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From:	President of the Council of Bars and Law Societies of Europe (CCBE)
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To:	Chairman of the Working Party on e-Law (e-Justice)
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Subject:	Multiannual European e-Justice Action Plan 2014-2018 - Comments from the Council of Bars and Law Societies of Europe (CCBE)

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I was pleased to hear from our 2nd Vice-President, Maria Slazak, that the consultation meeting that took place on 25 March 2014 with you, the Greek Presidency and the Commission on the subject of the e-Justice Strategy 2014-2018, turned out to be so productive. Thank you for involving us in this consultation, on a topic which the CCBE considers a top priority.

After having been able to consult our member delegations, I am sending you, as agreed during the meeting, the list of CCBE comments on the draft multiannual action plan:

- As stated by you during the meeting, the Council’s current thinking in relation to the “cooperation mechanism with legal practitioners” as suggested in the e-Justice Strategy, is to invite once a year or so legal practitioners like lawyers, notaries and bailiffs to a meeting of the e-Justice Working Party, to discuss e-justice issues. Although the CCBE very much appreciates such an initiative, we would rather like to see a reconstitution of the former “Justice Forum” run by DG Justice, adding an e-justice element to it. That is because it brought together all the players in the field of justice, and not just legal practitioners. The main interlocutors of lawyers in e-justice are judges, courts and judicial authorities, and so the CCBE would strongly support the setting-up of a mechanism that includes these parties as well.
- The CCBE recommends the inclusion in future funding initiatives of activities (e.g. workshops) to inform lawyers about the tools that already exist on the e-Justice portal. As a more general remark regarding the funding programmes foreseen for the implementation of the action plan, the CCBE would like to stress the importance that such programmes also enable the participation of national Bars and Law Societies.
- Concerning the provision of “information through the e-Justice Portal” (page 3 draft multiannual action plan), the CCBE would like to point out that this could be a very useful tool to inform lawyers about new EU legislation. Moreover, along with surveys on user needs among the general public, the CCBE would welcome surveys to be carried out among specific user groups, such as lawyers.
- As regards the project foreseen on “Register of representation rights and powers of attorneys” (page 6 draft multiannual action plan), the CCBE understands this to involve creating an overview of rules on mandatory and non-mandatory representation by a lawyer in the various EU Member States, as well as setting up a system to register a client’s mandate for a lawyer in electronic court procedures. Although it is difficult to assess whether it would be useful to implement such a project without having further details about the exact intention, at this moment the CCBE is not persuaded that there is merit in pursuing such a register.

- As regards communication between judicial authorities (page 8 draft multiannual action plan), the CCBE would like to underline that such communications usually only work if lawyers are included. The danger of limiting electronic communications to courts alone when digitalising cross-border electronic judicial procedures is that the rights of citizens are overlooked. The CCBE sees itself, therefore, as an important partner in those projects envisaging communications between judicial authorities.
- The CCBE would like to stress the importance of taking into account systems that are currently being developed in existing projects, such as FAL 1 and FAL 2, which may be able to be used in other different projects listed in the action plan.
- In relation to “external relations” (page 10 draft multiannual action plan), the CCBE notes that non-EU lawyers do not have the same rights as EU lawyers, which are governed by the so-called “lawyers’ directives”. Therefore, the CCBE would wish to be involved in any actions that are envisaged in this respect in order to ensure that what should be dealt with through international trade negotiations is not given away carelessly through e-justice mechanisms.
- As to the ‘governance structure’ (page 10 draft multiannual action plan), the CCBE stresses that it would like to see the e-CODEX model being used in all e-justice projects based on interconnection of judicial systems, in order to avoid different models being developed. Regarding e-CODEX, we obviously fully support its work in securing a specifically European solution to communications between the principal stakeholders in justice.
- The CCBE would also propose to add to the action plan lawyer-to-lawyer communication in e-justice procedures, which is essential especially in case of necessary dual representation in cross-border procedures (e.g. a citizen being represented by two lawyers in a European arrest warrant case, one from the issuing Member State and another from the executing Member State). The CCBE is convinced that this would facilitate the efficiency of cross-border procedures.

I hope you find these comments useful and wish to indicate that the CCBE remains at your disposal in case you need any further information.

(Complimentary close)

Aldo Bulgarelli  
President of the CCBE

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