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**REPORT**

**INFORMATION TECHNOLOGY  
SUPPORTING AND IMPROVING  
THE CONSTITUTIONAL COURTS' OPERATIONS**

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In the past few years, the use of modern information technologies has been considerably expanded; they have speeded up work flows and have saved much work. The following presentation distinguishes between the use of information technologies for the work flow within the Court and for external communication.

## 1. Use of information technologies for the work flow within the Court

Information technologies have been utilised at the Federal Constitutional Court for many years in different areas, like for instance in the library, in the Registries (*Geschäftsstellen*) and in general, for communication within the Court.

### a) The Computerised Registry System

Since 1991, the Federal Constitutional Court has been building up a database in which all records are entered that are not purely administrative, i.e. all applications, submissions and requests that concern the Court as such. This database is particularly important for submissions and constitutional complaints. All submissions and proceedings that are received are entered in the Court's IT system after a decision has been taken about whether the incoming matter will be assigned to the Panels or judges or whether the submission or constitutional complaint will be dealt with by the administration. In this context, it must be explained that patently inadmissible constitutional complaints, or submissions that can under no circumstance be regarded as constitutional complaints, are dealt with by the so-called General Register (§ 60 of the Federal Constitutional Court's Rules of Procedure). The General Register informs the complainants about the doubts that exist as regards the admissibility of their submission in view of the requirements that are placed on a constitutional complaint. If after having been informed in this manner, the submitting person insists on a court ruling, the matter is transferred to the register of proceedings. This is why in the computer-assisted entry of records, not only the submitting person's or complainant's name and his or her address are entered in a data file but also the acts of State that are challenged and the name of the complainant's authorised representative. This makes it possible for the Court to find out extremely quickly if, for instance, the same or parallel proceedings are already pending or if the complainant has already taken recourse to the Federal Constitutional Court in other proceedings. This approach has proved highly necessary and very useful, in particular in view of the large number of proceedings that are brought before the Federal Constitutional Court. In recent years, approximately 5,500 proceedings were instituted by citizens each year. Apart from this, between 7,000 and 10,000 requests and submissions are made each year. There are complainants that address the Court with numerous constitutional complaints or requests. When a set of proceedings is assigned to a judge and the respective file is sent to the judge, he or she is automatically provided with a list that shows the proceedings that have been previously instituted by the complainant.

In the last few years, the processing of incoming matters, which at first had only been computer-assisted, has been further developed in such a way that a proceedings database has been created. Now, processing in all its aspects can be continued by the competent research assistant, or the judge, by means of access to the database. The consequence of this is that the data that is entered in the database at the very beginning can be re-used if a case is entered in the register of proceedings, which means that the data need not be entered again. This saves much work because as a

general rule, entering names, addresses and acts of state with their dates and reference numbers is error-prone. Thus, the master data that already exists can be used for printing out the cover sheet of the file of the proceedings after it has been complemented by other necessary data. This database can now be accessed also when the decision is typed; in its heading, the decision must specify the relevant data, such as, for instance, the complainant's name and address, the authorised representative's name and address and the challenged act of State.

We are, however, still working on a specific problem: it is difficult to ensure that all persons who enter data do so in a consistent manner. The names of courts, such as, for instance, Karlsruhe Higher Regional Court (*Oberlandesgericht Karlsruhe*), are sometimes entered in full and sometimes in their abbreviated form (*OLG Karlsruhe*). Here, a process of harmonisation is going on at the moment. It goes without saying, however, that there is a great variety of access rights to the database, which is, by the way, entirely unproblematic. Access rights regulate, for example, that specific staff members may modify all, or only some, data or that many of those who have the right to access the database are not authorised to modify data.

b) Use of electronic media in the library

The holdings of the Federal Constitutional Court's library are documented in an electronic catalogue on site, that is, on the Court's intranet, but also on the internet. All judges, but also all research assistants and other members of staff, can consult the catalogue through electronic networking from their workplaces. Interested persons from outside the Court can do so as well. Apart from this, the Federal Constitutional Court's library is part of a supra-regional catalogue network, the Opac (Online Public Access Catalogue). Just like the Federal Constitutional Court, the universities of the *Land* (state) Baden-Württemberg and numerous other institutions have also entered their catalogues in this network. This makes it possible for users within the Federal Constitutional Court to quickly find out whether a book that is not part of the Federal Constitutional Court's library holdings is available at a different location and can be borrowed from there. In the Court's intranet, the library also provides other electronic catalogues from specialised and from general libraries. Recently, the library has also placed commercial legal databases at the Federal Constitutional Court's disposal via the Court's intranet. The costs connected with this service are considerable, but access to these databases makes the work of the judges and of the research assistants much easier. In Germany, commercial legal databases have been established that make legal journals and the essays and decisions published there available in a format that is ready to be quoted. Thus, all members of the Federal Constitutional Court staff can access these commercial legal databases from their workplaces. This makes it possible for them to consult these decisions and papers, in a format that is ready to be quoted, from their desks, that is, without having to go to the library and to photocopy the relevant document from the paper version of the respective legal journal. They can print out the decisions and essays from the database, can copy parts of them and use them in other texts.

c) The internal communication programme MAUS

For many years now, the Federal Constitutional Court has been using an internal communication and file management programme. The programme makes it possible

to access documents that are stored in it, such as, for example, draft decisions in various stages, or letters, from numerous workplaces. As concerns this programme, the implementation of different access rights has not posed any problems at all. Meanwhile, it has become normal for all staff members of a judge's department to be able to access the files that have been dealt with, or are currently being dealt with, in the department. It goes without saying that every department can define itself whether other departments are provided the same access rights. As a general rule, however, this is not the practice. Also the Court's administration uses this communication system. Letters, for instance, that have been drafted by the staff member in charge of a specific matter are, as a general rule, sent to the superior in a paper format, the superior, however, can - provided that access rights have been regulated by him or her in this manner - access the letter in the communication system and make possible changes directly in the document. Thus, it is no longer necessary to pass amended file memos or letters backwards and forwards and the file can be passed on in a paper format *and* as a document in the communication system or *only* as a document in the communication system.

What has not been established by the Federal Constitutional Court as yet is the "electronic file". This follows from the decision taken by the *Plenum* of the Federal Constitutional Court, which will be explained in greater detail under 2. d), and which states that pleadings which initiate or continue proceedings may not be submitted by e-mail.

As of late, the so-called "reading deliberations" have also been performed with electronic documents. In the Federal Constitutional Court, it is customary that after deliberation and decision have taken place in a set of proceedings, it is the task of the reporting judge to work out a draft decision. The draft decision is sent to every judge in the competent Panel in a paper format. Then, the reading deliberations follow, because, as will certainly be the case also at your courts, decisions of the Federal Constitutional Court, and in particular those of the Panels, but many Chamber decisions as well, are published and will be interpreted by generations of jurists at courts, universities and government agencies. The Federal Constitutional Court therefore attaches paramount importance to extensive reading deliberations taking place. A reading deliberation can sometimes take several days. In the run-up to the Panels' reading deliberations, the draft decisions have as of late been distributed within the Panel as an electronic document, and every judge has the possibility of entering his or her requests and proposals for amendments. They are sent to the reporting judge. This procedure, in turn, provides to the reporting judge the possibility of accepting requests and proposals for amendments already in the run-up to a session in which the judges meet for deliberation. Otherwise, a complete version of the document that contains all proposed and requested amendments will be drawn up.

## 2. Use of electronic media for external communication

### a) The "juris" documentation department

At the beginning of the 1970s, the Federal Government instructed the Federal Minister of Justice "to develop an automated **juridical information system**" - "juris" in short. Thereupon, the Federal Ministry of Justice developed a database in which all decisions of the highest courts were supposed to be entered for use by all courts to

ensure consistency of case-law. When the database system had been transferred to a legal person under public law, the limited liability company juris GmbH, in 1985, access to the specialised legal information contained in the database in a digital format was extended also private users. This means in practice that all users of “juris” have the same legal information at their disposal as the Federal Constitutional Court judges and the judges at all other courts.

Juris GmbH is still supplied with most of its legal information by the documentation departments of the Federal Constitutional Court, of the federal courts and of the ministries. Within the Federal Constitutional Court, for instance, a Documentation Department has been established that edits the Federal Constitutional Court decisions and the decisions of the *Land* constitutional courts under formal aspects and as concerns their content and subsequently transmits them to juris GmbH’s computer centre. Editing in the documentation department includes, apart from assigning key words, the writing of a note of reference. The note of reference sums up the content and the most important legal aspects of a decision of a constitutional or other court in a few lines. The objective is to make it possible for the user to decide at first glance already whether a decision that he or she has found in the course of a database inquiry really contains relevant information or not.

Moreover, the key words that are assigned to the text substitute by technical terms passages of text from the court decisions that do not contain these legal terms but only paraphrases, or they complement legal terms that are contained in the decision by synonyms. All in all, an inquiry system is thus created which even in case of difficult legal questions can supply its users at their workplaces with the information that they need to solve their legal problems. Moreover, the database provides information on where the respective decision is reproduced or quoted.

In the Federal Constitutional Court as well as among lawyers and in industry, “juris” has established itself as an important tool. All in all, “juris aktuell” is accessed online for approximately 40,000 hours every month. The group of courts that enter their decisions in this database system has grown considerably as well. At present, the database is increased by approximately 180 documents daily and provides access to approximately 8.5 million documents.

b) The distribution of decisions

It is the general practice in the Federal Constitutional Court that the Federal Constitutional Court decisions are sent to numerous public sector institutions shortly after they have been issued. The group of recipients comprises more than 100 institutions. Therefore, the Court’s printers used to make large numbers of copies of the decisions, which then were distributed by mail. In the year 2000, the Federal Constitutional Court completely discontinued this distribution of decisions in a paper format. This has saved an enormous amount of work and has made savings in personnel resources possible. Now, copies of decisions, which often comprise between 50 and 100 pages, only have to be printed in very small numbers. Costly distribution by mail no longer takes place; the same applies to the tasks connected with it, such as, for instance, putting the decisions in envelopes and stamping them.

c) The Federal Constitutional Court’s web site

Since 1999, the Federal Constitutional Court has had its own web site. In comparison with the constitutional courts in other countries, we have established our web site rather late. Now, it is possible without any problem to post a decision on the web site, and, where applicable, also the press release that belongs to it, the very same day of its being issued. If a decision is pronounced in Court, the decision is posted on the web site after the end of the pronouncement. At present, we are preparing an English version of our web site. However, only part of the decisions that have been posted on the German web site will be posted there. The Federal Constitutional Court has opted for providing the decisions with an electronic signature to safeguard their authenticity. Apart from this, the decisions have marginal numbers to make them easier to quote. It must, however, be pointed out that the judges have decided not to use marginal numbers in the Federal Constitutional Court's Collected Decisions so that there is a certain divergence here.

As everyone knows, the Federal Constitutional Court has two Panels, and it is therefore always interesting which decisions of which Panel have been accessed most often. This is something we can ascertain. The maximum number of accesses that we have had so far was in connection with a decision that was accessed more than 400,000 times on the day it was issued.

The establishment of the Court's web site has also saved a lot of work within the Court. This is due to the fact that since the web site has existed, the number of requests for the sending of decisions by mail has considerably decreased. If requests are made for decisions that have been issued in the past few years to be sent in a paper format, the person who made the request is first of all informed about the Court's web site and referred there. Access to the Court's decisions via the Court's web site is free of charge, whereas a fee, which is regulated in Court Fee Rules that are valid nationwide is levied for a decision being sent in a paper format.

Moreover, it is a matter of course that inquiries for decisions on the web site can be performed by a full text search. It must also be mentioned that the Federal Constitutional Court has declared impermissible the commercial use of the decisions that it has posted on its web site. This means, for example, that newspapers that want to reproduce a decision still have to ask permission. For such cases, an association has taken care of sending decisions in a paper format, but also by electronic delivery, on behalf of the Federal Constitutional Court so that this work does not have to be done by the Federal Constitutional Court itself.

d) Digital subscription of press releases and decisions / RSS-Newsfeed

Apart from the possibility of access to press releases and decisions via the Court's web site, the possibility of an e-mail subscription, which has been created approximately 2 years ago, is attaining ever greater importance for the information of interested citizens. After the filled-in subscription form has been sent, a reply with a confirmation, which contains further instructions and a confirmation code, is sent to the e-mail address indicated in the subscription to rule out the misuse of e-mail addresses by third parties. As soon as the new subscriber has entered this code in the e-mail server, he or she is informed by e-mail about all new press releases and their content that are posted on the web site. To achieve maximum compatibility, the e-

mails are sent in a text format and contain the complete press release in the HTML format as an attachment.

Apart from this, it is also possible to use the RSS newsfeed service that is offered on the web site. RSS is a platform-independent, XML-based file format. It has been developed to exchange news and other web content. The abbreviation RSS stands for "Really Simple Syndication". In contrast to HTML pages, RSS files are constructed logically and without additional "ballast" in the shape of design and layout elements. RSS files can be viewed by means of an RSS reader. The advantage for users consists in the fact that they only have to install a single, easy-to-use programme – the Newsreader – on their PCs, which then makes it possible to quickly and effectively scan web sites for changes and current content. New content is automatically displayed without the user having to visit the respective web sites.

These two new possibilities of being informed of current press releases and decisions have been very well received among interested citizens and have resulted in a significant decrease of the workload as concerns conventional distribution of decisions.

e) Access to the Federal Constitutional Court by e-mail

The Federal Constitutional Court's *Plenum*, that is, all Federal Constitutional Court judges sitting together, has decided that pleadings which initiate or continue proceedings may not be submitted by e-mail. However, this communication channel can be used for administrative purposes, for instance to request decisions. If someone contacts the Federal Constitutional Court by e-mail, this person receives the automatically generated reply that this communication channel may not be used for lodging constitutional complaints. The Federal Constitutional Court has opted for this approach for two reasons:

Firstly, approximately 95 to 98 per cent of all proceedings that are instituted are constitutional complaints, that is, applications that are lodged by citizens. There is no mandatory representation by lawyers, which means that everybody can lodge a constitutional complaint on their own. When the possibility of lodging a constitutional complaint by means of a fax message was provided, this alone resulted in an increase of proceedings instituted. Here, it can be stated that this communication channel is very often used for lodging inadmissible constitutional complaints. If the possibility of lodging a constitutional complaint by e-mail was opened, the number of such predominantly inadmissible constitutional complaints would very probably, if not certainly, increase, which would increase the Federal Constitutional Court's workload in a manner that would not be sensible.

Secondly, the Federal Constitutional Court demands that a constitutional complaint is signed in writing. This requirement could also be met by means of an electronic signature. This would, however, require that the Federal Constitutional Court admits one, or even several, electronic signature systems. This, however, would, as a general rule, not help ordinary citizens. Apart from this, in accordance with the Federal Constitutional Court's case-law, the acts of State that are challenged by means of the constitutional complaint must either be cited in sufficient detail or must be enclosed with the constitutional complaint. Even if constitutional complaints are lodged by fax

message, it can be frequently stated that only the constitutional complaint itself is sent in advance and that the challenged acts of State, which are subsequently sent by mail, are not received by the Federal Constitutional Court within the required deadline. If it was permitted to lodge a constitutional complaint by e-mail, this requirement as to form would be disregarded more often, and thus, more inadmissible constitutional complaints would be lodged.

### **3. Summary**

All in all, the use of electronic media in the Federal Constitutional Court has experienced an enormous increase in the past few years. This has resulted in the IT Department consisting of five members of staff now, all of whom are more than fully stretched in their jobs. In other areas, however, a considerable amount of work has been saved. The use of electronic media will probably be increased even further in the future. However, it is not to be expected that in the foreseeable future, it will be possible to lodge a constitutional complaint by e-mail. As I have already mentioned under 1. c), it is consequently also not intended to introduce the “electronic file” system. I would like to add that as concerns the Court’s use of information technologies we have also involved third parties on a contractual basis. Our web site, for instance, has been developed with the support of the University of Saarbrücken, and the Chair of Prof. Dr. Maximilian Herberger is providing technical support for it on a contractual basis. Access to the internet takes place – also on the basis of this contract, but in this case it has been concluded with the University of Karlsruhe – via the Baden-Württemberg Science Net (*Wissenschaftsnetz Baden-Württemberg*) by means of a connection via the University of Karlsruhe.