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From: General Secretariat of the Council
To: Working Party on e-Law (e-Justice)

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Subject: Final results of the questionnaire on e-Filing and e-Delivery
- Summary

1. As agreed at the meeting of the Working Party on e-Law (e-Justice) on 17 March 2015, the Member States were invited to send their answers to the questionnaire as set out in 5443/15 by 31 March 2015 with a view to presenting the final results at the meeting of the Working Party on 11 May 2015. All Member States have replied to the questionnaire.
2. The answers provided¹ enable the following conclusions to be drawn concerning the e-Justice systems and infrastructure across the EU.

¹ See 9204/15.

I. General aspects

1) Is there an e-filing & e-delivery system in your country for judicial and justice-related communication? Between what types of organisations is it used?

3. The infrastructure of the e-Justice systems varies greatly depending on the country. In some Member States there are no such systems or they are still construction. In others, there are only partial systems covering specific areas of law (civil, criminal, company registration, land register, insolvency) or specific action (such as payment orders, small claims applications, judicial execution procedures, certain court case management systems or data sharing systems between courts). However, some Member States, for instance Austria, Estonia, Italy, France, Portugal, Slovakia and Slovenia, have already adopted complex and comprehensive e-filing and e-delivery systems in the area of justice.
4. In a number of Member States similar systems are still under construction: for instance in the Netherlands a comprehensive e-Filing & e-Delivery system will be introduced in 2016 in civil and administrative cases. In Finland a whole new infrastructure will be implemented in 2016-2017. In Luxembourg and in the UK, significant developments in this area are on-going. Sweden is in the process of implementation of a comprehensive case management system between judicial authorities in criminal cases.

2) Could you give a rough indication of what percentage of all communication is covered by this system?

5. Depending on the complexity and scope of each national system, the coverage varies between 1% and 100%. The higher percentage rate mainly relates to e-communications between representatives of court administration and other judicial authorities (including courts, police, prosecutors and legal practitioners). The highest coverage rates are observed in Austria, Italy and Estonia, where all the lawyers, banks, insurance companies, social security institutions and legal chambers are obliged to use the e-filing and e-delivery systems.

3) Are there any legal requirements in relation to this system?

6. The systems are, as a general rule, regulated by specific laws and regulations at national level (e.g. on data protection and automated processing of data or relating to certain national registers) as well as by general legal acts on the relevant area of law (code of civil or criminal procedure, commercial code or administrative procedural law).

4) Could you briefly explain the technical requirements for connecting to the national e-filing & e-delivery system?

7. There is no uniformity among the Member States in this area. The technical requirements vary from one Member State to another and even at national level from one administrative entity to another. Some systems require a highly secured access via Web clearing houses and SSL secured encryption, secured digital signature, smart card or cryptographic tokens etc. Others require solely the registration of an e-mail account (especially those based on the Intranet service).

5) Does the system cover (in principle) all judicial and justice-related communication?

8. The coverage also varies across the Member States. In some, such as Austria, Estonia and Italy, it services all courts, all legal practitioners and all legal areas. In others the systems cover either one professional body only (e.g. the judiciary), specific legal area(s) (e.g. only civil and administrative cases) or specific areas of action (for instance, the payment order). In criminal cases the coverage seems, as a general rule, to be more limited.

6) Could you give some objective information in this regard (e.g. dates and/or other facts)?

9. It is not possible to draw any practical conclusions from the data received from the Member States, given that in a large number of Member States, this type of information is not available or the e-Communication systems do not exist or the related projects are still on-going. In those cases where the statistics have been presented, the case turnover is also different among the Member States. For example, in Spain the total number of all transactions amounts to 43 million in 2013, whereas in Hungary it was only around 500.000 at that time. The reason for this may stem from the fact that the use of electronic systems is mandatory only in certain cases.

7) Is it mandatory for practitioners to use the e-filing & e-delivery system (lawyers, judicial officers, other judicial authorities and, where applicable, notaries)?

10. The mandatory nature of the systems is diverse. Mostly, it is an obligation for public institutions and legal practitioners to use these systems, but there are also Member States where even the private institutions are obliged to use the e-filing and e-delivery systems (e.g. notaries, banks, insurance companies, social security institutions and legal chambers). In some Member States, such an obligation only exists in specific cases where the use of such a system is limited to a specific issue (e.g. land registers, insolvency cases, small claims applications, electronic payment orders). There is generally no such obligation for the citizens themselves.

8) Does the system support structured and/or unstructured data?

11. The majority of the systems support structured data, yet some provide support for unstructured data, too.

II. Specific aspects

- 1) **Do you have a system that provides representatives of the parties with electronic access to:**
 - a) **the procedural documents and/or the case file**
 - b) **a dashboard containing information on current time scales and/or the date set for a hearing and/or the state of the proceeding ?**

12. The availability of such systems is not common in the Member States. This issue is linked to the overall preparedness of a given Member States to handle legal proceedings via e-Communication systems or may be part of the on-going modernisation of the judicial system. Access to the procedural documents and the case file for the representatives of the parties is not common, except in those Member States where the development of e-Filing and e-Delivery systems is the most advanced (e.g. Austria, Estonia, Italy, the Netherlands, Spain, France, Slovenia, Lithuania). In some Member States, such access is only possible for specific issues, such as the land registry, the payment order system or some copies of court decrees.

- 2) **How is access to this information controlled in the case of a lawyer, a lawyer working in another Member State, another court (e.g. when a judgment is appealed)?**

13. Generally, the same rules apply to national and foreign lawyers. They need to obtain an eID card or a mobileID or specific national certification. Lawyers generally have to be registered by the clearing houses and national bar associations.

3) What are the technical conditions for such access?

14. For security and data protection reasons, the access to case files is restricted. Access is based on specific user identification, such as a card or specific authentication key. In general, lawyers may access the information after registering through the clearing houses in cooperation with national bar associations or via eID cards, and usually only have access to the cases they are entitled to. In Austria and Estonia, for example, such access, on the condition of a previous registration, is also provided to lawyers and courts from other Member States.

4) Are certain types of documents excluded from electronic consultation, e.g. because they are confidential or sensitive or because of the nature of the document?

15. As a rule, the documents containing sensitive information are excluded from such systems; sensitive information requires either restricted access or anonymisation.
