

REPORT OF THE SECOND STUDY COMMISSION

TO THE CENTRAL COUNCIL

60th ANNUAL MEETING OF THE IAJ

SANTIAGO, CHILE

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The topic for discussion in the Second Study Commission this year was: The use of technology in civil litigation matters. We have limited the questionnaire to five questions and have asked member representatives to provide short but concise answers.

There were 32 responses to the questionnaire that were circulated to member associations. A summary of the responses was prepared and circulated as well.

However, we did not believe that the questionnaire and answers should be central to the work done by the Second Study Commission at our meetings here in Santiago. Instead, we decided that we should treat the questionnaire as being a series of background questions to stimulate the way in which the delegates would be thinking in the context of the theme of “The use of technology in civil litigation matters”.

In doing so, we invited Judge João Paulo Raposo of Portugal to prepare a paper to be presented at our first session of the Second Study Commission. He prepared an excellent discussion paper entitled “Information systems and civil justice”. His paper was circulated to all members before our meeting in Santiago for their perusal and consideration.

As we had done last year, we have focused upon the principal paper and two commentaries from different jurisdictions to provide broadness and diversity of perspective. The commentaries were prepared by Judge Flávia da Costa Viana of Brazil and Madam Justice Mette Søggaard Vammen.

These three presentations generated a lively and robust discussion amongst the member representatives who attended the meetings on Monday and Wednesday of this week.

The work of the Second Study Commission here in Santiago was made considerably easier due to simultaneous translation. The translation services provided have ensured excellent discussions amongst the delegates. We recommend that simultaneous translation be provided for future study commission meetings. Moreover, we are pleased to learn that simultaneous translation in the Spanish, French, and English languages will now be provided in the future.

For purposes of this report to Central Council, we have reduced our deliberations to principal conclusions. They are as follows:

- Information technology in civil litigation matters is a useful tool for judges as long as the creation and continued improvement thereof is made with the direct input of the judiciary and providing judges are given adequate training, resources and technical supports.
- It is potentially useful for improving access to justice when deployed with appropriate safeguards, for increasing efficiency in the administration of justice and for managing and organizing large amounts of data and information to the benefit of the process of judging and the rendering of just and correct determinations.
- Although it is a useful tool for the judiciary, special care must be taken to assure the integrity of these systems from various forms of attack and mechanisms must be put in place to secure to prevent hacking and inappropriate access.
- We believe that care must also be taken to ensure that the use of information technology does not impinge on the physical and mental well-being of users of the technology.
- It was further recognized that in certain circumstances the use of information technology has the potential to infringe on of the independence of the judiciary and the essential role of the judge, particularly if its use were to result in an excessive prioritization of efficiency to the detriment of the quality of justice being administered.

We wish to thank Judge João Paulo Raposo for accepting to prepare and provide an excellent paper and presentation. As well, we wish to thank Judge Flávia da Costa Viana and Madam Justice Mette Søggaard Vammen for accepting to prepare and present commentaries which were very well done and most helpful in our deliberations.

The topic for discussion next year to be approved by the Central Council is: “Strategies in effective case management”.

I would like to thank the Study Commission Vice-chairs, Mette Søggaard Vammen of Denmark, John Edwards of Ireland and our Secretary, Carole Besch of Luxembourg, for their helpful and wise contributions to the work of the Commission during this past year.

Thomas E. Cyr
Canada
Chair, Second Study Commission