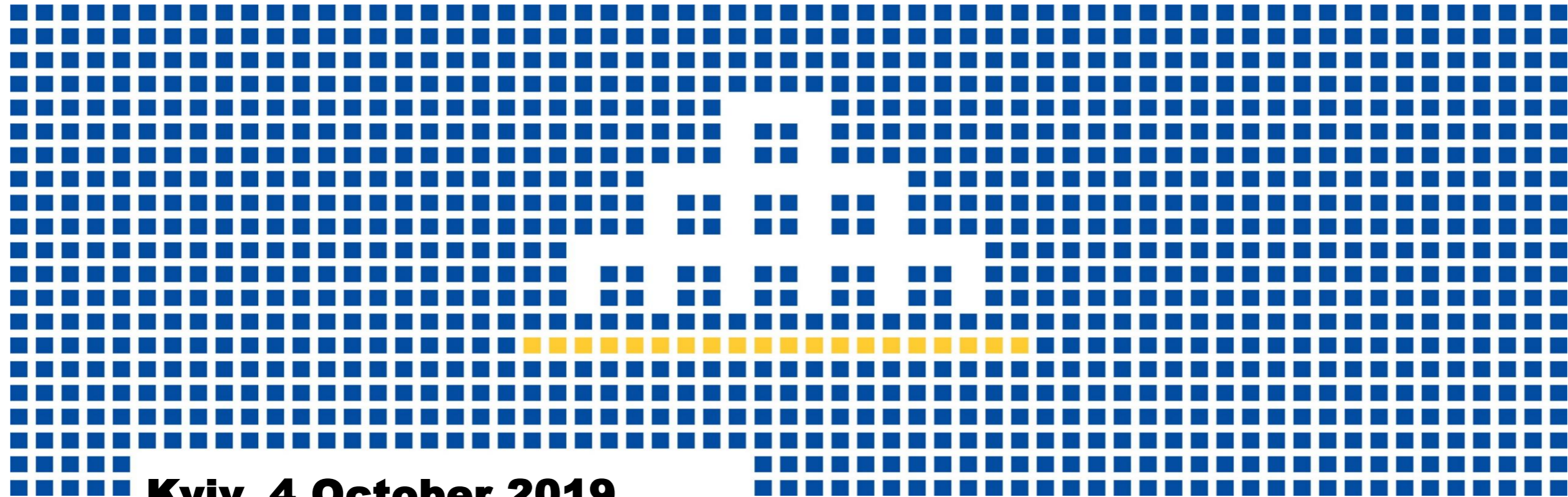


Monitoring Civil/Commercial Procedural Codes



Kyiv, 4 October 2019
Judicial Forum VIII
BERT MAAN, International
Expert, EU Project “PRAVO-
Justice”



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Background

Judge Breda 1976-1992 President District Court Zwolle 1992-2006

judge court of appeal
Amsterdam 2007-2014



- **1993 – to date Expert Council of Europe, Pravo-Justice, EU, CILC, GIZ, AIRE et al.**



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Pravo Justice - Methodology

- **Introductory consultations**
- **Development questionnaire – MC – open questions**
- **Round Table and interviews in Kyiv and regions**
- **Statistics and recommendations**



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Soft law

- Report refers to judicial culture
- Promotes introduction practice directions/procedural guidelines
- Clarify expectations of all involved in litigation
- In line with that way of thinking – early stage trial conference



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Some findings in the report/proposed actions

- Need to analyse working process in courts
- Size of courts
- Independence and impartiality
- Hearings – early hearings/trial conference?
- Fees



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Analysis working processes

- **Court is not a factory (?)**
- **Cases come in – results (judgements, decisions, settlements, withdrawal)**
- **Is this process efficient – non-lawyers see matters different**
- **Reality of hearings**



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Judges work

- **Essential function – to sit and to decide**
- **Impression – many procedural issues and conflicts, not touching the real dispute**
- **Report proposes increased use of high qualified supporting staff**



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Size of the courts

- In particular – larger first instance courts (international trend)
- Independence and impartiality
- Specialisation
- Vulnerability



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Coordination

- **Report finds:**
- **Many state bodies involved in the organisation of the judiciary:**
 - Supreme Court of Cassation
 - High Council for the Judiciary
 - State Judicial Administration
 - Ministry of Justice
 - Presidential Administration
- **How to coordinate actions and initiatives?**



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Independence and impartiality

- Report shows as outcome of the monitoring :
- *Further* measurers are needed to improve and ensure independence and impartiality
- What should we think of?



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Fees

- Court fees for every request and actions because such action takes court time
- “It ‘s not a sweepstakes”
- No return in case of withdrawing a case
- Disciplinary proceedings



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Thank you!

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