

## IV

(Notices)

## NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

## COUNCIL

**2019-2023 Strategy on e-Justice**

(2019/C 96/04)

**I. Introduction**

1. European e-Justice aims at improving access to justice in a pan-European context and is developing and integrating information and communication technologies into access to legal information and the workings of judicial systems. Procedures carried out in a digitised manner and electronic communication between those involved in judicial proceedings have become an essential component in the efficient functioning of the judiciary in the Member States.
2. The European Union's commitment to European e-Justice now dates back more than a decade. The Council <sup>(1)</sup>, Commission <sup>(2)</sup> and European Parliament <sup>(3)</sup> have all demonstrated their commitment to the development of e-Justice.
3. So far, two European e-Justice Action Plans <sup>(4)</sup>, together with an e-Justice Strategy 2014-2018 <sup>(5)</sup>, have driven action in the field of e-Justice. The Council, through its relevant preparatory bodies, and the Member States, the Commission and the Publications Office have implemented these two Action Plans.
4. The European e-Justice Portal (the Portal) has been enriched with information pages <sup>(6)</sup>, search tools <sup>(7)</sup> and dynamic forms <sup>(8)</sup>. Its design has also been renewed, in an effort to improve and facilitate the user experience.
5. The development of electronic tools for e-Justice has been exponential, as they now allow for digital judicial proceedings using secure electronic channels <sup>(9)</sup>, secure communication between judicial authorities <sup>(10)</sup>, easier information for citizens on legal provisions <sup>(11)</sup> and access to certain national registers under the responsibility of Member States <sup>(12)</sup> or professional organisations.

<sup>(1)</sup> JHA Council Conclusions of 12-13 June 2007, page 43 of document 10267/07.

<sup>(2)</sup> In response to the Council, the Commission presented its communication 'Towards a European e-Justice Strategy' of 5 June 2008 (COM(2008) 329 final, Council document 10285/08).

<sup>(3)</sup> Resolution on e-Justice at its Plenary meeting on 18 December 2008, 2008/2125 (INI).

<sup>(4)</sup> Multi-annual European e-Justice action plan 2009-2013 (OJ C 75, 31.3.2009, p. 1); Multiannual European e-Justice Action Plan 2014-2018 (OJ C 182, 14.6.2014, p. 2).

<sup>(5)</sup> Draft strategy on European e-Justice 2014-2018 (OJ C 376, 21.12.2013, p. 7).

<sup>(6)</sup> These pages range from family law, training of justice professionals on EU law, to rights of victims in criminal proceedings or consumer law.

<sup>(7)</sup> These tools allow for searches for legal practitioners, businesses or authorities competent in human rights protection.

<sup>(8)</sup> For example public documents, such as certificates of birth or domicile, stemming from Regulation (EU) 2016/1191 of the European Parliament and of the Council of 6 July 2016 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012 (OJ L 200, 26.7.2016, p. 1).

<sup>(9)</sup> Such as Small Claims dynamic forms, available on the e-Justice Portal.

<sup>(10)</sup> Through e-Codex gateways, as projected for the e-Evidence project, for example.

<sup>(11)</sup> Such as the use of ELI and ECLI for search and analysis of legal and jurisprudential texts.

<sup>(12)</sup> For example, business registers, through the Business Registers Interconnection System or insolvency registers.

6. Similarly, EUR-Lex was enriched with new types of documents and search tools. It was also updated with new legal acts and case law, including national transposition measures and national case law, as well as summaries of legislation, explaining EU legal acts in simple language. On the basis of the feedback from citizens, the functionalities of EUR-Lex and structure have also been enhanced.
7. Two reports on the state of advancement of the 2014-2018 Action Plan have been drafted, one by the Council <sup>(13)</sup> and the other by the Commission <sup>(14)</sup>.

## II. Links between e-Justice and eGovernment principles

8. The work done in the field of e-Justice can benefit other fields. E-CODEX, in particular, can provide building blocks, such as e-Delivery, for several fields. Similarly, the results of the concluded e-SENS project aim to facilitate the deployment of cross-border digital public services through generic and re-usable technical components.
9. By allowing for easier access to information and justice, e-Justice should contribute to the development of the Digital Single Market, which is one of the goals of eGovernment, as noted by the Tallinn Declaration on eGovernment <sup>(15)</sup>. European e-Justice initiatives should strive for further consistency within the eGovernment framework, having regard to the constitutional provisions concerning the judiciary in Member States (judicial independence and separation of powers), by following the Council Conclusions of 20 September 2016 on the eGovernment Action Plan 2016-2020: accelerating the digital transformation of government <sup>(16)</sup> and the Commission Communication of 19 April 2016 entitled 'EU eGovernment Action Plan 2016-2020 — Accelerating the digital transformation of government' <sup>(17)</sup>.
10. In accordance with these Council conclusions of 20 September 2016, initiatives launched under European e-Justice should observe the principles <sup>(18)</sup> outlined in the Commission Communication of 19 April 2016 <sup>(19)</sup>.
11. In particular, European e-Justice should:
  - support a digital-by-default approach, notably by
    - committing to providing citizens and businesses with the option to interact digitally with authorities, and
    - integrating a digital-by-default approach into national and EU legislation, in order to ensure relevant legal provisions and thus guarantee legal certainty and seamless interactions in a national and cross-border context;
  - function according to the once-only-principle, i.e. avoiding redundant procedures and, in line with data protection rules, reusing information introduced into the system once for later procedures, if not obsolete;
  - be user-focused, i.e. have apps, websites, tools and systems designed with ease of use and empowerment for their users in mind.

<sup>(13)</sup> Current version on 10 October 2018: WK 598/2018 REV 2.

<sup>(14)</sup> WK 8440/2018; final version available at <https://publications.europa.eu/en/publication-detail/-/publication/d72311d9-c070-11e8-9893-01aa75ed71a1/language-en/format-PDF>

<sup>(15)</sup> Tallinn Declaration on eGovernment at the ministerial meeting during Estonian Presidency of the Council of the EU on 6 October 2017, <https://www.eu2017.ee/news/insights/tallinn-declaration-egovernment-ministerial-meeting-during-estonian-presidency>.

<sup>(16)</sup> 12359/16.

<sup>(17)</sup> 8097/16 COM(2016) 179 final.

<sup>(18)</sup> These principles are Digital by default (including making legislative initiatives fit for the digital era), the Once-only principle (in due compliance with data protection rules), Inclusiveness and Accessibility, Openness & Transparency, Cross-border by default (where applicable), Interoperability by default (based on standards and open specifications in accordance with principles on standardisation) and Trustworthiness and Security.

<sup>(19)</sup> Digitising European Industry Reaping the full benefits of a Digital Single Market; COM/2016/0180 final

### III. Objectives of European e-Justice

12. E-Justice aims at facilitating access to justice and the functioning of judicial systems, including in cross-border cases, for citizens, legal practitioners and authorities, taking into account judicial independence and separation of powers. It achieves this aim by simplifying and digitising communications, access to procedures and legal information and connection to and between national systems in a cross-border context.

#### A. Access to information

13. The objective is to improve access to information in the area of justice in the European Union, including:

- information on the rights of citizens, which helps to raise their awareness,
- information on EU law, as well as national law transposing EU law,
- information on procedures which helps citizens to use the various tools put at their disposal for the sake of conducting such procedures, such as dynamic forms or search tools for practitioners and (judicial) authorities,
- information on competent authorities which helps citizens to identify competent authorities and relevant national laws, in the framework of judicial or extrajudicial proceedings,
- publicly available information contained in national registers, and
- data relevant to the use of e-Justice <sup>(20)</sup> and e-Law <sup>(21)</sup>.

14. The Portal, together with EUR-Lex, has an important role to play in achieving this objective.

15. The Portal must continue its development towards being a more interactive one-stop-shop for justice, offering access to e-services or e-solutions.

16. EUR-Lex should develop to further meet the needs of citizens and allow them to easily find all relevant information on EU law.

17. In order to give access to information which can be used in judicial and extrajudicial procedures, relevant registers, such as business registers and insolvency registers, have been or are currently being interconnected. Further register and database interconnections should be established, as necessary, in order to simplify access to information, as well as ease working processes for practitioners.

18. In this context, work should continue to closely involve the legal practitioners, who have a dual role — both as users of the information provided by projects concerning the interconnection of registers or databases and, in some cases, as those responsible for the implementation and operation of such registers and databases.

#### B. e-Communication in the field of justice

19. Dematerialisation of judicial and extrajudicial proceedings should be continued in order to offer easier and faster access to courts and facilitate the use of extrajudicial proceedings by using secure electronic communication tools, notably e-CODEX, in cross-border situations.

20. E-Justice should facilitate electronic interaction and communication between judicial authorities as well as with citizens and practitioners in judicial proceedings (e.g. through videoconferencing or secure electronic data exchange) in compliance with the existing legal framework.

<sup>(20)</sup> Such as data, which while not legal in nature, supports the use of e-Justice tools, such as registers of practitioners, information on businesses or the insolvency status of persons and businesses.

<sup>(21)</sup> Such as data linked to legislation, e.g. metadata. Access to this data should be provided in reusable formats, in order to promote interoperability — be it technical (use of Open Data formats) or semantic (use of controlled vocabularies, such as Euro-Voc) — and usability — by simplifying access to legal data through the use of identifiers such as ELI and ECLI.

21. Certain functionalities should be accessible to members of the judicial authorities only, through secure access with specific access rights and a uniform or interoperable authentication method, based on eIDAS-compliant systems.
22. The provisions of the eIDAS legal framework should be examined and applied whenever trust services in the justice field are being implemented or leveraged.
23. The e-Justice systems can also be used to facilitate the functioning of various existing networks at European level, such as the European Judicial Network in civil and commercial matters or the European Judicial Network in criminal matters. To that end, the possibilities offered by the European e-Justice system and the Portal could be further employed in consultation with the aforementioned organisations.

### C. *Interoperability*

24. Each Member State should ensure the technical implementation and management of the national e-Justice systems needed to facilitate interconnection and interoperability between Member States' systems. Compatibility between the various technical, organisational, legal and semantic aspects selected for the judicial system applications should be ensured, while guaranteeing flexibility for the Member States. In this context, the principles laid down in the European Interoperability Framework (EIF) should be taken into account.

## IV. Principles for e-Justice

### A. *Guidelines for the Action Plan*

#### i. *Prioritisation*

25. The inclusion of projects in the Action Plan should be decided, based on priorities established according to the identified importance for citizens, businesses and the judiciary, the sustainability outlook, technological developments and the number of Member States participating from the outset. Prioritised projects should rely on technology that is sufficiently mature, so as to allow it to be implemented at a reasonable cost, while ensuring appropriate stability and quality of service. Projects should benefit citizens, businesses and/or the judiciary and be applicable in widespread or important procedures. Projects must have the potential to involve all or almost all Member States. Projects may involve EU institutions.
26. Projects considered as priorities, due to their current advancement, urgency or links with other projects, will be included in a primary list in the Action Plan.
27. In parallel, a reserve list of projects for which some of the preconditions appear unfulfilled for the time being, will be drawn up. The projects with lower priority contained within this reserve list could still be implemented with the participation of the Member States who wish to pursue the project once solutions have been found for existing obstacles or unfulfilled conditions and could still be awarded financing if calls encompass their scope.

#### ii. *Continuity*

28. Ongoing projects from previous Action Plans should be considered for inclusion in the Action Plan during its drafting, in order to promote continuity. Projects, that have already yielded and demonstrated positive results, should be prioritised for inclusion.

#### iii. *Evolutivity*

29. The Action Plan should be flexible with respect to future developments, be they legal or technical. This implies that a specific project could be added to the Action Plan if a legal act calls for action in the field of e-Justice.
30. Legal tech domains such as Artificial Intelligence (AI), blockchain technology, e-Translation or virtual reality, for example, should be closely monitored, in order to identify and seize opportunities with a potential positive impact on e-Justice.
31. In particular, Artificial Intelligence (AI) and blockchain technology could have a positive impact on e-Justice, for example by increasing efficiency and trust. Any future development and deployment of such technologies must take risks and challenges into account, in particular in relation to data protection and ethics.

iv. *Cooperation with practitioners*

32. Projects proposed or managed by and/or involving practitioners should be eligible for inclusion in the Action Plan, if they meet the requirements contained in the previous three paragraphs.
33. The projects proposed by practitioners will be launched at the initiative of practitioners.
34. It is understood that not all Member States will be in a position to assist in the implementation of these projects, due to differences between national systems.

**B. Implementation of the Action Plan**

i. *Voluntary participation*

35. E-Justice projects are founded on the principle of voluntary action, except in cases when a specific legal instrument imposes obligations. However, a wide participation among Member States should be sought from the outset of each initiative, as this contributes to a greater positive impact and better sustainability potential.

ii. *Sustainability*

36. In general terms, sustainability should be considered a prerequisite for including an e-Justice project in the Action Plan. This sustainability encompasses organisational, legal technical and financial aspects.
37. A sustainable framework for the governance and maintenance of projects should be ensured, possibly through EU legal instruments <sup>(22)</sup>, in due time.
38. The full compliance of e-Justice projects with the EU legal framework, is a precondition of their sustainability.
39. Technical requirements should be easily adoptable by Member States and further developed, taking into account technological developments. An adequate level of cyber security should be ensured.
40. A distinction should be made between pilot projects and large scale solutions. Large scale solutions will be built and operated on established legal instruments, which will contain provisions for governance and sustainability. Pilot projects will be limited in time. Once a pilot-project is finalised, a choice will be made to transform it into a large-scale solution, to continue in a self-sustaining manner, preferably without EU funding or to terminate.

iii. *Financial sustainability*

41. The European Commission, Member States and practitioners' organisations should ensure that proper financing is available in a timely manner for e-Justice projects <sup>(23)</sup>.
42. At EU level, access to financing should be facilitated, notably by making administrative formalities as simple as possible, while respecting the Financial Regulation <sup>(24)</sup>.

iv. *Decentralisation*

43. European e-Justice is based on the principle of a decentralised model at European level interconnecting the various systems already established in the Member States. The decentralised approach to e-Justice thus respects the principles of proportionality and subsidiarity.
44. Nonetheless, a centralised approach may also be envisaged in some specific situations or may be imposed by EU law.

v. *Organisation of e-Justice work*

45. The general implementation of the European e-Justice Action Plan is followed up on by the competent preparatory body of the Council of the European Union.

<sup>(22)</sup> Such as, for example, e-CODEX (without prejudice to future technical solutions).

<sup>(23)</sup> This financing could be provided, for example, through Commission grant programs, such as CEF.

<sup>(24)</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2018:193:TOC>

46. If necessary, a limited number of expert groups involved in specific projects can meet in order to make progress in these areas of work, by exchanging information and best practices and promoting participation.
  47. In order to facilitate the success of the implementation of European e-Justice, promotion and awareness-raising at both EU and national level need to be taken into account in the work on e-Justice.
  48. The Working Party will at least once per semester monitor the implementation of the e-Justice Action Plan, which should be adapted if so required by on-going developments.
    - vi. *Cooperation with practitioners*
  49. Practitioners should be engaged in the implementation of the Action Plan, as advisors or partners in projects which rely on or could benefit from their participation.
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