

E-JUSTICE

E-justice, the use of internet technology in handling various administrative procedures before, during and after the administration of justice, provides a host of possibilities throughout the legal process, from lobbying through to the provision of remote authoritative legal information and certificates. It is seen by many as the key to streamlining and expediting justice.

In principle, the initiative for a European strategy on e-justice is mainly a matter for the relevant ministries of Member States. To encourage debate the European Commission adopted a communication entitled “Towards a European E-Justice Strategy” in May 2008. The core of this strategy was to create an e-justice portal with a wide range of electronic media.

The Commission has made efforts to confront congestion problems occurring in the single market. In the strategy announced on 3 March 2010, it created the conditions for intelligent use of technology in order to reduce the cost of legal procedures and to simplify cross-border transactions. Such procedures include the introduction of online procedures for small claims, the European payment order and the interconnection of insolvency registers and business records.

The current situation in EU justice

Delays in resolving court cases and issuing judicial decisions have a range of adverse consequences. The state's seeming inability to deliver justice promptly and efficiently can cause a lack of confidence in state institutions, undermining the social and political fabric and countries' international standing. On a material level, inefficiency in the justice system prevents or delays the recovery of huge amounts of taxes and contributions by public bodies, pension funds and individual litigants.

The use of internet technologies in the judicial system can significantly accelerate the processing of cases, benefiting all participants in the field of justice. By simplifying the filing and the control of legal documents, it is easier to monitor pending cases and facilitate the work of the judiciary. Electronic filing and classification of court cases offer great potential for comparative juxtaposition and jurisdictional control. As a result, judges can more thoroughly and efficiently handle the cases assigned to them.

What is e-justice?

“E-justice” can be defined as the use of technology, information and communication to improve access of citizens to justice and effective judicial action, which consists of dispute settlement or the imposition of criminal sanctions.

The development of e-justice is a key element in the modernisation of judicial systems. Since creating a judicial network portal in civil and commercial matters in 2003 the Commission has supported the implementation of a justice atlas in criminal and civil

cases enabling practitioners to determine the appropriate judicial authorities in different parts of the EU.

The Commission considers that the first objective of e-justice is to enhance the effectiveness of justice throughout Europe for its citizens and priority is being given to developing an electronic signature (E-signature) and electronic identity (E-identity), which are particularly interesting from a judicial point of view.

Who benefits from the e-justice website?

Citizens can find answers concerning the function of the legal systems in the 27 Member States. They can locate lawyers in another country and learn about how they can minimise costs by resorting to mediation, while lawyers, notaries and judges can refer to legal databases in order to communicate with colleagues through the judicial system and be informed about the possibilities of teleconferencing. Meanwhile, businesses have access to registers, as well as information on the applicable law and cross-border procedures.

The objective of the e-justice strategy is to increase public confidence in the European area of justice where the rule of law is the primacy of its identity.

Objectives:

1. Promotion of national and European synergies.

At a national level several projects have been implemented to improve information for justice. They give information online concerning legal systems, legislation and case law. Systems for the exchange of information by electronic means between the parties and the courts (and in some cases full electronic procedures) have been introduced. The Commission considers that these projects should be promoted and that the most successful pilot applications should be disseminated and discussed. It has created an e-justice sub-group to facilitate the development of the internet into a pillar for exchange of good practices between national judicial systems and practitioners of law.

2. Access for individuals and businesses to justice in Europe.

Creating an e-justice portal for individuals and businesses enhances the visibility of European action and facilitates access to justice. The website is part of a general policy of communication with key features including particular interest in:

- a. Access to information: ignorance of the rules in other Member States is one of the major factors that prevent people from asserting their rights in another EU country. The portal redresses this by providing information to European citizens in their own language on judicial systems and procedures throughout the EU.

- b. Finding the appropriate court: the portal assists with identifying the competent court to hear the case. This reduces delays and minimises the risk of cases being rejected because the court lacks jurisdiction, particularly in cross-border issues.
- c. Recourse to court: the website aims to provide answers to the many and varied questions that may concern an individual involved in a judicial proceeding. It provides answers to questions such as to which court and in which Member State the issue should be referred, how the case will be referred to the court and which is the applicable law. It also provides detailed information on financial and funding matters and enforcement of judgments.
- d. Family matters: matters of family law and how family court rules differ between countries. The harmonisation of national laws and legal procedures makes it easier for European citizens to exercise their rights, even if they have lived in different countries within the EU. Currently, EU law provides rules on divorce, custody of children coming from a marriage or other relationship and regulates maintenance.
- e. Financial claims: in cases where there is a cross-border dimension to claims for money owed, EU law can be used in civil and commercial disputes and in particular according to Council Regulation (RC) No.1896/2006 of the European Parliament and Council on the adoption process for the European order for payment.

This online mechanism provides application forms for the European order for payment which are available in all languages and refers to the courts that can issue it. The execution is carried out in accordance with national rules and procedures of the respective Member States.

Furthermore, litigants may use the European small claims procedure, which is a simplified process for resolving cross-border claims not exceeding EUR 2,000, as an alternative to national procedures. A ruling in the European small claims procedure is recognised and unconditionally enforceable in another Member State without any further process. Finally, the site contains details of forms of protection in case the person or company subject to the claim is insolvent.

3. More effective judicial cooperation.

The creation of electronic tools should accompany the implementation of the instruments for judicial cooperation within the Union. The Commission is encouraging the relevant national and European training structures, particularly

the European Judicial Training Network, to drive forward the necessary changes. At the same time it is developing automated translation processes for use by national legal authorities, taking account of trade and protection of privacy.

In order to expedite cross-border procedures to take account of sentences of other Member States or even to be able to use information technologies, new legislation has been introduced to bring together the legal systems of Member States as foreseen in the Stockholm Programme of 2009.

4. Mediation.

The use of mediation, which is a structured process in which two or more parties in a dispute aim to reach a negotiated agreement with the assistance of a neutral and experienced mediator, has been instituted by an EU directive and implemented successfully in several EU Member States.

Mediation is quicker and usually cheaper than conventional court proceedings. It avoids confrontation between the parties, which is the norm in judicial proceedings, and so allows the parties to preserve their professional or personal relationships. Mediation also enables parties to find alternative solutions to their disputes which might not be possible in conventional proceedings. The EU provides useful information on the website regarding the use of mediation and the capabilities developed by Member States for this purpose.

5. Facilitating the use of video conferencing.

Although many acts adopted at European level allow for the use of video conferencing in court proceedings, the technology has not been fully exploited, for cultural, linguistic or technical reasons, despite the savings it makes possible in terms of time, money, travel, and flexibility.

In an attempt to increase the use of videoconferencing the Commission has put online a user-manual clarifying the legal and technical conditions of use. The two judicial atlases allow the determination of the court processing the necessary equipment.

6. Continuing the interconnection of criminal records.

With the increased mobility of people and business across national borders, it is necessary to facilitate the access of vendors, creditors, corporate partners and consumers to reliable information in order to enhance transparency and legal certainty in all EU countries. These include business registers, land registers and insolvency records, which currently vary from country to country in the degree of information they include and their reliability. It should be noted that the interconnection of criminal records is the most advanced area of e-justice at present.

The Commission has submitted several legislative proposals to clarify the legal framework and provide an electronic interface for sharing of information. In view of the entry into force of the Framework Decision on exchange of information extracted from criminal records, the Commission will launch two feasibility studies in order to organise the development of the project and expand the exchange of information to third countries which have imposed criminal convictions.

On related subpages, information is provided on the rights for compensation, protection and assistance for victims of criminal acts and on the national compensation scheme in each EU Member State.

7. Enforceability of judgments.

Depending on the existing national regulations, there are several instruments that can be used to execute judgments, including attachment of earnings or seizure and sale of goods. A mechanism has been developed for communication of information between Member States on enforcement of judgments and for a European Enforcement Order.

The European Enforcement Order is a simple procedure that can be used for uncontested claims in order to facilitate cross-border recognition and enforcement of court judgments. A court may certify a decision as a European Enforcement Order using a form which is published in all languages in the European judicial atlas for civil matters. Once the court has issued a European Enforcement Order it sends it with a translated copy of the decision to the relevant authority of the Member State where the debtor resides or in which its assets are held. No further formalities are required for the decision to be enforceable.

8. Translation assistance.

The development of a genuine European judicial area is a major challenge. Legal processes are carried out almost exclusively in the national language and the use of a foreign language is only marginally permitted. The Commission therefore proposes to facilitate the development of automatic translation tools to allow a rapid outline translation of documents written in different language, in order to rapidly identifying those requiring translation by a professional translator.

Expected results of the action

The Commission believes that its initiative will streamline the administration of justice and save judges' time reviewing material documentation, which will be available at all times via the internet. Secondly, citizens' confidence in the justice system will be increased by the removal of delays.

Furthermore, the use of portals will help to increase revenue and save money in the public and private sectors because the accelerated administration of justice not only provokes quicker receipt by the state or by the private sector the funds in question, but also removes considerable bureaucratic barriers which deter the arrival of investment funds in the country.

The function of the portal is the first step towards facilitating the lives of citizens, businesses and professionals in Europe. From early 2011, information will be made available about the rights of defendants and victims in each Member State of the EU.

In addition, action is being taken to address issues that have arisen in relation to interoperability across the EU for applications related to electronic signatures, electronic identification and electronic payments.

Increasing the efficiency of the judicial mechanism in Europe will benefit European citizens and businesses, as well as overseas investors.