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Tools for transparency and demystification

It is a great pleasure for me to contribute some experiences of an Austrian judge. I would like to concentrate on practical tools, which help to improve transparency and demystify the work of the courts. Both is very important to ensure and increase the acceptance of judicial decisions. I am well aware, that the situation in our respective States is very different. But as the approach of the Network is to provide a platform for accessing good practices and promoting peer learning, I want to share with you, some institutions in areas of practical importance, which in my view are very successful.

The first one is the **Legal Information System** of the Republic of Austria, an internet based database open to the public. It is not only a computer-assisted information system on Austrian statutes it also includes the full text of all decisions given by the Supreme Court at least since 1980. However, the most innovative and beneficial part of this scheme is the electronic collection of **short summaries of the legal reasoning** of Supreme Court decisions since 1945. The collection of these summaries is the result of the analyses of court decisions by the so called Research and Documentation Office of the Supreme Court. Young judges who are temporarily assigned to this office extract from the decisions the sentences containing the main legal reasoning – the legal essence. This is then reviewed by the presiding judge of the relevant panel. The summaries – which are called “Rechtssätze” – are entered into **virtual file cards** which are indexed by the relevant statutory provisions. In **every new decision**, the Judges compare the main legal reasoning with the already existing files. In case of similarities, dissents or confirmations, Judges of the Research and Documentation Office add a short statement to the existing file. If there are substantially new arguments they create a new file. These short-files – today there are more than 130.000 - are very important for the legal practice. They ensure the full **transparency of the case law** of the

Supreme Court. So it is very easy for everyone to check whether we decide in accordance with our precedents or not, and it is also very often possible to **predict the outcome of pending** legal proceedings, at least as far as questions of law are concerned. The website with the database is open to the public without any fees. It has about 100 million hits every year. The Research and Documentation Office does not only analyse national decisions but also the most relevant decisions of the European Court of Human Rights (ECHR). Therefore the database also ensures that national decisions are in accordance with the case law of the ECHR.

The second tool I want to mention is to open courts and the process of decision shaping to the interested public. One way to do so is to integrate lay judges. In Austria, we have a very long tradition of such **lay judges** in labour cases. First instance panels are composed of one professional judge – who is the presiding judge – and two lay judges. At the Courts of Appeal and at the Supreme Court, the panels consist of two lay judges and three professional judges, so the latter have the majority. Lay judges enrich the decision making with their experience from their work place and help to make decisions **more acceptable** to the parties. Sometimes it is reported, that lay judges are not objective, but this is not my experience. In my experience they have a very high standard of impartiality.

Another important aspect is to open up the process of decision shaping by strengthening the **contact with universities** - law schools - and by **taking into account relevant legal literature**. Due to my experience this improves the acceptance of court decisions in many ways. The academic world of universities has got a lot of resources to place the relevant provisions of law in a **systematic context** and to understand the law as a cohesive whole. This helps to interpret law. Quoting legal literature also improves the acceptance of decisions in the academic world. Law professors are important **stakeholders** in the public discussion of difficult court decisions. As academic “experts” they are also shaping the perception of judgments in public media.

Furthermore we have several forms of cooperation with universities which enable us to give **young academics access to the Supreme Court**. They do some research on questions of general importance in specific cases. This helps us in our research and helps the universities to concentrate their research on problems of practical relevance. It also gives young academics insight in our court.