COURT AUTOMATION IN AUSTRIA

by

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The Austrian e-Justice plays a leading role in Europe. The first IT-developments were started in 1980 and constantly improved and enhanced. There are still a lot of projects going on to further improve the electronic support of courts. Based on a tight functionality the court automation system started with supporting only one civil proceeding and has then been expanded on other types of proceedings with more functions. The most important components of these functions are the electronic register, the central printing facility, an automated court fee collection, electronic communication with the electronic access to files and the electronic legal communication, court publications and an electronic document archive. During more than 25 years of development a lot of lessons were learned and some best practice experiences have been gained. The further development keeps going on as there still is a long way to go to reach the final goal – the full electronic file.

THE AUSTRIAN JUDICIAL SYSTEM [1]

For a population of 8 million inhabitants the Austrian judicial system consists of courts on 4 levels: on the lowest level there are 140 district courts which are in charge of less severe criminal offences and civil proceedings with an amount in dispute lower than EUR 10.000.-. 20 regional courts are in charge of severe criminal cases, civil cases and act as appellate courts for decisions of district courts. 4 higher regional courts are appellate courts for remedies against decisions of regional courts. The top of the judicial system is the Supreme Court in Vienna. As a parallel but separate institution the public prosecution service is installed. More than 11.000 people are employed at courts, public prosecution and penal institutions. The budget

therefore was approx. 1 billion euros in 2005. Almost 5% of the budget is spent on IT.

In 2005 3.4 million new cases were created in almost 50 different types of proceedings. The proceedings with the most new cases were civil cases with 800.000 new cases and enforcement cases with 1.2 million new cases in 2005.

CHRONOLOGY OF THE COURT AUTOMATION IN AUSTRIA [2]

The first judicial IT-project was started in 1980 when the Austrian land register was automated electronically. 1986 the summary proceeding for an order for payment was established electronically. Based on the then implemented solution most of the other types of proceedings were supported with the same electronic techniques. In 1990 the trade register was converted to an electronic system. In the same year the Electronic Legal Communication (ELC) was established to communicate between courts and parties electronically. Back then Austria was the first country worldwide to introduce such a system. After a successful 10-year-use it was necessary to modernise the court automation system. Therefore the project "Redesign" was set up in 1997 which lasted 5 years and ended in the new court automation system ("Verfahrensautomation Justiz" – VJ). Project partners were (and still are) the Austrian Ministry of Justice, the Austrian Federal Computing Centre, the Austrian Ministry of Finance and IBM Austria. Meanwhile the electronic edict file (Ediktsdatei) for the publication of court documents was created in 2000. Based upon this system a website for a list of court experts and court interpreters was set up in 2003. Current projects are the redesign of the ELC and the implementation of a judicial document archive. Some of these projects will be described below.

COMPONENTS [3]

One of the main advantages of the court automation is the uniform application. Most of the court proceedings are realised in the same application which means that the development and the maintenance can be done very efficiently. For the users it means an easier use of the system and the possibility to be trained for other types of proceedings very quickly.

The central function of the VJ is to journalise the status of a current pro-

ceeding. Before, the journal was kept in books; nowadays the VJ fulfils this task. Based on this function the application is constantly enhanced in order to have more content of a case saved in the system with the final goal of a full electronic file.

Some of the most important components of the system are:

a) Electronic register
b) Automated court fee collection
c) Integrated word processing
d) Name queries and several other queries
e) External access to files
f) Electronic Legal Communication
g) Court publications
h) Online help
i) Statistics, created periodically or on demand
j) Data Warehouse
k) Central printing und mailing facility

CENTRAL PRINTING FACILITY [3.1]

The Austrian Ministry of Justice as well as other public institutions use the central printing facility (the so-called "Poststraße") of the Austrian Federal Computing Centre to print, envelope and mail almost all of the documents created by all Austrian courts in the VJ. By doing so, these routine activities are taken off the court clerk's tasks. In 2005 more than 10 million documents were printed and mailed this way.

AUTOMATED COURT FEE COLLECTION [3.2]

In Austrian law the representatives of the parties are liable for the payment of court fees. As all of the Austrian attorneys are saved with their name, address and bank account information in the system, it is possible to withdraw the court fees automatically as long as the party is represented by an attorney. In 2005 182 million Euros have been withdrawn automatically.

EXTERNAL ACCESS TO FILES [3.3]

Since the beginning of 2004 it is possible for attorneys and notaries to access civil, enforcement and inheritance proceedings in which they represent any

party via the internet using special clearing institutions. It is possible to see the status of the proceeding, appointments and some of the court's decisions. The Ministry of Justice charges EUR 1.- per case. The main intention to set up this system was to reduce the numerous phone calls from lawyers to get the current status of a proceeding. It shall not be concealed that the expectations to this system were not yet fulfilled. In 2005 only 7000 external accesses were recorded. It is expected that the enhancement of the system with providing more content will raise these numbers in the future.

ELECTRONIC LEGAL COMMUNICATION (ELC) [3.4]

By definition the ELC is the paperless, structured, electronic communication between parties and courts. Fax and E-mail is not covered by this definition because of the lack of a structured communication (and in case of fax there is also no paperless communication). It is of essential importance that by law the ELC provides the same legal quality as the communication by exchanging documents on paper.

In practice an attorney enters data into his own system. He then sends this structured data via secured electronic lines and via a so-called transmission centre to the Federal Computing Centre which again makes this data available to the courts. In 2005 there were about 5000 participants which sent 2.2 million documents via ELC and which received 4.3 million documents created by the courts. 85% of civil actions at district courts and 60% of all enforcement claims were filed electronically. Just by saving postal charges EUR 2.9 Mio could be saved in 2005, not to mention other advantages. Especially in the beginning the participants hesitated to use the new system. By giving some financial advantages in the first place and oblige them by law in the second place the acceptance of the system could be increased clearly.

Beside the already mentioned advantages of saving postal charges other advantages are the savings in paper, there is no need to enter data electronically, by this the savings in time, with the electronic transmission the increased quality of data, the 24/7-availability and a higher security due to electronic log files and legally binding, electronic confirmations of receipts.

As mentioned above the ELC is currently being redesigned. The new ELC will be based on modern technology, support direct communication

between parties and provide the basis for communication with the police and for use for the land and trade register. Furthermore it will support electronic signatures to improve the security of the ELC.

COURT PUBLICATIONS [3.5]

The Austrian law system provides a lot of publications of courts which are addressed to an uncertain or even unknown receiver. Up to now these documents have been made public by announcing them in newspapers or by putting them on the court's blackboard. This procedure was time-consuming, very expensive and the publicity was not very high. Therefore in 2000 the so-called edict file was created (www.edikte.justiz.gv.at). Nowadays all court publications are made public electronically, legally binding and replace the paper completely. Court experts are involved in this process as they are able to upload expertises and the court just has to control this expertise and can then make it public. The transmission of the court expert is secured by using digital signatures.

The main advantage of this way of making public is the increased publicity which means that especially for real estate auctions the higher publicity has led to higher sales revenues which is an advantage for the debtor and the creditor. Another advantage is a 95% lower cost per publication which both parties benefit from.

DOCUMENT ARCHIVE [3.6]

In 2005 the deeds of all trade register courts were transferred to an electronic document archive. The deeds of land register courts followed 2006. By now it is possible to file a deed either on paper or by referring to an already saved deed in CyberDoc, the document archive of the notaries. In the first case deeds are scanned and transferred into the document archive; in the latter case the documents are fetched from the notary's archive electronically and are also transferred into the court's archive. 2007 it will also be possible to transfer deeds to the courts 100% electronically by using the new ELC.

FINAL REMARKS [4]

Some of the main and most important conclusions that can be drawn from the development are:

I. For the future success of the system to be developed, the early involvement of the future users into the development of an IT-application in order to benefit from their rich practical experience on the one hand and to increase early the acceptance of the system to be built on the other hand is essential.
II. By developing a uniform application trainings can be developed more efficiently. With the easier development and re-use of system components synergy effects can be gained.
III. A development strategy of small steps has been implemented: first a minimum of case types as well as functionalities has been implemented and then enhanced continuously.
IV. The Austrian Ministry of Justice has decided to develop the system with the Austrian Federal Computing Centre, the Austrian Ministry of Finance and IBM Austria. This guarantees an overview of current technologies and the use of the "second set of eyes" principle where developments are done and checked by several people and institutions.