stored procedures, using only common data types...)
- ▶ the system can be developed on one particular (referential) RDBMS, but would have to be tested against several different RDBMS systems before deployment.

#### 6.4 Document format considerations

Electronic documents should be received and stored by the system in read-only, device independent format, capable of storing electronic signature(s), and widely recognised as being suitable for long-term preservation. The original document rendering, including its validity in electronic form, should be preserved over time.

Therefore, the recommended format for final, non-editable electronic documents, best suited for long-term storage and e-delivery, would be PDF/A (ISO 19005-1:2005 and subsequent versions), with all the necessary rendering information (i.e. fonts) already included in the file.

For editable documents, a format based on open-standards should be chosen. Additionally, its content should be accessible and readable by other applications (not limited only to creator application). Currently, two suitable formats are available, OpenDocument format or ODF (standard ISO/IEC 26300) and Office Open XML or OOXML (standard ISO/IEC 29500).

The system should also provide conversion between supported document formats, especially if required by the selected output device or delivery method (i.e. PostScript format for delivery to a PostScript enabled network printer).

#### 6.5 Information exchange - formats and services recommendations

Asynchronous message queuing technology is proposed for the actual exchange of data, as it provides secure, asynchronous transfer of data, and well defined exchange data format for all of the

participating authorities. XML is recommended as the data format used for exchanging operational data and other meta-data between modules and also between systems. The XML format is proposed primarily for its wide acceptance, as well as for its human readability.

In the design phase, and also during development, formats and standards which could contribute to better and more reliable data interchange between different IT systems should be constantly observed, evaluated and adopted, if possible. This is especially important in message formats intended for information and document exchange with external IT systems. Using widely accepted, open standards based formats and services will ensure future interoperability of the system.

#### 6.6 Use of qualified digital signatures

Use of qualified digital signatures is strongly recommended, providing an additional level of security, interoperability and validity. This technology should be chosen for authentication of users to the system, for electronic signature of documents, and for data encryption.

#### 6.7 System design and development

The recommendations for design and development of e-enforcement system are based on the RCC requirement that the e-enforcement system project should be applicable to all Beneficiaries and that it should contain the minimal common denominator of functionality acceptable for each of the Beneficiaries.

Design and development of an ICT system under such conditions is a complex task which is substantially different from developing a system for a single client within one jurisdiction.

The proposed set-up of the project therefore covers all possible scenarios based on IT strategy of a given Beneficiary. Based on the chosen scenario, an appropriate infrastructure framework supporting distributed development will have to be implemented, allowing full cooperation between developers and the Beneficiary during all phases of the project.

Regardless of the chosen design and development scenario, in order to make the proposed system applicable to all Beneficiaries, some IT design and development principles should be followed by all developers.

#### 6.8 System design principles

##### Reusability

Three-tier architecture, modular design and object-oriented programming are the basis of enforcing the principle of reusability in design and development of an IT solution. It is recommended that adapting and/or reusing the existing services in form of modules and IT systems should always be preferred over developing new ones from scratch.

In general, reusability must always be at the forefront of IT systems design and development, as it leads to more uniform solutions, enables easier system development and maintenance and can additionally be implemented in other systems besides modules and services.

With the demand for rapid application development increasing, the design of IT solutions requires constant effort to integrate functionalities into modules that could later be reused by several IT solutions.

##### Interoperability

During design of the IT system, particular attention should be paid to the interoperability of the system with other systems and services, both known and those expected to be applied in the future. Special attention should be also drawn to selection of data exchange formats and corresponding services, in order to enable interoperability with the largest possible number of systems, while following and taking into account good practices, both strategic and technical, emerging from other systems.

#### 6.9 Development principles considering heterogeneous environments

Developing an enterprise IT systems for heterogeneous environments adds substantially to overall complexity of the project.

#### Setting minimum ICT system requirements

One of the factors, which should be considered at all times, is the capacity of infrastructure in the target environment. Therefore, minimum system requirements should be set before designing and developing the system. This includes minimum requirements of server infrastructure, minimum desktop configuration, and minimum LAN/WAN bandwidth required. After minimum standards are set, it is responsibility of the developers that the final system is capable of running smoothly on infrastructure which meets minimum requirements.

This can be achieved by deciding on the appropriate application architecture during design (e.g. web client instead of "fat" client) and by avoiding resource-hungry solutions during development.

Based on responses to the questionnaire (Question 4.m), the Beneficiaries have comparable WAN capacities and relatively similar server infrastructure, both regarded as adequate. However, there seem to be larger differences in desktop infrastructure, where Serbia and The Former Yugoslav Republic of Macedonia stated that the average age of their equipment is 9 and 10 years, respectively, which could present an obstacle for the project. Given the fact that only limited number of users are planned to use the new system in a centralised location, providing newer equipment to those users would be a better alternative to lowering minimum system requirements.

#### Graphical user interface (GUI) principles

Graphical user interface (GUI) design can greatly contribute to the usability of the system. If done right, it can also assist users to easily achieve their tasks in otherwise complex procedures. This can be achieved by using helper tools (e.g. wizards) which guide the user step-by-step through a given business process.

Keeping in mind that the system is intended for multinational use, it should also provide built-in multilingual support throughout the system (portal, back-office, compiling documents, printing and reporting). Changing the language of a module's GUI should be simple, for instance by changing an

application setting. Changing the language in web applications (i.e. portal) should be even simpler and instantaneous.

Along with multilingual support, the use of multiple alphabets should also be natively supported.

### 6.10 Choosing the appropriate technology

Considering the heterogeneous nature of target IT environments at the Beneficiaries, choosing the appropriate technology to support the project in all its phases, has to be done following some basic principles.

First of all, incurring additional costs by choosing a certain technology for the e-enforcement system, not presently available in the Beneficiaries, should be avoided. Only the costs of design, development and education of the project should be acceptable.

In deciding on technology, budgetary status for IT in the Beneficiary should also be considered. Therefore, proprietary technology with high licensing and maintenance costs should be avoided and (if possible) substituted with reasonable priced compatible technology.

Therefore, preferring technology based on open standards is highly recommended. Open standards enable competition between vendors and prevent vendor lock-ins. They also enforce compatibility across different open standard-based technologies. Open standards also enable open source implementations of technologies, which can be used in design (proofing of concepts), testing, but also in production.

Additionally, widely adopted open standards should be preferred while choosing communication message formats between modules and IT systems, enabling interoperability at all levels of the system (between modules, systems, and accession process economies).

### 6.11 Programming language considerations

Given the preceding recommendations (three-tier architecture, SOA, modularity, reusability), the programming language chosen should be object-

oriented, widely accepted and enterprise-ready. This decision determines the technologies used at all levels of the system: server, client and operating system.

Therefore, in choosing the programming language, the same recommendations as those for choosing technology should apply:

- ▶ use of programming language, development tools and environment(s) should be as affordable as possible and should not present additional costs to the Beneficiary
- ▶ operating (production) of the developed system should be royalty-free (without any additional license/royalty fees for running the developed system)
- ▶ use of programming language should not require any additional procurements from the Beneficiary (additional software, licenses, platforms)
- ▶ programming language should be acceptable for all participants.

### 6.12 Source-code management

Project ownership usually includes full ownership of the entire source code of the project. Source code should therefore be constantly accessible by all stakeholders taking part in the project. It is further recommended that the source code of the project should be maintained in a central repository using a version control system.

The contractor(s) should be requested to regularly (at least once a week) commit their code to the repository. This way the administrators can follow the working progress and make code reviews, if desirable.

Technically, the version control system should support at least the following features:

- ▶ security scheme in place (granting rights to certain repositories, supporting roles)
- ▶ check-in (committing) of the code by contractors (and possibly other contributors)
- ▶ check-out (making local working copies)
- ▶ versioning (committing edited code or documents as new versions)



- ▶ conflicts detection / resolving mechanism (e.g. several commits of the same file by different users)
- ▶ branching: making new fork of the projects while keeping the old one.

### 6.13 Building and integration

Further strategic decisions include setting the ground rules on building and integration. Based on other recommendations regarding development, a continuous integration (CI) development model is recommended. Based on the recommendation, an automated system should be implemented and able to perform at least the following:

- ▶ automated builds of the system, scheduled or triggered by check-ins of the source code to the repository
- ▶ automated deployment of (successful) builds to test environment
- ▶ automated tests based on predefined test scenarios, following a (successful) build
- ▶ reporting on all automated activities performed.

This way, the owner(s) of the project should be able to retain full control over the projects' progress and quality.

### 6.14 Licensing considerations

The contracting authority should make every effort to ensure constant control and ownership (including the right to free use of the code for its information systems) of outsourcers' source code. It should demand regular (at least weekly) transfers of source codes to the central repository located in the environment of the contracting authority.

License agreements, which can lead to additional burdening of the Beneficiary, should be avoided.

Therefore, it is our recommendation that before choosing a licensed and closed-sourced solution, an alternative solution based on open standards (and possible available under open-source license) should be taken into consideration.

### 6.15 Risks analysis and mitigation

The complexity of the project and a rather large number of stakeholders imminently poses a higher risk exposure for the project. In order to identify and minimise the risk factors, a thorough risk analysis should be performed, identifying and evaluating all possible risks. Along with the analysis, a risk-mitigation plan should be developed, providing mitigation advice on every risk identified.

The risk analysis and mitigation plan should be performed regularly and the updated risk analysis and mitigation plan should be made readily available to all stakeholders.

### 6.16 User training and service desk

User training depends heavily on the decision on the operating model of the target system, discussed in the beginning of this section.

Nevertheless, in both cases the developer should provide quality user documentation for each of the functional modules and for using the functional modules together as a proposed target system.

In the case that the system would be **operated as SaaS model**, the user training curriculum would be the same for all users and could be produced centrally, either by the contractor or by the central authority.

In the case of **locally (on-premise) operated system**, the curricula would have to be prepared separately for each of the locations, according to differences between the systems.

Accordingly, a service desk would have to be established, covering both technical and substantial issues.

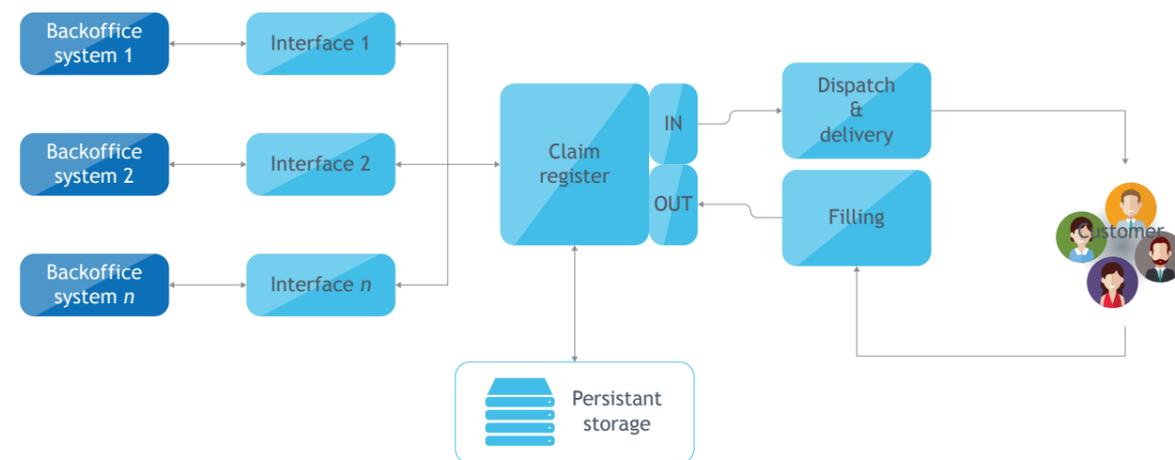
However, for both cases of operation modes, the proposed **user training** would be performed in two steps:

**1. train the trainers** is the first step, in which users, selected from the target environment, receive advanced training in order to pass the knowledge on to other end users. The number of these trainers should be around 1/10 of the total number of end users. Furthermore, it is recommended that these trainers are selected from the population of end users and that they remain on their position afterwards to maintain user contact with the application. The selection criteria should include computer proficiency, familiarity with the legal aspects of e-enforcement procedure and good people skills.

**2. user training** would be then performed locally by trainers educated during the first step.

The only difference is from whom the initial trainers get their initial training. In the first case, the majority of knowledge would be provided by experts selected by the central authority, while in the second case, there would be a combination of “central” and “local” experts, again depending on the extent of modification to the system at the given location.

Similarly, **service desk** could in both cases be organised centrally and share a common help-desk software and knowledge base. Only technical issues regarding the operating of the system should however be resolved centrally. For substantive issues, and those technical involving local ICT infrastructure (e.g. desktops, printers), a local help desk should be organised. Furthermore, it is highly recommended that trainers, who educate the end users, should also provide the support regarding the (proper) use of the system. This way, the trainers keep constantly in touch with both the system and the users, and continuously accumulate and upgrade their knowledge. On the other hand, the users always receive current, adequate help coming from first-hand experience.



Picture 3 Proposed potential architecture

## 7 GOALS AND BENEFITS OF DIFFERENT IT MODELS OF E-ENFORCEMENT AND SUMMARY OF THE EXISTING IT SYSTEMS IN THE BENEFICIARIES

Based on best practices identified during research of e-enforcement solutions in Beneficiaries (Section 4) and selected EU countries (Section 5) and based on the analysis and comparison of the existing IT-based e-enforcement systems (Section 6) goals and benefits of different IT models of e-enforcement system on the basis of ADs regarding legal, organisational and ICT component could be identified. **The legal implementation of the e-enforcement on the basis of ADs** does not need a comprehensive legal reform. In order to implement the new concept regarding e-enforcement the inventory concerning the issues and challenges, which are identified in the ‘Matrix - Issues, challenges, necessary changes, benchmarks and risks’ on page 11, should be performed by each Beneficiary. Necessary amendments to the existing legislation will have to be considered, not because of the project but mostly in order to fulfil the necessary pre-conditions for e-justice, reach better organisation and introduce electronic legal communication to the judiciary. All issues which are identified in the Matrix and have certain legal implications should be perceived as challenges. The judiciary in each Beneficiary has already been faced with challenges such as: implementation of exclusive territorial jurisdiction, implementation of e-justice components (E-signature, E-document, E-filing, E-payment, E-serving), implementation of the G2G access to e-registers, requests for access to court registers or e-files, the roles and competences of the court counsellors and judicial assistants or how to stim-

ulate electronic legal communication. The entire implementation of the e-enforcement on the basis of ADs should be considered as a step forward towards the efficient and effective judiciary.

Consequently the following best practices could be identified:

- ▶ Legal Implementation of Central Department for Enforcement on the Basis of ADs in Slovenian judiciary (page 17);
- ▶ G2G access to external registers introduced through the Slovenian Law on Courts (page 21);
- ▶ Implementation of e-justice components through the amendments to Slovenian Law on Civil Procedure where the use of e-file, e-signature, e-filing, e-delivery and access to the CMS was introduced (page 17);
- ▶ The applicant does not need to submit the documentary evidence, and facts, if the applicant is entitled to the payment, are not considered in the procedure of German Mahnverfahren - (page 18);
- ▶ The entire business process and court procedure is centralised outside of civic centres - German Mahnverfahren - (page 18);
- ▶ No electronic signature is needed - the applicant just needs to register via internet and settle the court fees - MCOL (page 20);
- ▶ Proceedings for contempt of court may be brought against a person if he/she makes, or

causes to be made, a false statement - MCOL (page 20).

The organisational implementation of the e-enforcement on the basis of ADs seems to be more complex. It requires implementation of the new approach to the judicial organisation environment which is by nature rigid and conservative. Organisation of new central organisational unit, which would take over the jurisdiction that was before exercised by several organisational units, needs caution. Moreover, the business process organised also within the central organisational unit could not be organised as classic court but more as production unit exercising judicial power, which requires entirely different approach regarding the organisation of the business process. The new profiles of the staff, tasks and assignments (e.g. scanning, OCR and data validation) will be defined and concentration of the business process also within the central department will be needed. Coherent regional development represents a specific challenge that should be considered when deciding the physical location of the central organisational unit which should be the important benefit derived from the Project.

External users of the system (mostly creditors and debtors and their representatives) will expect better and more efficient and effective service. XML

schemas for larger clients will have to be developed and published and clients will have to adapt their business ICT systems in order to enable bulk filing. On the other side, small and medium-sized creditors too will expect the service through the user-friendly web portals which will facilitate filing and access to registers and e-files.

Another specific challenge would be also linked to the court performance measurement. The central department would not be a classic court and could not be treated within the group of other court. The business objectives and key performance indicators would have to be set in order to monitor the entire business process.

Consequently the following best practices could be identified:

- ▶ Bulk printing by the off-site ESP in Slovenian judiciary
- ▶ The role of Rechtspflegers in German judiciary
- ▶ The entire business process and court procedure is concentrated and to large extent formalised and automated - German Mahnverfahren - (page 18)
- ▶ A claimant can apply for an order for payment by way of several methods - German Mahnverfahren - (page 18)



The ICT implementation of the e-enforcement on the basis of ADs will rely on classic building blocks which will have to be specified and developed.

Several different models, relevant to design and implementation of the e-enforcement system based on authentic documents for each Beneficiary, have been evaluated and proposed in previous sections.

However, it was established that common functional building blocks, grouped in modules, are the key success factor, providing final e-enforcement system with the requested functionality.

### 7.1 System functionality (building blocks)

Common functionality, which should be included in the final e-enforcement system, is discussed and proposed in the following sections. Based on the recommendations on system architecture, design and development from previous sections, several related functionalities are grouped in sections, reflecting their implementation as independently operating modules - building blocks.

In the light of the following specifications, the e-enforcement procedure based on authentic document must not be regarded as a fully integrated enforcement process, but rather as an add-on, providing functional modules for constructing a fast-track procedure, enhancing the 'classical' enforcement procedure by providing transactional support and automation.

Beneficiaries can choose, develop and deploy the necessary functional building blocks as an add-on (or replacement) functionality in order to create new or adapt their own e-enforcement systems.

#### Security scheme

Authentication and authorisation are the cornerstones of electronic commerce, where one of the main concerns is to properly identify (authenticate) a user before granting him/her access to a given IT system, while at the same time limiting the system functionality and access to information based on user's privileges (authorisation). Additionally, administration functionality is necessary to link authentication and authorisation to a certain user or group.

Given the broad applicability of these functions to all CMSs within a given Beneficiary they should be implemented in the form of independent software module called security scheme. According to responses to question 4.c.4, such functionality is either not implemented (Montenegro, The Former Yugoslav Republic of Macedonia) or partially implemented (Bosnia and Herzegovina, Serbia). In any case, the proposed module could be used as an add-in to the existing authentication method(s).

Based on the authentication level required, security scheme module should support different user groups (internal and external) based on the level of authentication required.

Non-authenticated (anonymous) users are granted access to the system without any form of authentication, therefore bypassing the security scheme and allowing access only to public information and services, if such are available.

Registered users are required to complete the registration process, during which they have to state contact information (at least a valid e-mail address) in order to obtain access to the system. Authentication method is usually based on user name and password, generated or verified by the system during registration. Upon successful verification, the user is granted access to the system. Normally, this authentication method is used to access public functionalities and information, while enabling access logging and communication with the user.

For qualified (identified) users, the authentication method determines the identity of the user beyond any doubt. Usually this is achieved using the qualified digital certificates and digital signatures. Qualified users are usually allowed to use advanced functionalities of the target system (electronic filing, electronic access to case files), which require legally binding authentication.

Professional users are qualified users who are using the system(s) professionally and are therefore members of a (professional) organisation. The difference from qualified users is in the registration process. While qualified users usually register themselves, professional user registration normally requires an additional step, granting the user pro-



professional status by corresponding authority (for instance, acknowledging lawyer status by the Bar Association).

The module should provide SSO (single sign-on) functionality, allowing a user to login once and access all parts of the system for which he/she is authorised, without additional login requests.

For authentication, the module should be based on expandable (plug-in) architecture, allowing external authentication mechanisms to be honoured by the module. This way, the existing authentication mechanisms could be incorporated, while allowing adding new (external) authentication methods.

Apart from authentication and authorisation, the security schema should further store user information, relevant to the (judicial) procedure. Furthermore, the module should be designed in a way that it allows storing different user information for every procedure for which the user is registered (for instance, preferred way of communication, along with corresponding address).

The module should feature an audit trail functionality, providing monitoring and logging of authentication and authorisation attempts.

Additionally, the module should provide at least a two-level *administration* interface: at the lower

level professional users are granted/revoked professional status by the corresponding authority and at the top-level administrator adds or removes corresponding authorities from the security schema.

#### Enterprise portal

The portal is regarded as the main hub of the enterprise, in our case e-enforcement. It provides a secure single entry point to the system(s), using a web-based user interface.

The use of portal framework technology, with portlets acting as procedure-specific sub-portals, is highly recommended. Although such approach can mean higher initial effort due to its complexity, it can bring substantial savings later on during the development and deployment as it is modular and configurable by design and thus adaptable to different target environments.

The portal should provide all functionalities needed to successfully establish a (judicial) entry point. It should provide additional functionality, as single sign-on (SSO), support for multiple languages and alphabets, uniform GUI design (appearance), content management, document management across all the portal and sub-portal components.

According to responses to **question 5.c.** of the questionnaire, only Bosnia and Herzegovina is us-

ing a web-based portal, providing some of the requested functionalities; therefore the proposed module could bring additional benefits to each of the Beneficiaries.

Additionally, it should support a simple and standardised way of adding and modifying procedures (workflows) and smart web forms to the portal. Using business process modelling (BPM) functionality to model workflows and design smart web forms is recommended. This way, business process rules (for instance, a workflow for filing a claim) can be added or modified at the portal without the need of excessive development. Of course, the portal should provide an appropriate rule-based engine, capable of executing previously modelled business process rules.

#### Electronic filing (e-filing)

The e-filing system should provide services related to filing submissions in electronic form, which are becoming increasingly important with the introduction of e-services and are regarded essential in the e-enforcement system. Some tasks can be considerably simplified by appropriate implementation of these services, which also represent an informal measure of user-friendliness of computerised court proceedings.

The system should enable electronic filing of submissions in proceedings for which the user is authorised and for which the e-filing option is available. Two types of e-filing should be supported: e-filing of individual submissions and filing several submissions at once - packet (bulk) filing.

E-filing of individual submissions should be implemented as part of the portal and should provide at least the following functionalities:

- ▶ electronic entry of submission's meta-data through smart web forms at the portal (for each supported proceeding), guiding the user through the workflow
- ▶ online validation of entered data, warnings in case of errors or inconsistencies
- ▶ attaching the required/relevant digital documents to the submission
- ▶ filing the submission (submitting previously entered meta-data along with digital documents),

- ▶ time-stamping and electronic signing of submission (if applicable).

Packet (bulk) filing should be implemented either as a web service or through web portal, allowing filing multiple submissions in bulk, either manually or by using B2G web-service interface. It should provide at least the following functionalities:

- ▶ e-filing based on standardised XML scheme for submissions;
- ▶ time-stamping and electronic signing of packets should be required;
- ▶ validation of data after submissions are filed, rejection of packet in case of errors.

Both types of filing require services, provided by the following external modules:

- ▶ e-payment module provides the functionality for immediate payments and payments through bank transfer order (by issuing a payment reference number). After the required amount is settled, it notifies the system to accept the submitted application;
- ▶ single sign-on (SSO) authentication/authorisation performed by the security scheme module;
- ▶ incoming queue (inbox) - storing of submitted applications and providing an interface to transfer the submitted applications to processing.

Based on responses to **question 5.c.**, no Beneficiary supports electronic filing via web-based portal. Bosnia and Herzegovina currently only supports batch submissions by utility companies.

#### Paper filing and digitalisation

It is recommended that the conventional paper-based filing should remain as an alternative route for individual filing after introducing the e-filing alternative. The recommendation is based on the fact (**Question 5.c.1**) that currently almost all Beneficiaries support some form of paper-based filing.

E-services in court proceedings should be introduced gradually, followed by stimulation for users to switch to e-services (lower fees, charges, etc.). This way, the users are provided with an individual transition period in which they can appropriately

(according to their means) and adequately prepare for the new method of doing business.

On the other side, the use of paper filing should be discouraged, as it presents additional operating costs for the courts due to numerous extra steps and equipment needed in order to equalise paper submissions with electronically filed submissions:

- ▶ digitalisation (scanning) of paper submissions;
- ▶ use of OCR (optical character recognition) in order to automatically recognise text and other data from paper-based submission;
- ▶ transfer of meta-data along with digitalised documents to systems' inbox;
- ▶ archiving of submissions in paper form.

These costs can be optimised to a certain extent using pre-printed forms, specially designed to support scanning and enable higher rates of text recognition, or by providing IT assisted preparation of submissions in paper form, utilising the technology (e.g. bar-code). Furthermore, the digitalisation of submissions should be centralised in order to further optimise the operating costs.

#### Data validation

In electronic case management, data validation plays an important role in minimising administrative effort and improving the quality of data.

In e-enforcement procedure, data validation should start with e-filing, where data entered in fields should be validated online. Depending on the data contained in the field, the validation can be performed as:

- ▶ static validation of the data regarding format and valid data boundaries;
- ▶ dynamic validation of data by comparing the entered data with that from official registers (using either own back-office systems or electronically connecting to external registers and comparing with official data);
- ▶ final validation where entered data is checked against business and process rules.

After successful validation, the data (along with the attached digital documents) is transferred to

the inbox queue of e-enforcement system, waiting for registration.

Data validation is an important functionality, where based on validation result, a submission can be either accepted, marked as incomplete, or even rejected. In order to enable accurate automated data validation based on pre-defined business rules, the validation module should be based on a workflow (rule-based) engine, allowing changing the business rules without the need to redesign and rebuild the entire module.

At the moment (**Question 5.c.2**), only Bosnia and Herzegovina and The Former Yugoslav Republic of Macedonia support automatic data verification and validation, while the latter is not supporting this functionality in e-enforcement.

#### Payment module

Services related to payments in enforcement proceedings should be incorporated as independent, fully centralised IT service module, providing the following services to other modules and systems:

*Immediate (on-line) payments* and notification of payments: the module should be able to provide payment during submission of application. Therefore, on-line payments using credit cards or mobile banking solutions should be initially supported. Additionally, other on-line methods should be considered (e.g. PayPal).

*Subsequent (off-line) payments*: the module should also support payments for submissions after they are filed to the system. Normally, such payments are made using bank transfers. Therefore, the module should provide additional functionality:

- ▶ automatic generation of unique payment reference numbers: the system which requires payment, requests a unique payment reference number and registers a debt;
- ▶ importing data on payments from financial institutions: the module regularly requests reports on payments from financial institutions;
- ▶ automatically matching outstanding debts with payments received by comparing the unique payment reference numbers;

- ▶ tracking of outstanding debts;
- ▶ notifying the requesting application on settled debts;
- ▶ reports on open, closed and missed payments and other financial reports for accounting.

Such a module is currently unavailable in Beneficiaries. According to responses to **question 1.f.4**, only Bosnia and Herzegovina supports e-payments (using e-banking), however lacks the automation features described above.

#### Access to official external registers

Court procedures often require data from official external registers. Electronic access to those registers can save substantial amount of time, especially in procedures where quick access to information is an important issue. For e-enforcement procedure, fast and automatised access to official registers represents a crucial feature used for data validation, identification of case parties and their means and assets. Without this feature, the e-enforcement procedure could be rendered slow and ineffective. Based on responses to **questions 1.g. and 5.e.1**, Albania, Bosnia and Herzegovina, Montenegro and Serbia have the legal grounds to access official register electronically, while only Bosnia and Herzegovina and Montenegro have implemented such access.

Electronic access to official registers should be implemented as a central independent module, providing G2G and G2B services to other modules/systems. Common services should include:

- ▶ services for establishing secure connection with official register, satisfying the requirements of the legislation on data protection;
- ▶ an audit (journal) log, which allows later review of data on all requests and responses;
- ▶ expandable architecture, providing simplified and standardised addition of connections to additional registers (e.g. enterprise service bus, ESB).

#### Case management module

Case management functionalities are the process part of every judicial IT system. In light of

its purpose to support the e-enforcement (fast-track) procedure, this module should provide at least basic procedural functionality while retaining interoperability with other functional building blocks.

In order to effectively maintain and develop business processes, performed by the CMS, it should be based on business rule-based engine. This way, the same system could perform different business processes, depending on the jurisdiction, to which it was deployed. Additionally, this way the changes in legislation (business processes) would not necessarily require re-engineering of the entire module, but only modification of the business rules.

All the Beneficiaries use a CMS (**Question 5.c.2**) with limited functionality compared to the proposed module. As an alternative to developing a new system, the feasibility of using the existing case management system (if any) in combination with the specified building blocks should be analysed before development for each target environment.

#### Case registration

After successful filing (either e-filing or hard-copy), the majority of data from submission should already be available in the system.

The case registration should therefore consist of the following steps:

- ▶ the submission is taken from the inbox queue (input tray);
- ▶ the meta-data of the submission are parsed and a new case is initiated using the data from the submission;
- ▶ after validation (performed automatically using access to official registers, with fall-back to manual/human validation), the submission is registered by the case management system (time and date is registered, a case number is assigned) and queued for assignment.

#### Case assignment

The functionality for assigning cases after registration should correspond to the legal provisions on case assignment, valid in the target environment.

To support different legal provisions, a plug-in architecture of the module is proposed. It should provide support for using several different algorithms for assignment of cases, based on case properties.

All cases should initially be queued then the appropriate assignment algorithm is applied.

**Generating documents (writs)**

The system for generation of documents should be carefully designed, preferably as a special independent module, also capable of providing functionality to other IT systems. It should be able to fulfil the following requirements:

- ▶ support for document generation based on templates with appropriate field structure
- ▶ support for template creation and editing
- ▶ support for inclusion of graphics (e.g. scanned signatures and seals) in generated documents
- ▶ support for document generation based on text blocks within templates:
  - required or optional predefined text blocks (boilerplates)
  - support for inclusion of information from CMS to predefined positions (blocks) in generated documents
  - support for automatic adjustment of text according to the grammar rules, based on the data in the database (especially the declination)

- ▶ transferring the content of generated documents to CMS (preferably as XML)
- ▶ management module for creating, modifying and submitting templates to the central repository

Furthermore, the following use-cases should be supported by the system:

- ▶ automatic generation of decisions based on predefined business rules (e.g. in highly standardised cases, based on law and successful validation of facts, using several official registers, the decisions can be reached automatically),
- ▶ IT supported editing (the system fills the form with data from the case, then the user edits the document);

- ▶ manual editing without CMS interaction (can be based on templates).

According to **question 5.c.2**, two of the Beneficiaries, Bosnia and Herzegovina and Montenegro use an IT supported generation of courts documents. While Bosnia and Herzegovina seems to have a rather advanced system, Montenegro relies on a template-based system.

**Dispatch / delivery**

Processing of court documents includes printing, enveloping, dispatching and shipping. Dispatch and shipping procedures could present an important part of operations in courts, taking up a large part of the employees' daily work due to logistics.

Considering a relatively high volume of shipments expected in e-enforcement, this function should be centralised and highly automatised using IT, with actual dispatch and delivery work outsourced, if possible.

Therefore, for successful implementation of dispatch and delivery functionality as an IT supported service, a stand-alone IT module should be designed and built.

The module should provide the functionality of relaying final documents along with their delivery data (e.g. recipients, addresses) using several different delivery methods. It should support at least the following delivery methods:

- ▶ delivery to external printing and enveloping facility;
- ▶ delivery to the final recipient using (e-service);
- ▶ delivery to a locally networked printer.

Furthermore, the module should provide some additional functionality:

- ▶ monitoring shipment statuses;
- ▶ generating reports (e.g. postal ledger);
- ▶ processing proof-of-service receipts (pairing the receipt with shipment, transferring the information to the relevant CMS).

Currently, only Bosnia and Herzegovina and The Former Yugoslav Republic of Macedonia support bulk printing and enveloping (**Question 5.c.3**) while the latter additionally supports e-delivery neither one is supported in enforcement procedure.

**Providing information/access to the case files**

The proposed system for e-enforcement is designed to operate entirely in electronic form, using electronic filing, electronic files and electronic delivery. Therefore, the information on cases should also be made available to authorised parties in electronic form.

At least basic information on a certain case should be provided to authorised parties, such as for instance access to review process actions in a given case. Additionally, the access to the content of (electronic) case file for authorised parties should be implemented.

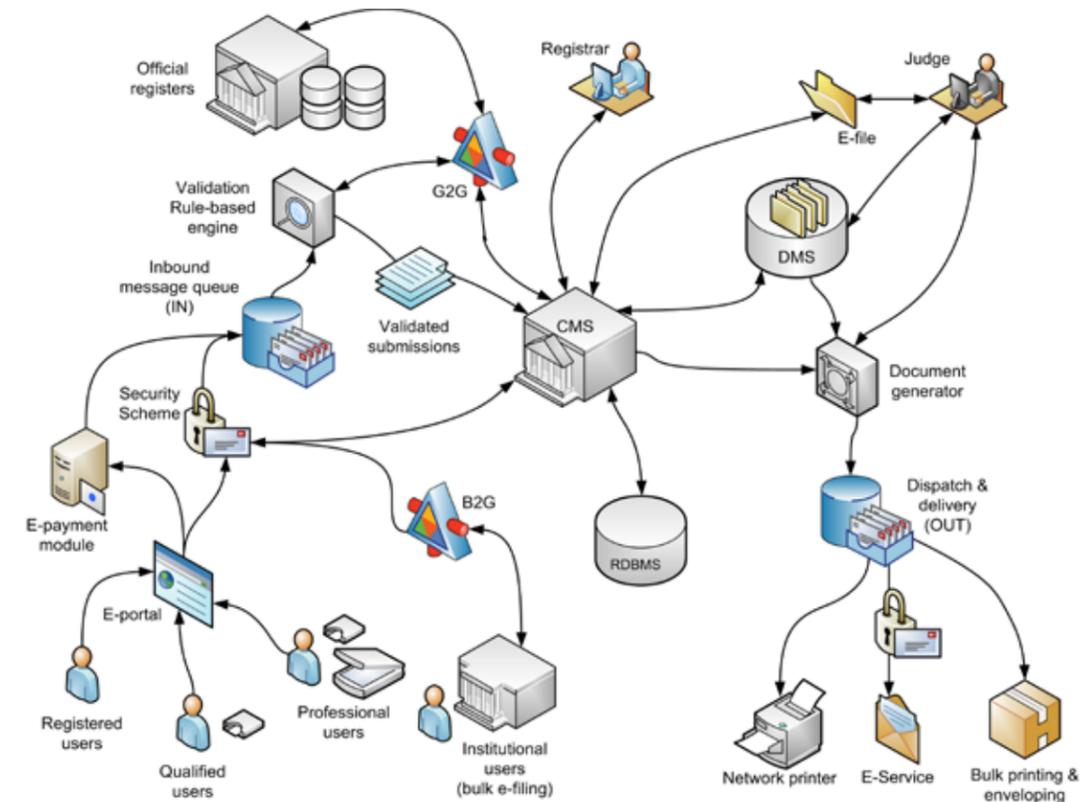
Based on **question 5.e**, currently only Bosnia and Herzegovina seems to support external access to electronic case file.

**Document storage / preservation / electronic file**

Given the electronic nature of the proposed e-enforcement system, a module for managing digital content should be implemented. It should meet the following requirements:

- ▶ it should provide long-term storage capability, and therefore fulfil all legal and technical requirements;
- ▶ it should perform at least basic operations: store, retrieve, store as new version, mark as deleted. These operations should be implemented in a way that allows very fast and reliable execution, while maintaining security and consistency of the stored content;
- ▶ it should provide a standardised interface (e.g. CMIS) to other modules (CMS, e-filing,...).

According to **question 5.c.2**, currently only Bosnia and Herzegovina and Montenegro have a system supporting electronic case file.



Picture 4: The proposed e-enforcement system showing all functional building blocks

# 8 CONCLUSIONS ON THE IMPROVEMENTS OF E-ENFORCEMENT SYSTEMS IN THE BENEFICIARIES

The business process regarding enforcement on the basis of ADs is in the first phase a straightforward process without personal contact with creditors and debtors. On the other hand backlogs in non-litigious enforcement cases (including enforcement on the basis of ADs) represent substantial proportion of backlogs in most Beneficiaries. Additionally, the lack of ICT support could be determined in all Beneficiaries. This requires implementation of new concepts which would improve the performance in the field of enforcement in some Beneficiaries.

Most of Beneficiaries in the region have common issue, which cannot be resolved through the classical approaches of the backlog mitigation in the judiciary, which are mostly focused on swifter and more efficient adjudication. A new concept, which will take into account the nature of the business process of the enforcement on the basis of ADs should be considered. In order to implement the new concept, legal and organisational interventions and improvements, supported through the extensive usage of the ICT (including electronic legal communication and e-file) will be required. In this regard, the applicable best practices could be identified in Germany (Mahnverfahren), Slovenia (COVL - Central Department for AD, Access to Registers) and UK (Money Claim On-line).

Substantial backlogs and delays in the business process require new organisational approach, where the jurisdiction and the entire business process would be centralised in one or several differ-



ent locations in each Beneficiary, and concentrated within the competent organisational unit. The new approach should support the business process regarding the enforcement on the basis of ADs in all Beneficiaries' environments and function in heterogeneous organisational and ICT environments. This will create conditions for the efficient and effective procedure and entire judiciary.

The legal implementation of e-enforcement on the basis of ADs does not need comprehensive reform. In order to implement the new concept regarding e-enforcement the inventory regarding issues and challenges should be performed by each Beneficiary. No single Model Law proposal could be drafted. Several laws and bylaws should be considered

to introduce the centralised e-solution in each Beneficiary. Questionnaire and answers provide good overview regarding state of the arte situation in Beneficiaries which completed the questionnaire (see also Table 1 on p. 11). Possible legal bases, which should be adjusted, are elaborated in Table 4 for all three models.

Table 4

	Court jurisdiction	Competence of the notaries and/or bailiffs	Mixed system
Exclusive territorial jurisdiction	Law on Courts Civil Procedure Code Law on Enforcement	Law on Enforcement	Law on Courts Civil Procedure Code Law on Enforcement
Online access to court register (docket) and access to file	Law on Courts Court Rules	Law on Enforcement	Law on enforcement Law on Courts Court Rules
G2G Access to external registers	Law on Courts Civil Procedure Code Law on Enforcement	Law on Enforcement	Law on Courts Civil Procedure Code Law on Enforcement
Independent role of Court Counsellors or Judicial Assistants	Law on Courts Civil Procedure Code Law on Enforcement	NA	Law on Courts Civil Procedure Code Law on Enforcement
Implementation of the legal remedy challenging the decision of the Court Counsellors or Judicial Assistants	Law on Courts Civil Procedure Code Law on Enforcement	NA	Law on Courts Civil Procedure Code Law on Enforcement
Discounts for e-filing	Law on Court Fees	Applicable legislation regarding notaries and/or bailiffs fees	Law on Court Fees
Implementation of the special department for enforcement	Law on Courts Law on Enforcement	NA	Law on Courts Law on Enforcement
E-signature	Law on the Digital Signature		
E-document	Law on Electronic Document		
E-filing	Civil Procedure Code Law on Enforcement		
E-serving	Civil Procedure Code Law on Enforcement		
E-payment	Law on Court Fees	Applicable legislation regarding notaries and/or bailiffs fees	Law on Court Fees



The organisational implementation of the e-enforcement on the basis of ADs seems to be more complex. It requires implementation of the new approach to the judicial organisation environment which is by nature rigid and conservative.

Several different models, relevant to design and implementation of the e-enforcement system based on authentic documents for each Beneficiary have been evaluated for their applicability in the target environments. Finally it was established that the most feasible solution is to build a new system, taking into account best practices learned, combined with the needs and expectations of all Beneficiaries.

Therefore, design and development strategies were proposed, along with proposal on institutional setup of the project in order to best equip the stakeholders for the tasks at hand. Additionally, common functional building blocks, grouped in modules, were specified. Those building blocks are considered the key success factor, providing final e-enforcement system with the requested functionality.

## 9 SOURCES OF INFORMATION

[http://www.coe.int/t/dghl/cooperation/cepej/evaluation/default\\_en.asp](http://www.coe.int/t/dghl/cooperation/cepej/evaluation/default_en.asp)

[http://www.coe.int/t/dghl/cooperation/cepej/Delais/default\\_en.asp](http://www.coe.int/t/dghl/cooperation/cepej/Delais/default_en.asp)

<http://www.courttools.org/Trial-Court-Performance-Measures.aspx>,

[http://www.sodisce.si/sodni\\_postopki/izvrsba/](http://www.sodisce.si/sodni_postopki/izvrsba/)

<http://www.mahngerichte.de/>

<https://www.moneyclaim.gov.uk>

[http://www.coe.int/t/dghl/cooperation/cepej/evaluation/default\\_en.asp](http://www.coe.int/t/dghl/cooperation/cepej/evaluation/default_en.asp)

[http://www.sodisce.si/sodni\\_postopki/izvrsba/](http://www.sodisce.si/sodni_postopki/izvrsba/)

<http://www.iuscomp.org/gla/literature/sijanski.htm>

<http://www.mahngerichte.de/onlineverfahren/>

<http://www.egvp.de/>

<https://www.justice.gov.uk/courts/northampton-business-centre/money-claim-online>

<https://www.moneyclaim.gov.uk/web/mcol/welcome>

<https://www.gov.uk/government/publications/money-claim-online-user-guide>

<http://www.pravosudje.ba/vstv/faces/kategorijevijesti.jsp?ins=10001&modul=7694&kat=10748>

[http://www.coe.int/t/dghl/cooperation/cepej/profiles/FyromJICTStrategy\\_en.pdf](http://www.coe.int/t/dghl/cooperation/cepej/profiles/FyromJICTStrategy_en.pdf)

[http://www.kgjk-ks.org/repository/docs/Kosovo-ICT-strategy\\_389023.pdf](http://www.kgjk-ks.org/repository/docs/Kosovo-ICT-strategy_389023.pdf)

[www.pravosudje.ba/vstv/faces/pdfservlet?p\\_id\\_doc=28818](http://www.pravosudje.ba/vstv/faces/pdfservlet?p_id_doc=28818)

[http://www.pravosudje.ba/vstv/faces/pdfservlet;jsessionid=41ea19fd9bef58e63f579bfff6887a3957f0580731967525f8d62a45606cf9fe.e34TbxyRbNiRb40Qb34MahiKa3b0?p\\_id\\_doc=16486](http://www.pravosudje.ba/vstv/faces/pdfservlet;jsessionid=41ea19fd9bef58e63f579bfff6887a3957f0580731967525f8d62a45606cf9fe.e34TbxyRbNiRb40Qb34MahiKa3b0?p_id_doc=16486)

<http://www.mpa.gov.me/ResourceManager/FileDownload.aspx?rId=165967&rType=2>

<http://sudovi.me/podaci/sscg/dokumenta/1778.pdf>

Building Interoperability for European Civil Proceedings Online, Editors: Francesco Contini and Giovan Francesco Lanzara, Bologna: CLUEB, 2013

e-Justice in Österreich Erfahrungsberichte und europäischer Kontext, Editor: Thomas Gottwald, Bern: Weblaw, 2013

## REPORT ON E-ENFORCEMENT SYSTEM ON THE BASIS OF THE AUTHENTIC DOCUMENTS IN THE REGION AND SOME EU MEMBER STATES AND 'MODEL LAW' PROPOSAL

### QUESTIONNAIRE

**Note:**

The Questionnaire covers three components of the E-enforcement systems (legal, organisational, technical) and in order to obtain the broader picture also some general information regarding entire judiciary. If applicable the answers should be limited to enforcement procedure on the basis of the authentic documents. In order to prepare comprehensive report it is of utmost importance that the gathered data are as complete and relevant as possible. In addition active cooperation of BC representatives (the name of the respondent is required with every component) will be indispensable. It is expected that respondents from Albania, Kosovo and The Former Yugoslav Republic of Macedonia will use English and that the important documents will be available in English.

Accession process economy: \_\_\_\_\_

### 1. Regulatory framework

- A. Name of the respondent:** \_\_\_\_\_  
 E-mail: \_\_\_\_\_@\_\_\_\_\_  
 Telephone: \_\_\_\_\_
- B. For any further questions or clarifications please contact:**  
 Rado Brezovar  
[rbrezovar@gmail.com](mailto:rbrezovar@gmail.com)  
 +386-41-678-243
- C. Organisation of courts**
1. Title of the Law (e.g. Courts Act): \_\_\_\_\_
  2. Official Gazette Num: \_\_\_\_\_
  3. Internet link - If Law is not available on Internet please provide the electronic version: \_\_\_\_\_
  4. Title of the regulation regarding court organisation (e.g. Court Rules): \_\_\_\_\_
  5. Official Gazette Num: \_\_\_\_\_
  6. Internet link - If the regulation is not available on Internet please provide the electronic version: \_\_\_\_\_
  7. Exclusive territorial jurisdiction, if any (e.g. land register procedure, enforcement procedure on the basis of authentic document, ...)
    - yes / no
  8. If the answer is *yes* please specify the Title of the Law: \_\_\_\_\_, the article: \_\_\_\_\_ and briefly explain the jurisdiction and the organisation  
 \_\_\_\_\_  
 \_\_\_\_\_
  9. Do courts have the jurisdiction in enforcement cases on the basis of the authentic documents: yes / no?
    - a) If the answer is *yes* please specify the Title of the Law: \_\_\_\_\_, the article: \_\_\_\_\_ and the number of courts which have jurisdiction on first \_\_\_\_\_ and second instance \_\_\_\_\_.
    - b) If the answer is *no* please specify the Title of the Law: \_\_\_\_\_, the article: \_\_\_\_\_ and the body competent for the enforcement cases on the basis of the authentic documents.
- D. Civil procedure**
1. Title of the Law (Civil Procedure Act): \_\_\_\_\_
  2. Official Gazette Num: \_\_\_\_\_
  3. Internet link (for Albanian and Macedonian in English) - If Law is not available on Internet please provide the electronic version.
  4. Electronic legal communication related provisions enabling:
    - a) E-filing: yes / no (if the answer is *yes* please specify the article: \_\_\_\_\_)
    - b) If the answer is *yes* which preconditions are required to identify case party (e.g. digital signature, e-mail address, ...)
      - \_\_\_\_\_
      - \_\_\_\_\_
      - \_\_\_\_\_

c) Electronic Court decision equivalent to paper form: yes / no (if the answer is yes please specify the article: \_\_\_\_\_)

d) If the answer is yes which preconditions are required for signing the decision (e.g. digital signature, scanned signature, ...)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

e) E-service (electronic delivery of court documents) : yes / no (If the answer is yes please specify the article: \_\_\_\_\_)

**E. Enforcement procedure**

1. Title of the Law (e.g. Enforcement and Securing of Civil Claims Act): \_\_\_\_\_

2. Official Gazette Num: \_\_\_\_\_

3. Internet link - If Law is not available on Internet please provide the electronic version. \_\_\_\_\_

4. Electronic legal communication related provisions enabling (please answer **only** if regulation differs from the Civil Procedure Act under 1.d):

a) E-filing: yes / no (if the answer is yes please specify the article: \_\_\_\_\_)

b) If the answer is yes which preconditions are required to identify case party (e.g. digital signature, e-mail address, ...)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

c) Electronic Court decision equivalent to paper form: yes / no (if the answer is yes please specify the article: \_\_\_\_\_)

d) If the answer is yes which preconditions are required for signing the decision (e.g. digital signature, scanned signature, ...)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

e) E-service (electronic delivery of court documents) : yes / no (If the answer is yes please specify the article: \_\_\_\_\_)

**F. Electronic legal communication in justice (the legislation regulating the electronic legal communication in court procedures)**

1. Title of the Law (e.g. Electronic Commerce and Electronic Signature Act): \_\_\_\_\_

2. Official Gazette Num: \_\_\_\_\_

3. Internet link - If Law is not available on Internet please provide the electronic version. \_\_\_\_\_

4. Does the judiciary use e-payment: yes / no?

5. If the answer is yes please explain to which extent the e-payment is implemented in your judiciary.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**G. Access to official registers (Please specify the legal provision regulating access to data needed by a court to establish or examine the facts in connection with conducting court proceedings)**

1. Title of the Law: \_\_\_\_\_

2. Official Gazette Num: \_\_\_\_\_

3. Internet link - If Law is not available on Internet please provide the electronic version. \_\_\_\_\_

4. Access upon request: yes / no

5. If the answer is yes please specify legal grounds - Title of the Law: \_\_\_\_\_ and the article: \_\_\_\_\_

6. Remote electronic access: yes / no

7. If the answer is yes please specify legal grounds - Title of the Law: \_\_\_\_\_ and the article: \_\_\_\_\_

**H. Protection of personal data**

1. Title of the Law (e.g. Personal Data Protection Act): \_\_\_\_\_

2. Official Gazette Num: \_\_\_\_\_

3. Internet link - If Law is not available on Internet please provide the electronic version: \_\_\_\_\_

**I. Organisational chart (only enforcement related jurisdiction)**

1. First level (instance) trial courts (name of the court): \_\_\_\_\_  
number of courts: \_\_\_\_\_

2. Second level (instance) appellate or higher courts (name of the court): \_\_\_\_\_  
number of courts: \_\_\_\_\_

3. Supreme Court (name of the court): \_\_\_\_\_

4. Do the first instance courts have special departments (organisational units), competent for the enforcement?  
yes / no ?

5. If organisational chart is available in graphic form (organigram), please provide the diagram.

6. Which institution is responsible for the ICT related tasks in the judiciary:  
\_\_\_\_\_

7. Which institution is responsible for the ICT related tasks in ministries and other governmental bodies: \_\_\_\_\_

**J. Other remarks:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## 2. Organisational aspects regarding enforcement

A. Name of the respondent: \_\_\_\_\_  
 E-mail: \_\_\_\_\_@\_\_\_\_\_  
 Telephone: \_\_\_\_\_

B. For any further questions or clarifications please contact:  
 Rado Brezovar  
[rbrezovar@gmail.com](mailto:rbrezovar@gmail.com)  
 +386-41-678-243

C. Human resources (please fill in corresponding figures)

	Judges	Court counsellors	Judicial assistants (Referents)	Registrars (Docket keepers)	Typists	Other (only if related to enforcement)
Enforcement based on Authentic Document						
Enforcement Entire judicial system						

If *Other* is filled in please explain the profile of employee:

\_\_\_\_\_

\_\_\_\_\_

D. Description of tasks and division of work (only related to the enforcement procedure on the basis of the authentic documents)

1. Do Court counsellors or Judicial assistants independently conduct particular court proceedings or decide in judicial matters: yes / no.
2. If the answer was yes please specify to which extent Court counsellors or Judicial assistants conduct their tasks:
  - a) filing of applications and statements by parties for the record
  - b) preparing drafts of decisions
  - c) conducting enforcement proceedings
  - d) issuing decisions allowing enforcement of the recovery of monetary claims
  - e) issuing decisions allowing enforcement on the basis on the basis of the authentic documents of the veracity of documents and decisions and orders on advance payments,
  - f) issuing decisions and orders regarding costs of proceedings and court fees
  - g) other (please specify):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- h) Does a judge of the same court decide on legal remedy against a decision issued by Court counsellor or Judicial assistant paragraph: yes / no.
- i) If the answer was yes please indicate the number of such legal remedies for 2012: \_\_\_\_\_, 2013: \_\_\_\_\_ and first nine months for 2014: \_\_\_\_\_

E. Usage of templates and forms implemented to case management system supporting the enforcement procedure on the basis of authentic document

1. Case management system uses templates and forms: yes / no
2. Number of forms and templates used in the enforcement procedure on the basis of authentic document: \_\_\_\_\_

F. Access to registers (please fill in with yes or no and remarks if applicable)

	Upon request	On-line	G2G	SOA	Remarks (standards used, exchange format)
Register of Citizens					
Register of Spatial Units					
Land Register					
Business Register					
Tax Registry					
Register of Bank Accounts					
Health Insurance Register					
Public Payment Administration					
Central Securities Clearing Corporation					
Other - please specify					

G. Courts' fees

1. Title of the Law (e.g. Court Fees Act): \_\_\_\_\_
2. Official Gazette Num: \_\_\_\_\_
3. Internet link - If Law is not available on Internet please provide the electronic version. \_\_\_\_\_
4. Average costs in enforcements proceedings on the basis of the authentic documents (in €): \_\_\_\_\_
5. Is there any discount in paying courts' fees in case of using electronic communication: yes / no.
6. If the answer was yes please add some additional information (e.g. fee for e-filing is 30% lower comparing to fee for the "paper" claim)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**H. Average creditor's costs for lawyers on enforcements proceedings**

1. Title of the Law (e.g. Attorney's Fee Act): \_\_\_\_\_
2. Official Gazette Num: \_\_\_\_\_
3. Internet link (for Albanian only if available in English) - If Law is not available on Internet please provide the electronic version. \_\_\_\_\_
4. Average costs based on Attorney's Fee Act in enforcements proceedings on the basis of the authentic documents (in €): \_\_\_\_\_

**I. Other creditor's costs on enforcements proceedings - please explain if any**

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---



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**J. Bailiff systems**

1. court
2. private
3. other - please explain

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**K. Number of bailiffs: \_\_\_\_\_**

**L. Recent corresponding initiatives in BCs**

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**3. Statistics for 2012, 2013, 2014 (I-IX months) - please fill in with corresponding figures**

beneficiary _____	filed cases			resolved cases			pending cases			age of pending cases (if available)		
	enforcement	enforcement based on AD	entire judicial system	enforcement	enforcement based on AD	entire judicial system	enforcement	enforcement based on AD	entire judicial system	enforcement	enforcement based on AD	entire judicial system
2012												
2013												
2014 (I - IX)												

## 4. ICT

- A. Name of the respondent:** \_\_\_\_\_  
 E-mail: \_\_\_\_\_@\_\_\_\_\_  
 Telephone: \_\_\_\_\_
- B. For any further questions or clarifications please contact:**  
 Rado Brezovar  
[rbrezovar@gmail.com](mailto:rbrezovar@gmail.com)  
 +386-41-678-243
- C. Organisational aspects of IT in the judiciary of the Beneficiary**
1. organisational set-up of IT
    - a) placement of IT department within judiciary (please describe): \_\_\_\_\_
    - b) responsible body or person: \_\_\_\_\_
  2. organisational chart (please provide a copy with relevant comments)
  3. IT strategy adopted: yes / no. If answered yes, please specify:
    - a) responsible body or person: \_\_\_\_\_
    - b) contact details \_\_\_\_\_
    - c) please attach a copy or state a link \_\_\_\_\_
- D. Description of roles and responsibilities**
1. decision-making process - who makes the decisions (please state names and contact details):
    - a) in IT matters: \_\_\_\_\_
    - substantive matters: \_\_\_\_\_
- E. Human resources:**
1. IT expertise available in the IT organisation
    - a) number of experts providing IT services and support: \_\_\_\_\_
    - b) number of in-house IT developers \_\_\_\_\_
    - c) number of in-house IT support engineers \_\_\_\_\_
  2. IT literacy assessment among court staff
    - a) number of court staff using IT systems: \_\_\_\_\_
    - b) percentage of court staff using IT systems: \_\_\_\_\_
- F. Project management (PM) standards**
1. using established PM standards: yes / no. If yes, please specify:
    - a) PM standard(s) used: \_\_\_\_\_
    - b) using own set of standards. Please describe: \_\_\_\_\_
- G. IT support (service desk, operational support)**
1. IT support provided by in-house personnel: yes / no. If yes, please provide details about:
    - a) service desk: \_\_\_\_\_
    - b) technical support: \_\_\_\_\_
    - c) service mater experts: \_\_\_\_\_
  2. using outsourced IT support: yes / no

- H. Change management**
1. Change management procedures established: yes / no.
  2. If yes, please provide details:  
 \_\_\_\_\_

**I. Level of IT supported CMS systems in production in the judiciary**

Judicial IT supported business procedure (eg., Civil, Criminal,...)	Case filing (electronic, batch, paper,...)	Case processing (e-file, process events)	Service & delivery (centralised, conventional)	Ownership over IT system (licenses, source code, other obligations)	Developed in-house or using outsourcing

- J. IT development standards used:**
1. analysis & design: \_\_\_\_\_
  2. coding: \_\_\_\_\_
  3. testing: \_\_\_\_\_
  4. documenting: \_\_\_\_\_
  5. programming language: \_\_\_\_\_
  6. preferred use of in-sourcing or outsourcing: \_\_\_\_\_
- K. Policy on open standards, open source:**
1. endorsing use of open standards: \_\_\_\_\_
  2. using open source solutions: \_\_\_\_\_
- L. Information regarding IT architecture**
1. uniformity of IT architecture
    - a) n-tier: \_\_\_\_\_
    - b) client/server: \_\_\_\_\_
    - c) other: \_\_\_\_\_
  2. number and type of used databases or other type of persistent storage
    - a) using RDBMS: \_\_\_\_\_
    - b) using big data: \_\_\_\_\_
    - c) other: \_\_\_\_\_
  3. implementation of the business process application level
    - a) using business process modelling (BPM): \_\_\_\_\_
    - b) custom programming: \_\_\_\_\_
    - c) other: \_\_\_\_\_
  4. information on user interface (GUI) design
    - a) using GUI standard: \_\_\_\_\_
    - b) using rich client: \_\_\_\_\_
    - c) using thin client: \_\_\_\_\_

**M. Information regarding IT infrastructure**

1. networking (connecting branches)
  - a) type (optical, mobile, xDSL): \_\_\_\_\_
  - b) capacity (bandwidth, minimum, common): \_\_\_\_\_
  - c) architecture (topology): \_\_\_\_\_
2. Production environment
  - a) servers (baseline description):  
\_\_\_\_\_
  - b) use of virtualization: \_\_\_\_\_
  - c) cloud infrastructure established: \_\_\_\_\_
  - d) disaster recovery plans and procedures: \_\_\_\_\_
3. IT hardware inventory:

	Number	Type (CPU, RAM)	Average age (years)
Desktops			
Servers			

**5. Assessment of IT supported enforcement (e-enforcement) capabilities:**

- A. **Name of the respondent:** \_\_\_\_\_  
 E-mail: \_\_\_\_\_@\_\_\_\_\_  
 Telephone: \_\_\_\_\_
- B. **For any further questions or clarifications please contact:**  
 Rado Brezovar  
[rbrezovar@gmail.com](mailto:rbrezovar@gmail.com)  
 +386-41-678-243
- C. **IT supported business processes**
  1. case filing:
    - a) portal: \_\_\_\_\_
    - b) batch: \_\_\_\_\_
    - c) paper filing: \_\_\_\_\_  
 - if paper filing is allowed, please provide information on digitalisation: \_\_\_\_\_
  2. case management automation
    - a) automatic data verification & validation: \_\_\_\_\_
    - b) electronic case file (e-file): yes /no. If yes, please provide detailed information: \_\_\_\_\_
    - c) automatic processing: \_\_\_\_\_
    - d) use of digital signatures: \_\_\_\_\_
    - e) level of IT support in generating court's decisions (using templates, blocks,...): \_\_\_\_\_
  3. dispatch and delivery
    - a) bulk printing & enveloping: \_\_\_\_\_
    - b) E-service (electronic delivery of court documents): \_\_\_\_\_
  4. user management
    - a) external users allowed to file e-enforcement cases: yes /no. If yes, please specify information on eligibility, authorisation and authentication required \_\_\_\_\_
    - b) providing external access to electronic case files: \_\_\_\_\_
    - user roles enabled: \_\_\_\_\_
    - c) user registration process (please describe): \_\_\_\_\_
- D. **Scalability**
  1. number of current users of e-enforcement system: \_\_\_\_\_
  2. estimated maximum number of users supported without infrastructure upgrade: \_\_\_\_\_

**E. Interoperability (across jurisdictions, cross-border)**

- 1. using information (or services) provided by external systems
  - a) services used: \_\_\_\_\_
  - b) information obtained: \_\_\_\_\_
- 2. providing information (or services) to external systems
  - a) services provided: \_\_\_\_\_
  - b) information provided: \_\_\_\_\_

**6. General comments and available documents - preferred in electronic form**

A. Recent corresponding initiatives in BCs (e.g. if your system adopt any recent reforms or changes in order to centralise the particular court procedure in one court?). Please explain the initiatives, projects, legislative changes (including international projects) regarding centralisation of the judicial business processes in your accession process economy.

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B. Other general comments and available documents

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