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#### 'I/A' ITEM NOTE

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
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Subject:	Report from the Working Party on e-Law (e-Justice) to Coreper/Council

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#### I. Introduction

1. During the second half of 2016, work on e-justice continued based on the Strategy on European e-Justice 2014-2018 and the Multiannual European e-Justice Action Plan 2014-2018. Three days of meetings (on 22 September, 25 October and 11 November) were held which enabled the Working Party to make progress as set out below.
2. Work has focused on three main sectors, namely the ongoing discussions on e-communications in the area of justice, including the implementation of the e-IDAS Regulation in the area of justice, work carried out by the expert groups active in the area of e-justice and the ongoing enhancement of the e-Justice Portal.
3. The Working Party on e-Law (e-Justice) agreed to submit these results for the endorsement by the Coreper/Council as set out below.

## **II. e-Communications in the area of justice**

4. The question of interoperable electronic communications in the area of justice, including the implementation of the e-IDAS Regulation in the area of justice, has constituted one of the main elements of the work carried out by the Working Party on e-Law (e-Justice) in the course of the second half of 2016. This issue was discussed a number of times during the first half of 2016, at the meeting of the cooperation mechanism with the legal practitioners on 30 June 2016 and at the meetings of the Working Party organised in the second half of 2016, most recently on 11 November 2016.
5. The issue of e-communications in the context of judicial proceedings was also raised at the informal JHA ministerial meeting organised by the Slovak Presidency on 7 and 8 July 2016 in Bratislava. On this occasion, ministers had an exchange of views on the e-IDAS Regulation which establishes a general legal framework for the use of electronic identification and trust services within the internal market, and its impact on e-Communications in the field of justice.
6. In this context, ministers stated that working on best practices related to e-Communications in the field of justice based on e-IDAS Regulation would require an in-depth analysis and a complex calibration in order to guarantee the consistency of the toolkit offered by the e-IDAS Regulation with the specific requirements in the field of justice such as the rights of the parties in judicial proceedings. However, the level of security assurances should not become an obstacle for practical ways of communication between legal authorities in the Member States.
7. In addition, an informal meeting on e-IDAS was held on 24 October 2016, to allow a more in-depth exchange of views on this issue and reflection on a possible way forward.

8. At the meeting of the Working Party on e-Law (e-Justice) on 11 November 2016 it was decided that discussions on this issue should continue in 2017 in an expert group format. For this purpose and in line with the mandate of the e-Law (e-Justice) Working Party, it was agreed that work on technical interoperability related to the framework as set by e-IDAS Regulation and other issues related to e-communications should continue in the context of the existing expert group on e-CODEX whose mandate would be adapted accordingly. The expert group would report to the Working Party on e-Law (e-Justice) on the progress achieved.

### III. Results of the work of expert groups

#### *a) Expert group on interconnection of registers of wills*

9. The expert group on interconnection of registers of wills was set up according to the Multiannual European e-Justice Action Plan 2014-2018<sup>1</sup>. The initial mandate of the expert group was discussed at its first meeting on 18 November 2014. Nine expert group meetings took place during the period 2014-2016; the final meeting of the group took place on 21 September 2016.
10. The expert group has produced a final report as set out in 13228/16, describing in detail the significant work it has done in the area of digitalisation of succession proceedings.
11. The expert group distributed an initial questionnaire to the Member States in June 2015, to which 24 Member States responded. The subsequent report<sup>2</sup> provided the general framework for the work of the expert group.

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<sup>1</sup> Multiannual European e-Justice Action Plan 2014-2018, OJ C 182, 14.6.2014, p. 2–13, paragraph 17 in the Annex.

<sup>2</sup> 13215/15

12. Possible suggestions for improving the succession-related factsheets on the e-Justice Portal were discussed within the expert group, with concrete proposals presented to the e-Law (e-Justice) Working Party<sup>3</sup>. As a result the Commission has decided to update and enhance the content of the e-Justice Portal in this respect.
13. A feasibility study, exploring the possibilities for secure electronic tool for cross-border transmission of certified copies of wills<sup>4</sup> was conducted within the expert group. A specific questionnaire was sent to the Member States to examine this issue<sup>5</sup>. The results of the survey suggested that more work could be done in this area regarding digital access to information, interoperable ICT systems and a secure connection channel for linking different types of existing systems, as a way to develop the area of interconnection of registers of wills even further.
14. A further in-depth feasibility study would be needed in order to carefully analyse existing national legal frameworks which may preclude most notably the creation of an automatised and publicly available network of interconnected registers of wills as well as cross-border transmission of certified copies of wills. In this context, further development of already existing tools in this field which respect the legal specificities of the Member States must be taken into account.
15. A concrete suggestion for creating an interactive tool to the e-Justice Portal was made. This tool would direct a person to the right (digital) contact point in a succession matter providing necessary information along the way.

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<sup>3</sup> 11170/1/15 REV 1

<sup>4</sup> 12961/16

<sup>5</sup> 12953/16

16. As regards the European Certificate of Succession and its application forms, the expert group has produced specific XML schemas, semantics<sup>6</sup> and a business process description<sup>7</sup> to be used by the Commission in its ongoing work to provide dynamic forms in the e-Justice Portal in the course of 2016.
17. Finally, the expert group has produced a proposal for recommendations on electronic will registration and data exchange<sup>8</sup>, with a view to presenting this topic to the Working Party on e-Law (e-Justice). Discussions on this issue are still on-going.

*b) Expert group on judicial auctions*

18. The expert group on judicial auctions was set up as a follow-up to the e-Justice Action Plan 2014-2018, on the basis of the mandate described in 8278/15.
19. The expert group has convened five times in the period from October 2015 to September 2016 to discuss the possibility of setting up new information pages on judicial auctions on the e-Justice Portal. The expert group has produced a new general content page, including a definition of a judicial auction, to be incorporated in the Portal by the Commission, as well as a multilingual glossary of the technical terms most frequently used in this context, and national pages including information on the performance of judicial auctions in the relevant Member States.
20. The expert group presented the provisional results of its work, as set out in 13914/16, to the Working Party on e-Law (e-Justice) on 11 November 2016. The way of continuing this work in 2017 with a more developed new project could be considered at the beginning of 2017.

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<sup>6</sup> 5430/16

<sup>7</sup> 5432/1/16 REV 1

<sup>8</sup> 11993/1/16 REV 1

*c) Expert group on fundamental rights - assistance to citizens*

21. The expert group on fundamental rights - assistance to citizens was set up in 2015 as a follow-up to the e-Justice Action Plan 2014-2018 on the basis of the mandate described in 6993/1/15 REV 1. The expert group has convened six times in the period from June 2015 to September 2016 and presented its final report to the Working Party on e-Law (e-Justice) on 25 October 2016, as set out in 13227/16.
22. In December 2015, the Council (Justice and Home Affairs) took note of the conclusions of the Working Party on e-Law (e-Justice) and endorsed the intermediary results of the expert group on fundamental rights as set out in 12883/15 and the suggested way forward.
23. The main task of the expert group has been the integration of the online fundamental rights interactive tool, developed in the context of the Clarity project of the European Union Agency for Fundamental Rights, in the e-Justice Portal.
24. Work on the integration of this interactive tool in the Portal started in January 2016, as a joint effort by the Commission, participating Member States and the Fundamental Rights Agency. Integration of the tool was finalised at the beginning of October 2016. The new service is now available in 23 languages, including a multilingual glossary. In addition to the initial 14 Member States participating in the tool, a number of additional Member States have already been included or have indicated their interest in participating in the tool.

*d) Expert group on e-CODEX*

25. The Working Party on e-Law (e-Justice) has closely followed the ongoing work on the e-CODEX project, taking into account the need to develop interoperable e-justice solutions within the EU and given the significant impact which the results of the e-CODEX project will have in the field of European e-justice.

26. The expert group on e-CODEX has drafted the final roadmap of the e-CODEX project, which ended on 31 May 2016, setting out the milestones for the long-term sustainability and governance of the project results up to the end of 2018, in view of its handover to eu-LISA or another agency as set out in 11996/1/16 REV 1. The expert group presented the roadmap to the Working Party on e-Law (e-Justice) on 25 October 2016 in view of its endorsement by the Council (JHA) in December 2016.

*e) Other expert group-level work*

27. Other expert groups have also been active during the second half of 2016. The expert group on videoconferencing, active since January 2014 has focused on a specific project<sup>9</sup> performing practical tests and developing up-to-date technical and organisational guidance documents for cross-border videoconferencing. This guidance includes judicial use cases with high benefit from cross-border videoconferencing and a recommended step-by-step protocol for cross-border videoconferencing in judicial use cases.
28. In addition, an overall test report on the results of practical bilateral videoconferencing connection tests between 12 organisations from 11 Member States will be drafted, including Eurojust participation in multilateral tests. Other results include recommendations on the practical application of technical standards for cross-border videoconferencing and a form for requesting/confirming a cross-border videoconference.
29. The eligibility period of this project ended on 1 November 2016 and the project is in the closing phase completing its final report to the Commission. The expert group will report on the final results of the project to the Working Party on e-Law (e-Justice) in early 2017.
30. The expert group on minors, which was established in 2015 and started its work on 19 October 2015 with the objective of producing up-to-date content for the e-Justice Portal, is in the process of finalising its work. The expert group will report back to the Working Party on e-Law (e-Justice) in the course of 2017.

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<sup>9</sup> "Multi-aspect initiative to improve cross-border videoconferencing" (the 'Handshake' project).

31. The expert group on a multichannel communication strategy for e-Justice started its work on 4 February 2016. At its fourth meeting on 26 October 2016, the results of the questionnaire concerning the Member States' experiences with multi-channel strategies were discussed. Starting from late January 2017, the expert group will draft a first outline for a multi-channel communication strategy, which will be presented to the Working Party on e-Law (e-Justice) in early summer 2017.
32. Two additional expert groups on e-service of documents and on penitentiary establishments started work in autumn 2016. These expert groups will continue their work in the course of 2017.

#### **IV. e-Justice Portal**

33. Work on the enhancement of the e-Justice Portal progressed in the second half of 2016. New features in the Portal include the Fundamental Rights Interactive Tool (i.e., Clarity) originally developed by the Fundamental Rights Agency (FRA), which was launched in October 2016. The tool offers information to citizens on fundamental rights issues in an interactive and user-friendly way. The launch of the access point to the e-CODEX system on the e-Justice Portal, allowing users to submit claims electronically under the European Small Claims procedure and the European Payment Order to a select group of Member States, is expected to go live towards the end of 2016. The implementation of dynamic online forms<sup>10</sup> annexed to the Regulation on public documents<sup>11</sup> is ongoing and is expected to be finalised towards the end of 2017.

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<sup>10</sup> The Regulation introduces multilingual standard forms as translation aids for public documents concerning birth, a person being alive, death, marriage (including capacity to marry and marital status), registered partnership (including capacity to enter into a registered partnership and registered partnership status), domicile and/or residence and absence of a criminal record.

<sup>11</sup> Regulation (EU) 2016/1191 of the European Parliament and of the Council of 6 July 2016 on promoting 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.



34. Work on the interconnection of the Member States' insolvency registers<sup>12</sup>, business registers<sup>13</sup> and land registers is ongoing. Work on the consumer law database is expected to be finalised in the course of 2017. Integration of the European Judicial Training Network (EJTN) platform, as part of a new European Training Platform (ETP) being set up on the e-Justice Portal, is planned for 2017. The number of Member States connecting their case law databases to the ECLI search engine is steadily growing.
35. Work on the new version of the e-Justice Portal is ongoing, following the usability study carried out in 2015-2016. The final version with a new look and new features is expected to be launched in late 2017 or early 2018. A initial 'beta' version is planned to be launched in the summer of 2017.

## V. Conclusions

36. The Working Party on e-Law (e-Justice) invites the Coreper/Council to take note of this report and to endorse:
- a) the final report of the expert group on interconnection of registers of wills as set out in 13228/16;
  - b) the final report of the expert group on fundamental rights as set out in 13227/16; and
  - c) the progress report of the expert group on judicial auctions as set out in 13914/16.

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<sup>12</sup> Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings

<sup>13</sup> Directive 2012/17/EU of the European Parliament and of the Council of 13 June 2012 amending Council Directive 89/666/EEC and Directives 2005/56/EC and 2009/101/EC of the European Parliament and of the Council as regards the interconnection of central, commercial and companies registers