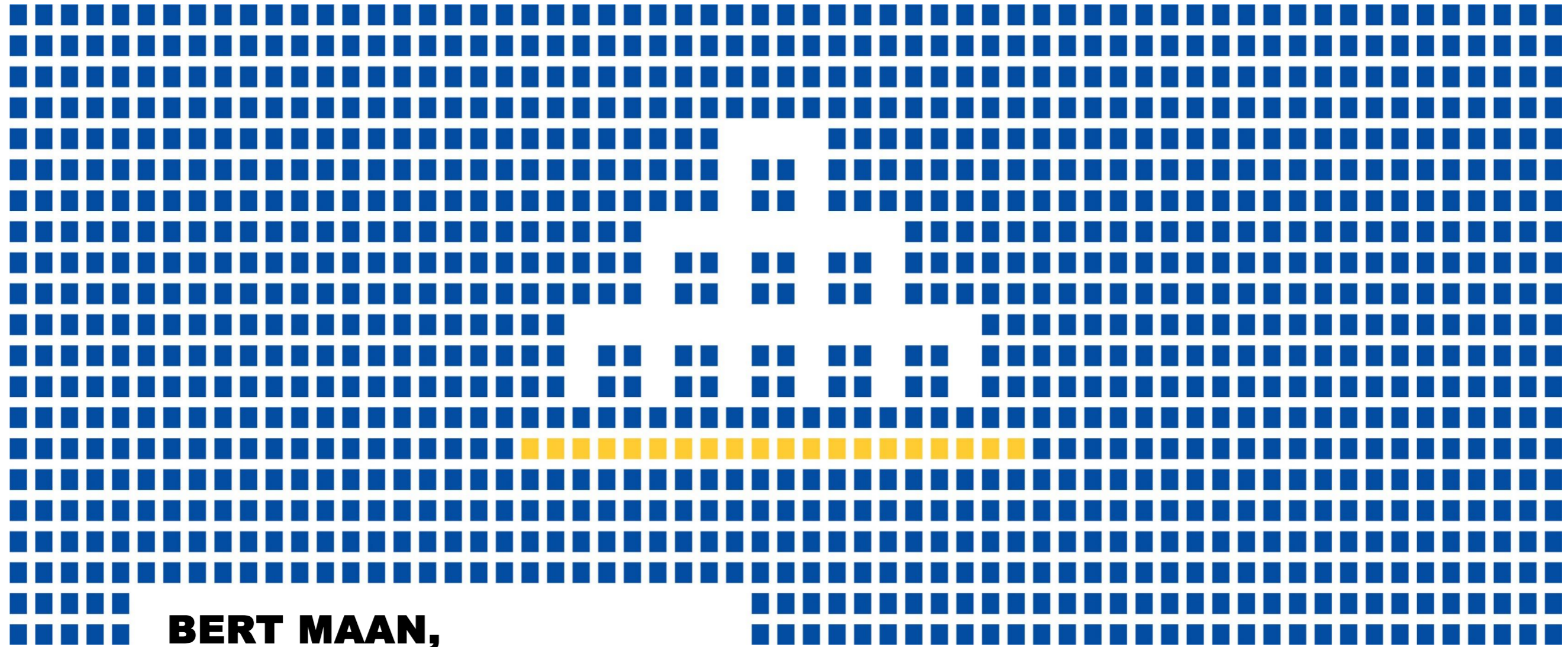


THE FUTURE OF INNOVATION: CHALLENGES AND OPPORTUNITIES FOR THE JUDICIAL SYSTEM OF UKRAINE



BERT MAAN,
International Expert, EU
Project “PRAVO-Justice”



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PRAVO-JUSTICE

BACKGROUND

- Trainee judiciary 1969-1976 (judicial assistant, prosecutor, attorney)
- Judge - vice president district court Breda 1976-1992
- President district court Zwolle-Lelystad 1992-2006
- Judge court of appeal Amsterdam 2007 – 2014
- Expert CoE, EU, CILC, GIZ, AIRE et al.



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OVERVIEW

- Challenges and Opportunities -
New civil and commercial
procedural codes
- Opportunities IT development



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CIVIL PROCEDURE

- UA - Civil Procedural Code December 2017
 - Emphasis on First instance courts
 - Changing role appellate courts
 - Filters for appeal in cassation
- Enhancing relevance case law



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CHARACTERISTICS

- Written claim with justificatory documents – reply-answer – objection
- Preparatory hearing
- Additional hearings
- Trial
- Judgements



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OVERRIDING PRINCIPLE

- Moving from the procedure owned by the court to
- Procedure owned by parties
- Implying:
 - Lesser involvement of the court as to the substance
 - Active participation of the parties
 - With the notion of the procedural risk



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AUTOMATION-ICT

- Introduction ICT technology
- Electronic litigation
- Fundamental changes cannot be avoided:
introduction ICT implies changing existing habits
and rules.
- NL: e.g. experiment with cases (with mandatory
legal aid) in two courts (Zwolle and Utrecht)



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OPPORTUNITIES – ICT

- Streamlining the procedure:
- Exchanging documents (claim, defence, reply, response to reply) electronically
PM notification
- Reduction of numbers of hearings
- Allocation of cases – in a later phase



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TRIAL

- Fair hearing – parties may abstain from hearing
- Electronic files for judge and parties
- Rearrange lay out courtroom
- Reduction of work clerks-minutes hearing



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USE OF ICT NETHERLANDS

- Progress civil/commercial procedures
- Planning hearings
- Equipment
- Communication – e-mail/intranet



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CASE LAW etc.

Judicial documentation centres (libraries)

Available - judicial portal:

Case law

Handbooks

Laws

Magazines



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TRAINING AND EDUCATION

- E-learning by judicial training institute
SSR
- E.g. contracting through internet



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EXPERIENCE NL

- Mandatory digital proceeding – administrative (defendant is always government)
- In administrative (refugee) cases when an attorney represents the applicant
- Instructions – pdf
- Log in via “mijn rechtspraak” using pass by the Bar



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EXPERIMENT IN NL

Pilot – civil procedure in two first instance courts (Central Netherlands-Utrecht and Overijssel- Zwolle)

Mandatory digital proceeding

Only in cases with mandatory legal aid (over Euro 25.000)



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PROCEDURE

Connection point at the court (website-log in)

Digitally submitting the claim, as well as additional documentary evidence

Notification to defendant – e-mail or by bailiff

Registration by lawyer – representing the defendant



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CONTINUATION

- 6 weeks for submitting defence with evidence-documents
- Additional documents until 10 days before the oral hearing
- Courts sends the agenda for the hearing (matters to be discussed) to parties
- Oral hearing



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ORAL HEARING

- Parties may bring witnesses
- Minutes of the hearing
- Judgments – immediately or after six weeks
- Final judgment or interlocutory judgment
- Electronically available



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