Second Study Commission

Civil Law and Procedure

63ʳᵈ Annual Meeting of the IAJ – San Jose, Costa Rica

Questionnaire 2020

<u>HOW DATA PROTECTION RULES ARE IMPACTING ON CIVIL LITIGATION</u>

In Nur-Sultan Kazakhstan the IAJ decided that in 2020, IAJ's "Second Study Commission will focus on how data protection rules are impacting on civil litigation." The IAJ therefore wants a "short but concise answers" to the following questions.

1. *Do you store digital data in your jurisdiction (Liberia)?*

Answer: Yes. Digital data, like court minutes and rulings, is stored in some courts, especially the Civil Law Court and Commercial Law Court in Monrovia. Court papers, like pleadings, motions, communication to the court and other documents, are not digitally stored because our trial courts do not have websites and e-filing does not obtain in our jurisdiction. Though our Supreme Court has a website, e-filing is not done there. Unfortunately, digital data is not stored in most courts, particularly the magisterial courts where the traditional manual typewriters, not computers, are used. Therefore, these court records and papers are filed as hardcopies with the clerk of court.

2. *How is it stored and for how long?*

Answer: digital data is stored via hard drive of the computer (i.e. desktop and/or laptop). It is stored for as long as it is not lost, not deleted, or the computer is operational. Thus, digital data is further stored or copied in pen drives and back-ups. Also, hardcopies of digital data are printed and stored in the court's file to secure same in the event the stored digital data is for some reason lost.

3. *Who has access to the digital data in your jurisdiction?*

Answer: Specifically our law gives the clerks of the various courts access to and makes them custodians of digital data. According to *Section 8.2(2) of our Civil Procedure Law*, "papers required to be filed shall be filed with the clerk of the court in which the action is pending or will be brought." While *Section 3.13(a & f) of our Judiciary Law*, for example, makes a circuit court clerk custodian of a docket of pending cases and of all court records and papers and he/she gives "copies of them when required by law." Therefore, the clerks of the various courts officially have access to digital data in our jurisdiction. In practice, however, the judge, sheriff, party litigants and their lawyers, and other relevant stakeholders have access to digital data in Liberia. Further, under our *Freedom of Information (FOI) Act (2010)* everyone has access to

digital data in our jurisdiction. Accordingly, *Section 1.4 (b) of the Act* states: "Everyone has a right of access to information generated, received and or held by public bodies, subject only to such limitations as are necessary and narrowly established for reason of an equally or more compelling public interest."

4.   Are there digital data protection rules in your jurisdiction?

Answer: Yes. There are digital data protection rules in our jurisdiction, like a confidential PASSWORD given to the computer user to enable him/her access the stored digital data and antivirus protection against intruders who might destroy it. Also, hardcopy of the digital data is printed from the computer and filed in order to preserve the data in the event same is lost from the computer.

5.   Who covers the costs relating to the storage and protection of the digital data in your jurisdiction?

Answer: For courts that are provided computers, costs are usually covered by the Judiciary through government budgetary appropriation. Costs are also covered by donors' donations. Most judges use their personal computers to do court work and they underwrite the costs of storage and protection of digital data in our jurisdiction.

Submitted by members of Study Group Two 2020 this 17ᵗʰ day of March, 2020.

   1.   His Honor George W. Smith ---------------- Chairman
   2.   His Honor Benjamin D. Jlah ----------------- Co-Chairman
   3.   His Honor Franklin Myres ------------------ Secretary
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