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Courts of the Future

1   Introduction

In this presentation I will deal with various aspects of the use of IT in the courts. By way of introduction I will give a very brief description of the existing IT support system. Thereafter I will present some important premises for the work which is in progress on the further development of IT support in the courts. In conclusion I will outline some opportunities for the development of working methods and forms of organisation in the courts with the support of an improved IT-based operational support system.

2   Current IT-support in Swedish courts of law

Swedish law courts today present a great diversity of IT support. There are general systems which have been developed jointly for various types of court, and solutions which have been developed specifically for a certain type of court.

The lower courts, rent and tenancy tribunals, district courts and county administrative courts have had the support of the MÅHS system since the beginning or middle of the 1990s. This is a case management system which primarily supports the more administrative elements of case management. It is logically and physically located at the individual court and there is no real integration between the different courts' systems. There is no possibility of information pooling between different courts or lower courts. MÅHS was developed to support the working methods and forms of organisation that were normal at the time when the systems were developed. This, for example, has made it difficult to change operations that have used MÅHS as the tool. Thus, MÅHS provides good support to the courts in respect of case management but restricts the scope for adapting the system to new working methods and organisational forms.

Since the 1970s, the administrative courts of appeal and the Supreme Administrative Court have had a uniform system which is completely different from MÅHS. The system, Imdoc/Find-IT, actually lacks any support for case management (MÅHS's strong point). The emphasis is instead on information-searching for the judges. The system is integrated between the courts and it is possible to search for information not only in the individual court, but in the other courts too. The city and district courts can also access the information in the system. Information about cases is stored in a common database which is managed by an external company. The system is a great aid to the judges when they are searching for similar decisions in their own court and in other courts. Searching for similar cases is likely to benefit the uniform application of the law.

Other courts of law, courts of appeal and the Supreme Court have different solutions with varying support systems for case management.

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In addition to the system described, the employees of the courts also have extensive personal IT support available. This consists of support for word processing, calculation, e-mail and information searching via the Internet and in own information databases, for example the library system.

3   Some premises for the further development of IT support in the courts

Work has been in progress since 1999 to develop a new IT-based operational support system for the courts of law. The new system (VERA) is being developed on three levels. The platform or bottom level of the system is a database from Oracle. The intermediate level, business logic, is programmed in Java and the user interface is based on JavaScript and html format. Each court has its logically demarcated part of the database which is physically located in one place. The Swedish courts access the information via the judiciary's Intranet. I will not go into further detail with regard to the technology of the system design or the content of the operational support. I will just point out some significant aspects which are central for the development of the new operational support system.

3.1   When will things return to normal?

Society, of which the courts are a part, is undergoing constant change and development. With society constantly changing, the courts of law must understand and adapt to this change in order to be able to fulfil their tasks in the judicial process. Changes in the surrounding world will lead to changes in the courts. What form these changes will take and what impact they will have on the work of the courts is almost impossible to predict. What is important is to be aware that changes will come and to be prepared to constantly re-evaluate how the work of the courts should be carried out. The answer to the question in the title of this section is therefore that "Things will never return to normal". The normal is the state of constant change. This must be a cornerstone in the development work. The result should be flexible IT solutions which do not make the necessary operational development more difficult.

3.2   The goals of the court system

The courts of law are independent authorities and the Swedish Government, the National Courts Administration or others should not involve themselves in how courts rule in individual cases. Therefore, the IT support system must not be designed in such a way that the independence of the courts in their judicial process is affected.

Each year, the Swedish Government sets targets for the judicial sector in terms of throughput time (time taken to deal with a legal case). The courts' operations are also analysed on an annual basis in order to provide input data for the allocation of financial resources between them. A well-developed IT support system can be used to help the courts to achieve the goals which have been formulated for their operations and can also be used in the analysis of the operations themselves.

The overall goal of the judicial system can be described and measured in a variety of ways. In simple terms one can say that the goal of the judicial system is to determine cases quickly and with high quality. The goal of the system is thus concerned with the result as the parties, legal representatives, witnesses, aggrieved parties, media, citizens etc. experience it. The work of developing the new operational support system is based on the task of the courts being to satisfy the demands of these external groups, demands which can be formulated on the basis of legislation. For the sake of simplicity, I will hereafter refer to these external interests as the court's clients. The word "client" can appear somewhat misleading, but it works well when analysing the operations in order to develop an IT support system. The "client" concept also works well when using the IT support system as a tool for change. The word "client" does not fit so well in respect to managing individual cases and is wholly inappropriate as a term in respect to judgements and court decisions. The external parties concerned are therefore not called clients in the IT-based operational support system.

IT support shall be designed in such a way that it provides the greatest possible value to the courts' clients. By focusing on developing an IT support system which creates the greatest possible client value, the courts will at the same time obtain an efficient support system. Issues in respect to the courts' internal organisation and working methods can never be put first when designing IT support. Organisation and working methods are means to the ends which have been defined. Furthermore, they are always changing.

What is easy to quantify and describe is the part of the goal which consists of time, i.e. the time that it takes to arrive at the court's decision. Another aspect is the quality of the decisions. This is more difficult to quantify but some guidance can be obtained by looking at factors such as the frequency of appeals submitted and the frequency of successful appeals.

3.3   Business process re-engineering as a method

In order to be able to meet the clients' demands on the judicial system and provide the courts with opportunities to create as great a client value as possible, we use a process-orientated working method in order to further develop the courts' IT support system. The method has been originally taken from industry and has been adapted to public organisations. The operational method comprises identifying processes based on the type of clients, analysing the processes and making conclusions. It is only thereafter that one can address the consequences. One of the consequences is developing the new IT support. Another consequence is adapting working methods and organisation so that the greatest possible client value can be created. This work, however, has to be done by the individual courts. A basic prerequisite for the work on the new IT support system is that it shall facilitate efforts to change working methods and organisation, but the support cannot be designed in such a way that it forces a change in methods of operation.

3.4   Existing technology – Is it possible to create a judgment with the aid of a   mobile phone?

The rapid rate of IT development in recent years has given us good opportunities to utilise existing technology, and more or less developed solutions. Before starting to design a modern IT support system a number of questions must be asked about the operations. We have utilised the process-orientated work method to do this.

The questions that should be asked are why a certain operation is being carried out, what is being done and what should be done, and finally how it should be done. It is really

only with the last question that the new technology and its possibilities come into the equation. Thus it is not possible to begin by looking at the opportunities offered by the technology, otherwise one could imagine that a judgement could be written with the aid of a mobile phone. This is actually possible, but the idea of designing an IT support system to act in this way will not arise if its has been asked why the operation is carried out and what should be done, at the same time as the value to the client has been kept in focus. (Mobile phones can be used, for example, to distribute court judgements in real time to parties if they so desire, but that is another matter.) It has been a common mistake, though, in many development projects to focus on the opportunities presented by new technology, while paying less attention to the requirements of the clients and the operation in question. The work of designing a new IT support system must therefore be undertaken by people who are knowledgeable about operations in co-operation with people possessed of IT expertise.

4   Possible development

In this section I will discuss some possibilities for developing the court system with the aid of an improved IT support system. I will first deal with issues concerning the organisation and working methods of the courts and then issues concerning information management.

4.1   The internal organisation – The court's prioritisation of its work

In the above section I have pointed out the significance of the client's perspective in the development of the new IT-based operational support system. This perspective can also be used in the individual court and be the factor that guides planning and allocation of priority. With the help of the new IT support system the courts will be able to analyse the work facing them and to forecast case flow etc. on the basis of historical data. Such analyses and forecasts can then be used to plan and organise operations in order to achieve the greatest possible client value. I believe that the courts which utilise these opportunities will be organised and will work in a completely different way from that which has been normal in recent years. I will only raise a couple of aspects here in respect to organisation which may be handled differently if a client perspective is employed at the same time as a powerful IT support system is in place.

4.1.1 Division of the work within the court

The allocation of cases, and thereby the division of work, is normally carried out when a case arrives at the court. The allocation is thus made when it is known at least how much work will be required to deal with the case. This is often done primarily among the judges as the courts strive to achieve an equal distribution of work, and as this shall also lead to fairness for the clients. A well-developed IT support system can also provide more scope for taking the clients' requirements into consideration when allocating the work within the court. The allocation of the work can be done at several different times and can relate to other factors than the complete case management. An initial allocation of the work should be

complemented by the opportunity for re-allocation and redistribution of goals and work assignments. This can be done with the aid of planning tools which can be used successively as it becomes known to the court how much work the case actually involves. The basis for allocating work within the court system can be done better than is usually done at present.

4.1.2 The organisation

A case is often allocated to an organisational unit, usually a department, which handles the case from beginning to end. The norm is that the case remains with the same department all the time it is being dealt with in the courts. This can almost be compared to actually dividing a court up into a number of smaller courts with a more or less well-developed degree of co-operation. The development in other areas of society is heading in the direction of larger units with more flexible organisations. I believe that the courts will follow in this direction and go from acting as individual proprietor enterprises to becoming large-scale enterprises. This development can be seen in respect to the external organisation where courts are merged to form larger units, but this must be followed by a corresponding change in the internal organisation in order to be able to achieve an increase in client value. With the aid of a modern IT support system, it will be possible for new organisational forms to be created without entailing any loss of control over the organisation. One possible development is that not all incoming cases are dealt with in the same way and in one joint organisation, different organisations instead being created within a court, depending on the amount of work required for the various cases.

4.1.3 The meeting with the client

In the operational analysis which was carried out as part of the development work on a new IT-based operational support system, the courts often returned to the issue of various elements which interrupt the planned operation. One such element which the court staff found annoying was all the telephone calls from parties etc. We discussed various solutions to this and suggestions were advanced, including limiting telephone time so that the work in court could flow better during working hours. Such a solution, however, is not exactly client-oriented. One should think instead in terms of a very important part of the work consisting in having contact with clients and informing them about what is happening in the case. This should be taken into account when considering how the work should be organised with the aid of an IT-based operational support system. The meeting with the client is important, and in this respect there are major opportunities for creating client value.

Existing organisations and work forms are often based on the client finding the right person in the court in order to obtain answers to his/her questions. When the whole organisation has the opportunity to access information about all cases, opportunities are opened up for organising the meeting with the client differently. In other organisations various types of Call Centres are often used to deal with telephone enquiries. Such solutions require good access to information, which the IT support system can provide, and knowledge about the operation and authority within certain frameworks to act and provide information. I believe that there can be good opportunities to work with such solutions, even across court areas of responsibility. Many questions about case management can probably be answered

and documentation provided by persons who work in several courts. This leads on to issues about the external organisation of the judiciary, and issues concerning the boundaries of responsibility between courts. I am convinced that the existing way of demarcating boundaries of responsibility between the courts can be improved if one means here improvements from the clients' perspective.

4.2   The new external organisation – The court district

IT support can be used in order to create a more flexible and client-oriented internal organisation. It must also be asked how the IT support may affect the external organisation or the country's division into court districts. The place where a case is to be dealt with is determined in accordance with the regulations in the Swedish Code of Judicial Procedure and other legislation. These regulations date from a time when today's opportunities for information management were not available.

For the client, the jurisdictional regulations are less important than other factors, for example the time it takes to bring a case to trial. The physical distance to the court does not have any significance in many cases. The majority of cases in the general administrative courts can be determined by written proceedings; the same applies to many cases in the appellate courts. I believe that the work of a certain court in the future will not be decided by where the disputes arise, but according to the capacity the court has to decide the case. I can imagine that a developed IT support system will enable more flexible jurisdiction regulations which will give the parties a greater say in respect to where the case shall be dealt with. Such a development will also be facilitated by new video technology which will enable witnesses and others to be in a physical location other than the premises in which the proceedings are being held. The opposite situation may also be possible in which the court's officials are located in another place to that of the court room where the parties are located.

If, in this way, the clients obtain greater influence over where the case shall be dealt with, the work can be directed to where there is the production capacity. Elements of this can already be seen today when parties to agreements agree the legal venue where any future disputes shall be resolved. This could also be done in order to obtain rapid processing of a case or processing by a court where specialist knowledge is available.

The opportunities of directing the work to where there is production capacity are being opened up with the aid of the IT support system which will be implemented over the next few years. It will be possible, as I mentioned earlier, to allow the parties an increased say, but it will also be possible to manage the work in order to achieve the greatest possible client value otherwise. One example of such management may be that courts are given different profiles and will specialise in different areas of the law. The demarcations of the court's actual work content can thus be determined by other factors than the jurisdiction regulations. If work is determined according to production capacity, this will affect the way in which resources are allocated to courts. The current method of resource allocation is based on measuring the workload in different ways and allocating resources according to how much the courts have to do. The purpose of such an allocation model is not primarily to create client value but rather to create a more equitable allocation between independent authorities, in much the same way as efforts are made within a court to create an equitable distribution of cases among judges. The allocation of resources can instead be based on the client value that a certain court creates. This is close to a form of competitive situation between courts, and in other areas of society competition is said to create increased client value. This could be the case for courts and their clients too. There are even external competitors to the courts; legitimate in the form of arbitration tribunals, and illegitimate in the form of "enforcer" gangs and suchlike.

Encouraging increased competition, both internal and external, with the aim of increasing client value could perhaps be tried and in that case with a new IT support system as a tool. Naturally, in such cases there are also other aspects to consider, such as the preservation of independence in the judicial process etc.

In the future, the demarcation between courts may become less rigid and the situation may approach that of a virtual court organisation where the work is not so rigidly linked to the physical unit which currently constitutes a court. From the client's perspective it could for example be possible to have a court of appeal for the whole country where the work is directed to various local organisations according to where production capacity is available.

4.3   Access to information about the court's activities

Traditionally all information relating to a certain case has been managed in a physical file which is kept in the court. The parties have had access to certain parts of this information in the form of various documents. When the MÅHS system was introduced, this meant that certain information in respect of the case became available via the system internally within the court. The next stage is to open up the system and thereby to make the information concerning the case accessible outside the court as well. This also touches upon issues regarding the way in which the court meets the client. I would like to indicate some possibilities in this respect.

4.3.1 The parties' access to relevant information

The parties in a case should have direct access to such information concerning the case as is to be found in the operational support system. This could be compared with the access a bank customer can gain via an Internet bank. It is thus a question of being able to obtain information in real time about what is happening and about being able to provide information to the court. The parties should thus be able to go directly into their case and see the relevant information via an Internet service or other method. It may be difficult to give a party access to all information that the court has about a case. An example of such a situation could be direct access to documents which have been submitted to the courts. These documents may contain information which is confidential, and it is not reasonable that all such confidentiality issues shall be solved in advance and that all documents be checked by the court before they are made available to the parties. It is probable that the party can be given the information that the document exists, when it was received and who submitted it, and thereafter have the chance to order the document. Only at that stage will the court make an assessment of the confidentiality issue, and normally it should be possible for a document to be distributed, for example via e-mail, relatively promptly (provided that the court is organised to meet these client demands). The parties should also be able to provide information to the court directly via an Internet service or suchlike, and thereby to co-defendants or opposing parties. There may also be opportunities to allow the parties to submit a large part of the information which is required in order to register the case, for example the prosecution in a criminal case can submit practically everything that is required in order to initiate case proceedings in the court.
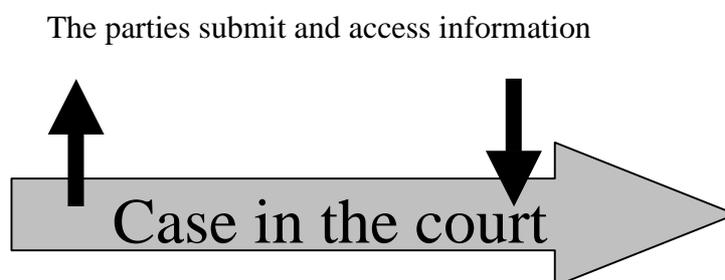
The parties submit and access information

Case in the court

Figure 1: The information flow in a case

4.3.2 The information flow between courts – cases on appeal

When a case is appealed, the physical file is sent to the higher court. At present the file is the completely dominating information carrier for the higher court. With a new IT support system the information flow can be integrated between the courts so that one can look up and down in the court chain in order to find out what is happening to the case on appeal. This provides opportunities to recycle information about basic case details.

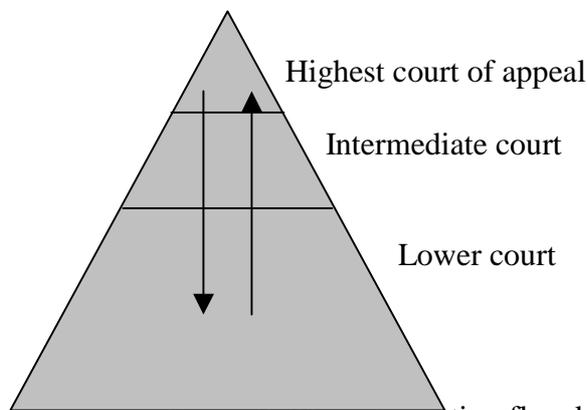Highest court of appeal

Intermediate court

Lower court

Figure 2: The information flow between courts

If the information is integrated in this way between the courts, completely new opportunities of making court rulings public will be created. It is easiest to see this in respect to criminal cases. In order find out what the result has been of a criminal case in the appellate court, at present a party may need to obtain the following elements of the court of appeal's ruling:

- The prosecution's statement of the crime as an appendix to the judgement of the court of first instance.
- The judgement of the court of first instance.
- The findings of the court of first instance.
- The appeal as it has been noted in the appellate court.
- The judgement of the appellate court.
- The findings of the appellate court .

Except for the findings of the court, this is a question of structured information which can be handled together with the aid of a developed IT support system. The result of the verdict of the appellate court could be a summary of the structured information where it is stated how this has been altered from the prosecution's statement of the crime right up to the appellate court's judgement. I believe there are major opportunities here to create greater client value

with the aid of the IT support system without actually affecting the content of the courts' work: it is just a better presentation of the result compared with the present set-up.

4.3.3 Other flows of information between courts

There is a need for direct access to information about other courts' cases even in other circumstances than when a case is being appealed. The administrative courts of appeal and the Supreme Administrative Court have had a well-developed system of this kind for a long time now. It is used above all by the judges in order to search for similar decisions, a situation which must be deemed of benefit in attaining a uniform judicial application. There are also elements of this in the general courts but there the methods are not so developed as in the administrative courts of appeal and the Supreme Administrative Court. For example there is a certain exchange of this type in that certain reports of proceedings with reviews of decisions are sent to other courts. There are good opportunities in this respect to allow courts to have access in real time to at least meta data concerning the decisions of other courts. It is possible to solve this from a technical perspective, what it is important to focus on is obtaining good quality levels in respect to the information that is to be made available to others.

4.3.4 Division of work between the court and the parties

When the court and the parties have access to common information in respect to the case in real time, opportunities are created to work in other ways than the traditional ones. The boundaries of the responsibility of the court and the parties respectively can be called into question and new solutions sought. It is difficult to see the direction in which this development can go, but with shared information and transparent systems it should be possible to find more expedient solutions that the ones in use at present and which are largely based on paper-bound information or on attending court in person. I can imagine that development may go in the direction of the parties assuming a greater responsibility for progressing the case, for example through greater involvement in the planning. This could take the form for example of the prosecution, which provides the court system with the greater part of the information required for the management of the case, also planning and summoning the defendant to pleadings/proceedings in the court. In such a situation the court should provide the resources to adjudicate upon the case – premises, equipment etc. – and the prosecution will have the responsibility of booking these resources within given limits.

Another possibility could be to use the court's system and the common information in the system as a platform in order to try to resolve disputes prior to initiating proceedings. The parties should be able to use the court's system for example for conciliation discussions, with or without the active participation of the court.

5   Concluding viewpoints

Now that a modern and transparent information management system is being introduced in the courts over the next few years, we will have opportunities to change and improve operations for the benefit of the courts' clients. The new IT support system, however, will not automatically lead to anything other than marginal effects. We are now facing a greater task than just the development of IT support. It is a question of utilising the opportunities which

are created. In this respect the courts need to be prepared to analyse and re-evaluate their working methods and also to implement major changes. Only then will we really benefit from the investments which are now being made in an IT-based operational support system. If the present court organisation and working methods are retained, the benefits will be marginal.