

Second Study Commission

Civil Law and Procedure

Questionnaire 2021

Response by the Swiss Association of Judges

1. Do you store digital data in your jurisdiction ?

Preliminary note: There are different electronic case management systems in Swiss courts. An E-Justice project should be implemented in a few years. This will include courts and prosecution in all Switzerland.

Two larger systems currently exist. The canton of Zurich has its own electronic case management system. Not all files are kept electronically. The increase in home offices during the pandemic has meant that almost everywhere, at least the essential files are scanned. The data are under the control of Courts (support by IT Court Services).

2. How is it stored and for how long ?

This is regulated in a law or ordinance concerning archiving and may vary from canton to canton. In the canton of Zurich, official secrecy and data protection apply to files of any kind for a period of 30 years from the time of archiving. If personal data is involved, the protection period is 30 years from death and, if this is uncertain, 100 years from birth.

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

Judges, court clerks and administrative staff have access to the data they need in their field of work. Within the court, authorisations are created for the different departments.

Based on a corresponding legal foundation (European Convention of Human Rights, constitution, etc.), parties to the proceedings and third parties may have access to the files under certain conditions. This applies in particular to decisions of the court. These are generally accessible in anonymised form via corresponding platforms.

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

The data is subject to official secrecy and federal data protection law.

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

The costs are covered by the court or the canton or the Confederation. Costs may be charged for the access to the file by third parties under certain circumstances.