

**Evidence-Based Governance in the  
Electronic Age**

**Case Study**

**Legal and Judicial Records and  
Information Systems in Argentina**



*A World Bank/International Records Management Trust  
Partnership Project*

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## INTRODUCTION

- 1 *Evidence-Based Governance in the Electronic Age* is a three-year project delivered in partnership between the World Bank and the International Records Management Trust. It involves coordinating a global network of institutions and organisations to facilitate the modernisation of information and records systems.
- 2 Records, and the information they contain, are a valuable asset that must be managed and protected. Records provide the essential evidence that a particular action or transaction took place or that a particular decision was made. Records support all business functions and are critical to the assessment of policies and programmes, and to the analysis of individual and organisational performance. Without reliable records, government cannot administer justice and cannot manage the state's resources, its revenue or its civil service. It cannot deliver services such as education and health care. Without accurate and reliable records, and effective systems to manage them, governments cannot be held accountable for their decisions and actions, and the rights and obligations of citizens and corporate bodies cannot be upheld.
- 3 New technologies provide great potential to improve services and efficiency, but the evidence base upon which governments depend must continue to be protected and preserved. For initiatives such as e-government and e-commerce to be successful, governments must have access to information that possesses certain crucial characteristics: the information must be available, accurate, relevant, complete, authoritative, authentic and secure.
- 4 The aim of the *Evidence-Based Governance* project is to make records management a cornerstone of the global development agenda. The challenge is to rebuild and modernise information and records management systems in parallel with complementary measures to improve the broader environment for public sector management. The project represents a major opportunity to integrate records management into global strategies for good governance, economic development and poverty reduction.
- 5 During the first phase of the project, studies were carried out within the World Bank and in a range of countries to explore the requirements for managing personnel, financial and judicial records in a hybrid, electronic/paper environment. This report is one of thirteen case studies that illustrate the issues involved. The studies have been supplemented by findings derived by a global discussion forum involving senior officials and records and archives professionals. The knowledge gathered through these means is providing the basis for the development of assessment tools to measure the quality of records and information systems in relation to clearly defined functional requirements and benchmarks. The project will develop tools for use in the three areas of study: personnel, financial and judicial records systems. Ultimately, the information gathered will also help to define the requirements for global capacity building for managing electronic records.
- 6 The case studies have been chosen to represent differences in geographic regions, administrative structures and resource environments. The management of legal and judicial records has been examined in Argentina, Ecuador, The Gambia, Singapore

and South Africa. These countries give a broad geographical spread and represent different degrees of development in financial reform and the use of electronic records.

## **Terms of Reference and Methodology**

- 7 This report covers a visit to Buenos Aires, Argentina, by Andrew Griffin and Kelly Mannix from 14 to 15 April 2002 to examine the improvements to records and information systems that are being undertaken in the judicial area. Because the visit lasted only two days, the findings and observations provide only an overview of key issues in managing court records.
- 8 The case study represents a snapshot in time. The observations it contains were current as of April 2002. Since then, new developments and improvements have taken place on a regular basis and therefore the case study does not represent the situation at present. It is hoped that the findings in this report will highlight issues that will continue to arise in many other situations.

## **Acknowledgements**

- 9 Grateful thanks are extended to all those people who gave of their time during the brief visit to Buenos Aires. Particular thanks are extended to Sara Obal of the Judicial Reform Project for her assistance and co-operation during the visit.

## **EXECUTIVE SUMMARY**

- 10 Two judicial systems co-exist under Argentina's federal structure: the federal judiciary and the provincial judiciaries. In addition, there is a separate judicial system for the City of Buenos Aires. The federal judiciary is divided into lower courts and appeal courts, with the Supreme Court as the court of last resort. The Supreme Court superintends the lower courts. As a result of a national constitutional amendment in 1994, administrative functions formerly assigned to the Supreme Court are now vested in the Judiciary Council, which is expected to increase transparency in human resource management. The Judiciary Council also enacts the Judiciary's organisational rules, prepares the annual budget and administers the Judiciary's resources. (paras 21 to 22)
- 11 Each province is responsible for its own administration of justice. The structure of provincial judiciaries is similar to the federal system with lower courts, courts of appeal and a supreme court. Judicial councils have been established as a means of protecting judicial independence. While the National Congress approves substantive law, each province has its own procedural codes for civil, commercial, labour criminal and administrative proceedings. These codes require that most judicial actions must be carried out in writing. Another judicial institution is the Council of Magistrates. Allocation of responsibilities between this Council and the Supreme Court is not entirely clear, and this could cause problems in agreeing standards for the management of court processes. (paras 23 to 29)

- 12 The Judiciary in Argentina faces problems similar to many other Latin American countries. These include delays, overburdened courts (particularly the national courts of first instance), lack of clear administrative proceedings, lack of accurate case monitoring and reliable case management, and widespread usage of *ex parte* communications. There are no requirements or agreed standards and procedures to ensure access to, or privacy and security of, court personnel and records. (para 30)
- 13 Another issue facing the Judiciary is the total centralisation of court administration. The central federal administrative unit located in Buenos Aires decides on the needs of all national and federal courts throughout the country. The problem of over-centralisation is recognised and a programme of decentralisation had been proposed. This includes the allocation of a special budget for each court in order to facilitate local minor procurement. The courts are handling a very high volume of work and commercial courts, in particular, generate huge numbers of files. Security of files is an issue and files are often missing from their designated storage locations. (paras 31 to 41)
- 14 Computerisation began in 1981 with a case distribution system for the civil appeals court. There are a number of different computerised systems for the different types of courts (civil, criminal and commercial), but none allow for the entry of detailed information about cases, and all have limited case tracking functionality. In the Court of Appeal, where lawyers initially file their cases, basic data about the case is entered in a case management system. First level judges are required to provide the Court of Appeal with large amounts of case information, but paper forms, and not the computerised system, control this process. (paras 42 to 46)
- 15 Parts of the administrative management of the Supreme Court have been automated. The Argentine System of Juridical Information (SAIJ) provides a database of national and provincial legislation, regulations, decrees, court decisions and jurisprudence. SAIJ is accessible via the Internet. Other examples of computerisation are case tracking systems in civil courts and pilot programmes for electronic and automated filing, with follow-up of cases in different jurisdictions. A new case management system is to be designed and is in the tendering process. (paras 47 to 51)
- 16 The staffing of courts and workflows were examined. Work is sometimes delegated by court clerks to unqualified lower court staff and this seems to cause some problems. Additionally, unpaid interns are sometimes performing front desk duties where contact between lawyers and court officials takes place. (paras 52 to 57)
- 17 A National Judicial Reform Programme is seeking to achieve improvements in four broad areas: reducing delays in processing cases; managing human resources; judicial efficiency and effectiveness; and promoting access to justice. The primary objective of a World Bank project is to identify, establish and evaluate conditions necessary to support judicial administrative reform, and this will probably eventually be part of a larger legal reform project. The current project involves developing and implementing a model court programme in 12 or more federal first instance courts. Improved records management is also recognised as an important contributing element to a more efficient system. A new case management system is to be designed as part of the project. (paras 58 to 65)

- 18 Under the existing paper system, each judge and his/her staff comprise a separate organisational entity or court. A new pilot system has been modelled on the co-operative court system. Designed by judges, it is based on common units, with active files separated from inactive files. While each judge will have responsibility for his or her own files, there will be a common unit for inactive files. Some Court of Appeal officials are known to be committed to change and strongly support the co-operative court system, but there is also resistance to change, both among officials and users, particularly lawyers. A step-by-step approach will be used to introduce the new system. (paras 66 to 72)
- 19 A long-term aim of the new system is to have electronic case files in a paperless court. The vision is that all active paper files will be migrated to the new system. Files will be scanned using optical character recognition (OCR) software. Standards will set out the requirements for preserving electronic records. However, a hybrid system will need to be in operation for some time. Paper files will continue to be used by those courts awaiting the new system or as the 'evidentiary' record. (paras 73 to 74)
- 20 The principle of managing records throughout their life cycle has yet to be adopted by the National Archives, and its role in managing records during their current and semi-current phase appears to be minimal. There is little connection, for example, between the National Archives and the Judicial Archives. Within the Judicial Archives, all agreed that the legal requirements governing retention and disposal of records require updating to take account of changes. Furthermore, issues relating to the management of electronic records over time need to be considered. (paras 75 to 77)

## **JUDICIAL SYSTEM AND INSTITUTIONS**

- 21 There are two judicial systems under Argentina's federal structure: the federal judiciary and the provincial judiciaries. In addition, there is a separate judicial system for the City of Buenos Aires. The following brief description of Argentina's judicial systems is necessarily simplified.
- 22 The federal judiciary is divided into first instance, or lower, courts and second instance, or appeal, courts, with the Supreme Court as the court of last resort. Federal courts hear cases relating to constitutional matters, treaties with foreign nations, maritime matters, public ministers and diplomats, as well as cases that involve parties from two or more provinces. In addition to its jurisdictional functions, the Supreme Court superintends the lower courts. As a result of a national constitutional amendment in 1994, administrative functions formerly assigned to the Supreme Court are now vested in the Judicial Council, which commenced its operations at the end of 1998. Federal courts of appeal are distributed throughout the country.
- 23 Each province is responsible for its own administration of justice. The structure of provincial judiciaries is similar to the federal system and contains lower courts, courts of appeal and a supreme court. The provincial courts deal with the application of provincial law and with civil, commercial, criminal, mining, labour, and social security statutes enacted by the national legislature. While substantive law is approved by the National Congress, each province has enacted its own procedural

codes for civil, commercial, labour, criminal and administrative proceedings. Though there are exceptions, these codes require that most judicial actions must be carried out in writing.

- 24 Under article 129 of the national constitution, as amended in 1994, Buenos Aires is an autonomous administration with its own powers to legislate and exercise judicial authority within its boundaries. Discussion has taken place about transferring certain courts sitting in Buenos Aires, that do not have federal jurisdiction, from the federal system to the city. Following the constitutional amendment, Buenos Aires enacted its own constitution, which provides for an independent judicial branch headed by a local supreme court, as well as for an independent Attorney General's Office.
- 25 Following the pattern of western Europe, judicial councils have been established as a means of protecting judicial independence. The councils are expected to increase transparency in human resource management, for example, in the appointment of judges. The Federal Judicial Council consists of 20 members and includes the chief justice, judges, congressional representatives, lawyers, a representative of the executive branch, an academic and a law professor. Its responsibilities cover the recruitment, discipline and training of judges, although final decisions in some cases are made by the executive and legislative authorities. The Judicial Council also enacts the Judiciary's organisation rules, prepares the annual budget and administers the Judiciary's recourses. The enabling statute allows the Supreme Court and courts of appeal, within their delegated capacities, to supervise lower courts. Many of the functions traditionally exercised by the Ministry of Justice are now the responsibility of the Judicial Council. The Ministry has recently changed its name to the Ministry of Justice and Human Rights to encompass its new role.
- 26 The 1994 national constitutional amendment also created an independent Attorney General's Office. Prior to the amendment, the office was part of the judicial branch. The functions of the Attorney General's Office are to promote law enforcement and defend the general interests of society. It is organised into a Prosecutor's and Public Defender's Office, headed by a National Prosecutor and National Defender respectively, appointed by the executive and confirmed by the Senate.
- 27 Procedural codes have been enacted for the federal courts and the ordinary courts of the capital. These include the Code of Civil and Commercial Procedure, the Code of Penal Procedure and the Law on Labour Procedure. Similar codes apply in the provincial judiciaries. By an amendment to the Code of Penal Procedure, all criminal cases have been tried orally since 1992. The introduction of more oral procedures in other courts is likely.
- 28 The Judiciary's budget is set as a proportion of national revenues. It also has its own income generated from filing tax, real estate leases and sales, sanctions imposed on lawyers and litigants and various fees. However, funding from these sources is insufficient, and the Judiciary therefore receives substantial discretionary transfers from the national treasury. Almost all of its funds are expended on personnel costs, with the result that all other expenditure (for example, on improving facilities) is under-funded. Poor physical infrastructure is a major problem, particularly in the federal capital where large buildings are needed to deal with the caseload.

- 29 Other judicial institutions include the Council of Magistrates, made up of eight representatives from Parliament, one from the executive, four representatives of the Bar and five representatives from the Judiciary (the President of the Supreme Court and four judges). One of the Council's functions is to choose judges. It also has a direct interest in the administration of the courts. Though the Council is answerable to the Supreme Court, there was concern that a lack of clarity about the distribution in functions between the two bodies could cause difficulties in agreeing standards for the management of court processes.

## **RATIONALE FOR REFORM**

- 30 The problems faced by the Judiciary in Argentina are similar to those faced by many other Latin American countries. These problems include delays, overburdened courts (particularly the national courts of first instance), lack of clear administrative proceedings, lack of accurate case monitoring and reliable case management, and widespread usage of *ex parte* communications. There are no requirements or agreed standards and procedures to ensure access to, or privacy and security of, court personnel and records. Some 90% of the Judiciary's budget is spent on human resources, leaving insufficient funds to address capital funding needs. Poor building facilities undermines efficiency. Many courts are in poor physical condition without air conditioning or heating systems. Hearings are held in rooms that also serve to store case files. Several courts have been closed because of rat infestation. The lack of proper maintenance of judicial buildings and facilities adds to the problem. The records management infrastructure is also poor. Paper files are congesting the courts and are stored inappropriately. The judicial archives are insufficient to store the large numbers of files that need to be transferred.
- 31 Another issue facing the Judiciary is the total centralisation of court administration. The lower courts have not been involved in developing administrative standards and procedures. In general there is a lack of communication on administrative matters among the trial courts and between the Supreme Court and the trial courts. The central federal administrative unit located in Buenos Aires decides on the needs of all national and federal courts throughout the country. The Central 'Directorate of Architecture' supervises all court buildings. The procurement of office supplies and other goods takes place without the input of the courts and results in the purchase of materials that are unsuitable for end users. Individual courts also have little opportunity to take new initiatives and limited ability to develop plans and objectives.
- 32 The problem of over-centralisation is recognised, and a programme of decentralisation had been proposed. One example of decentralisation is the allocation of a special budget for each court in order to facilitate local minor procurement. However, if the process of decentralisation is to progress, local court administrators need to take on resource management functions.
- 33 In 1994, the judicial archive in Buenos Aires held 5.4 million files, and an additional three million files awaited transfer from courts. At the time of the case study, judicial archives were distributed in different buildings all over Buenos Aires. There were no systematised processes to control file transfer and disposal.

- 34 In the past, the increasing volume of cases was dealt with by recruiting additional staff rather than by developing techniques to improve efficiency and reduce delay. Even so, the perception of court officials is still that the number of cases is too high for existing staff levels. New employees learn by on-the-job training.
- 35 The national courts of first instance are the most overburdened. Increasing budget resources has not been a significant factor in reducing delays. The backlog of pending cases continues to increase within civil and commercial courts, particularly in the first instance courts, the national commercial courts having one of the worst efficiency rates. The number of cases filed per judge also increased. Some judges regard the progress of cases as the responsibility of the parties themselves. The effect of this is that lawyers have a disproportionate degree of control over the judicial process, and there are likely to be more delays when this is in the interests of their clients.
- 36 The courts are handling a very high volume of work. In Buenos Aires alone there are some 110 civil court rooms dealing with the civil law, scattered between different buildings. Ten social security courts each deal with approximately 30,000 files.
- 37 The commercial courts, in particular, generate huge numbers of files. One court visited had 17,000 to 18,000 active case files and received 500 new cases a month. By comparison, the civil courts receive about 130 cases a month and have several thousand active files. Typically, a judge receives hundreds of documents daily along with numerous visitors.
- 38 File security is an issue. As cases move between courts, files are often taken between court buildings by messengers. It is common for files to be missing from their storage locations. However, individual documents rarely disappear. An aim of the Judicial Reform Project (see paras 58 to 74) is to reduce the movement of paper.
- 39 While case distribution between judges and the provision of basic statistics has worked well in the past, systems have deteriorated, and case management is not working efficiently. Each judge is responsible for his or her own caseload, and each has his/her own system of distribution. There is no integrated system to provide access to individual cases. Judges do not know the status of a case once it has left their court. Civil and commercial court information is not linked.
- 40 Courts are obligated to submit monthly reports on filings and on the disposition of cases to the Judicial Statistics Office. However, there is no reporting of case processing times from filing to disposition. The only reliable statistics are said to be those of case filings. Validity of data is a key issue. Data collection is often done by untrained staff, and the statistics are still used as a basis for managing budget funds. Statistics are not made public, which hinders accountability. There is a need for performance indicators to be defined and for uniform data collection methods to be designed and implemented.
- 41 The judges interviewed were in favour of frequent contacts with lawyers and they did not support the separation of judges from people. They felt that face-to-face contact is required to resolve problems; a judge's presence is required for certain processes, at

least in the first level courts. However, some restrictions are needed; lawyers should not expect to have the freedom to walk into judges' offices at any time.

## **Automated Systems**

- 42 Computerisation began in 1981 with a case distribution system for the civil appeals court. Since then, there have been other initiatives. The Supreme Court and all national and federal courts are connected to an internal and external network (ARPAC), though it appeared that ARPAC had been discontinued at the time of the study visit.
- 43 There are a number of different computerised systems for the different types of courts (civil, criminal, and commercial), but none allows for the entry of detailed information about cases, and all have limited case tracking functionality. In Buenos Aires, some commercial courts do not use the same system in the same way, suggesting a lack of training and guidance.
- 44 In the Court of Appeal, where lawyers initially file their cases, basic data about the case is entered in a case management system. This provides information for the cover page of a file and records the names of the parties, the court to which they have been assigned and their connection with prior cases by the same parties. The system is capable of producing documents from templates for signature by a secretary or judge. It also provides for on-line follow-up of cases and file status information. Typically, a file is opened, a case number is assigned, and the lawyer concerned take the file to the first level court. The first level court continues to enter data about the case as it proceeds. File covers display two numbers: at the top the first level court number, and on the bottom left, the Appeal Court number.
- 45 Cases are assigned to civil courts randomly (using an old DOS-based system) to balance the number of cases between courts.
- 46 First level judges are required to provide the Court of Appeal with large amounts of case information. This process is controlled by paper forms and not the computerised system. An automated forms process could save considerable time.
- 47 The Supreme Court provides some information, such as abstracts of key Supreme Court decisions, on line. Parts of the administrative management of the Supreme Court have been automated. For example, the Judicial Management Office maintains a directory that records all offices, names of judges and their staff. Email is available to network users.
- 48 The Argentine System of Juridical Information (SAIJ) provides a database of national and provincial legislation, regulations, decrees, court decisions and jurisprudence. SAIJ is accessible via the internet. Other examples of computerisation are case tracking systems in civil courts and pilot programmes for electronic and automated filing and for follow-up of cases in different jurisdictions. Bar-coded files were observed in the Commercial Court in Buenos Aires.

- 49 The case management system is still primarily paper-based.
- 50 Every action has to be notified, and each notification relies on a paper document. The process of notification can take many days. Computerisation, with the use of digital signatures, is seen as a means to greatly speed the process.
- 51 All case files are in paper form. The aim is to replace paper with electronic records. This transformation requires a change in regulations to allow an electronic version of the case file to be legally admissible and to establish secure procedures for using digitised signatures. There has already been a pilot project within government to create transactional documents electronically and to scan paper documents to digital form. Pilot *reglamentos* were issued that gave legal value to the documents in electronic format. However, the pilot was not adopted.

## **Court Staff and Workflow**

- 52 Each judge is assisted by a clerk or private secretary (*secretario*), some of whose functions are closer to a notary public. The responsibilities of this post include drafting opinions, conducting settlement hearings, supervising lower court personnel and participating in informal conferences with lawyers and parties. Postholders are required to have a law degree. Partly in recognition of the excessive reliance placed on the *secretarios*, it has been proposed that incumbent clerks should be appointed judges. There is a tendency for judges to delegate work to clerks and for the clerks in turn to delegate work to lower court staff who are sometimes unqualified. To free clerks from their administrative duties, another position of ‘administrative pro-clerk’ had recently been created.
- 53 In reality, a high proportion of employees in the Judiciary have legal qualifications. Staff serving on the front desks of courts have law degrees. Eighty-five per cent of employees in the Judiciary are lawyers. Though not officially permitted, many unpaid interns are performing front desk and filing duties; this experience provides them with a means of getting into the Judiciary.
- 54 Basic records control systems are inadequate. For example, cases need to be identified and traced by their case number, but case files are often arranged by the name of the litigants. The case numbers assigned are not unique, and this results in identification and retrieval problems. As cases move between courts, the cases are often given new numbers. This occurs, for instance, when a case initiated in the Court of Appeal is assigned to a first level court.
- 55 Contact between lawyers and court officials takes place at the ‘Front Desk’. Access to the front desk is controlled by a security system on the entrance door. Lawyers enquire about their cases at the front desk counter and present documents there. Only court staff are allowed beyond the front desk, where active files are stored on open shelves. Files are organised by category of procedure, for example, inheritance cases are kept together and arranged by the surname of the litigant. A time and date machine is used to record the receipt of documents at the counter. Manual registers are maintained, as required by law. If the pilot system of the Judicial Reform Project

(see paras 58 to 74) were to automate the registers, a change in the law could be required.

- 56 Within the storage area, bundles of files are kept on the tops of shelves, awaiting removal to intermediate storage. A judge's decision is required to close a case and send it to the archive. Registers in the file room and in the archives record all transfers.
- 57 As already noted, the system is paper driven, even though a computer system exists. A ticket is issued and moves around the system as the record that a document has been received and that a case has been initiated. The ticket system is designed to ensure that cases are assigned equitably, but this functionality is not included in the computerised system. Every document and document movement is recorded on the case file by notification or signature. Decisions to move the file are signed by the Secretary. Decisions about the case are signed by the judge. The system is potentially very reliable and accurate, but slow because only one person can work on the file at a time, and only one process can take place at a time. However, the precision of the system suggests that these processes can be successfully automated, for example by electronic notifications and signatures.

## **JUDICIAL REFORM PROJECT**

- 58 A National Judicial Reform Programme, is seeking to achieve improvements in four broad areas:
- reducing delays in processing cases
  - human resources
  - judicial efficiency and effectiveness
  - access to justice.
- 59 This improvement can be achieved by upgrading or introducing new information and case management systems, enhancing registries and judicial infrastructure, and providing equipment and training.
- 60 The primary objective of the Judicial Reform Project is to identify, establish and evaluate conditions necessary to support judicial administrative reform. This should eventually be part of a larger legal reform project. A model court programme in 12 or more federal first instance courts is being developed and implemented. The model courts are intended to address some of the systemic problems, such as:
- the need to separate judicial from administrative responsibilities of judges and court officials
  - decentralising functions
  - establishing reliable statistics in order to track performance

- managing resource allocation.
- 61 Each of the selected courts is required to finalise its own model court design and present it to the coordinating commission. To be considered for adoption, the designs have to fulfil basic requirements: they have to be capable of being implemented within two years and of being replicated easily. As well, they need to include elements from the agreed sub-components of court organisation, including a case management and delay reduction programme, and a records management and archives system. The model courts should help to improve case flow management and to develop court performance standards.
- 62 The delay reduction programme aims to reduce the case backlog by identifying and eliminating inactive cases according to the law. It also involves a diagnostic study of the possible causes of, and solutions to, the problem of delays. Changes can be required, for instance, in case management practices; in the steps involved from the filing of a case to its final disposition; or in the distribution of cases among judges.
- 63 Improved records management is also recognised as an important contributing element to a more efficient system. Policies, standards and procedures need to be developed. In particular, the following are planned:
- guidelines for the management of records
  - procedures for case intake registers
  - registers of final decisions
  - standards for case storage
  - guidelines for maintaining security to control access to cases.
- 64 Information systems are intended to complement these efforts. The project aims to implement new case management techniques together with information technology to enhance efficiency. Improved court and case management and training should reduce the time it taken for cases to go through the system and should increase the percentage of cases disposed, as a proportion of the number of filings in each court would increase. Overall, there should be a reduction in the cost of processing each case.
- 65 A new case management system is to be designed as part of the project. The project has issued a tender for the development of new software to be developed. Six vendors from Argentina and overseas have been short-listed and have been given functional specifications and terms of reference. Due to project budget problems, progress has been delayed. Furthermore, the government has reduced its contribution of funds for the year.

## **Co-operative Court System**

- 66 Under the existing paper system, each judge and his/her staff comprises a separate organisational entity or court. Litigants or their representatives consult files at a front desk or reception for the court. Active and pending case files are stored nearby and are provided on request. The new pilot system has been modelled on the cooperative court system. Designed by judges, it is based on common units, with active files separated from inactive files. In the new system, judges will have less direct contact with the parties involved in cases. Messengers will take files to and from courts. Documents in a case can be filed at a counter for active cases. While each judge will have responsibility for his or her own files, there will be a common unit for inactive files. An intermediate 'archive' holds inactive files. Some inactive files may have been abandoned but have not yet been closed and withdrawn; other inactive files may be reactivated. Standards and guidelines for the model courts are being prepared for implementation.
- 67 It is envisaged that the project will implement the new system in four civil court rooms, three commercial court rooms, three social security court rooms and two federal court rooms. For the time being, criminal courts are not included in the project as they will require a different system.

## **Change Process**

- 68 In the past, the tendency has been for the Supreme Court and Court of Appeal to issue instructions to the lower courts without an upward movement of views. The Court of Appeal and Supreme Court make decisions about legal opinion but also have responsibility for administrative matters. The new model court will attempt to define responsibilities for the first level judges working in strategic units.
- 69 Some Court of Appeal officials are known to be committed to change and strongly support the cooperative court system. However, there is also strong resistance to change in the courts, both among officials and users, particularly lawyers. There is a recognition by the project that the new system has to be designed and owned by those who will use it.
- 70 A judge interviewed expressed his concern about a potential lack of continuity as governments change and new policies are made. Though the Judiciary is aiming to improve its skills and procedures, there is a tendency for change to be limited to individual effort affecting limited areas. Also, the experience in Argentina has been that many projects that commenced have not completed or have failed. However, the project has already achieved a great deal. Good ideas, such as the separation of judicial from administrative functions, the establishment of common units and better access to information, have provided a ready means of achieving improvements.
- 71 Supplies are controlled through a central Judiciary budget. The reforms aim to develop strategic units along the lines of the common service units. This would provide a bridge between the courts and the Court of Appeal, which controls the budget. With the strategic units, the judges will gain power. Removal of

administrative functions will enable judges to concentrate on case management and the law.

- 72 A step-by-step approach will be used to introduce the new system. Change will have to take place over time, otherwise the reforms will fail. A consultation process is required so that the needs of judges, court officials, lawyers and citizens are taken into consideration. Project officials report that NGOs and international organisations are facilitating consultations with citizens. Other models of justice are being studied. As already noted, judges are involved in designing the new system.
- 73 The new system is a radical departure from the past. The long-term aim is a paperless court. The vision is that all active paper files will be migrated to the new system. Files will be scanned using optical character recognition (OCR) software. Standards will set out the requirements for preserving electronic records over time. However, a hybrid system will need to be in operation for some time. Paper files will continue to be used by those courts awaiting the new system or as the 'evidentiary' record. One judge claimed that as there was no regulation for the legal admissibility of electronic documents, she will continue to require the original paper documents in court.
- 74 An argument not often heard but repeated in the Argentine courts was that while paper documents remained the 'legal' copy, they were less secure than a digital copy. Because of the quantity of paper records and the number of different users, there is a greater chance of them being misplaced.

## **JUDICIAL ARCHIVES**

### **Role of the National Archives**

- 75 The National Archives (Archivo General de la Nacion) was founded in 1821, five years before the declaration of the Argentine Republic, in order to bring together in one building the existing different archives in the city of Buenos Aires. In effect, the archives was nationalised in the 1880s, and it has been moved several times within the city to keep up with the need for more space. It serves a traditional role as custodian of the nation's historical archives by selecting records to become part of the national heritage once their administrative usefulness ends. The principle of managing records throughout their life cycle has yet to be adopted by the National Archives. Its function in relation to the management of records during their current and semi-current phase appears to be minimal. There is little connection, for example, between the National Archives and the Judicial Archives. The Archives sees its responsibility as ensuring compliance with guidelines by offering help to public entities that request it.
- 76 Within the Judiciary, files for finalised cases are stored and then destroyed after a period dictated by law. A special law (*reglamento*) governs the process of transferring files to the judicial archives and provides mandatory retention periods. At the end of the retention periods, the archive has to destroy the records. These retention periods range from 10 to 30 years depending on the nature of the case, though it was said that some files can never be destroyed, such as mortgage-collection cases and estate cases. Other files, such as those relating to inheritance cases, remain

active for many decades. All agree that the legal requirements governing retention and disposal require updating to take account of changes. In any case, with the introduction of electronic records, there is a need to develop comprehensive and up-to-date records disposal instructions.

## **Electronic Records**

77 Issues relating to the management of electronic records over time need to be considered. These include integrating of paper and electronic records as the information base of the courts; storing of and accessing e-records; preserving the integrity, reliability and authenticity of e-records over time; and building local capacity to manage and maintain electronic records systems. At present there is no training available in the management of electronic records. As the courts become more dependent upon computer-generated records, so the need for training will become more critical.