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OUTCOME OF PROCEEDINGS

From:	Working Party on e-Law (e-Justice)
On:	19 June 2015
To:	Delegations
Subject:	Summary of discussions

1. Adoption of the agenda

The agenda was adopted as set out in CM 2752/1/15 REV 1.

2. General presentation on e-justice

The Chair opened the meeting stating that the intention was for the meeting to function as a platform for cooperation between the EU institutions, the Member States' authorities and legal practitioners working in the area of justice. The General Secretariat also gave a presentation on e-justice with a video produced by the Council's press service. In addition, the representative of the ongoing e-CODEX project gave a presentation on the project and the technological solutions being developed within it.

The Commission briefly explained the current developments in the area of e-justice, such as the ongoing work regarding the integration of the website of the European Judicial Network (EJN) in criminal matters into the e-justice portal, work related to the interconnection of EU Member States' business and land registers and the interconnection of the Member States' databases of legal interpreters and translators. Another ongoing project was the development of the 'Find a bailiff' functionality to be integrated into the e-justice portal.

The Commission would launch a usability study on the e-justice portal within the next few months. The Commission was also examining new possibilities for offering funding to the Member States for specific national projects in the area of e-justice.

3. Future organisation of the meetings of the cooperation mechanism (practical aspects)

The Chair stated that the intention was to organise similar meetings once a year in the future, as set out in 5271/1/15 REV 1.

4. e-Communications between practitioners and the courts

The Chair presented the results of the discussions on this topic in the Working Party on e-Law (e-Justice) as set out in 9204/15 and 9205/15. The Austrian delegation stated that the development of electronic cross-border communications between citizens and the Member States' judicial authorities and courts was one of the key issues in the development of judicial cooperation within the European Union. It was important to respond to citizens' expectations regarding fair court proceedings – one of the elements of this work was to speed up court proceedings by increasing the efficiency of courts through the use of electronic means of communication. There were currently significant differences between the Member States as regards the development of such systems. Further work in this area was still needed.

One delegation pointed out that the electronic transmission of documents was obligatory in civil proceedings at the first level in court. A ministerial authorisation was expected for the use of the system at the level of the court of cassation. One delegation pointed out that the volume of documents transmitted electronically at national level was very high, but due to the particular nature of its administrative structure, based on autonomous regions, different systems were in use.

One delegation said that electronic means of transmitting court documents had been used in all levels of court since 2005. One delegation said that its national administration, including courts, used a system of electronic transmission based on the use of specific data boxes, which offered a much higher level of security than normal e-mails.

One delegation pointed out that one of the problems with cross-border communications in judicial proceedings was the issue of interpretation and translation. A workable solution should be found. The representative of the European Law Institute said that it was important to achieve greater coherence of EU law through better law-making. The use of electronic communications in legal proceedings was one of the key elements in this process.

The representative of the Council of Bars and Law Societies of Europe (CCBE) stated that the use of e-communications between practitioners and courts was an important element when building e-justice systems in Europe. However, in the process of digitalisation of cross-border procedures, the right of defence and the ability of the parties to participate in the proceedings should also be taken into account. It would be important to integrate the European judicial training platform into the e-justice portal so as to be able to inform all European lawyers more efficiently about available training in the area of justice.

The representative of the European Chamber of Judicial Officers (CEHJ) pointed out that the judicial officers were cooperating closely with the e-CODEX project in various pilots.

The representative of the Council of the Notariats of the European Union (CNUE) pointed out that, although it was important to develop electronic means of communication, the availability and conservation of legal acts in the longer term, within a period of 30 or 40 years, should also be taken into account. The representative of the EJM in civil and commercial matters welcomed the ongoing work aimed at increasing the use of videoconferencing systems in court proceedings in the Member States but stated that, despite the development of new technical solutions in the area of justice, there were still obstacles to the practical implementation of legal instruments and practical cooperation between the EU Member States. The EJM network was happy to offer its expertise in respect of the implementation of existing legal instruments.

5. Videoconferencing

The Austrian delegation presented the results of the expert group on videoconferencing as set out in 9206/15 and 8364/15. The Council had also adopted recommendations on videoconferencing in June 2015, based on the results of the expert group. In addition, the Commission had recently approved the project proposal presented by the Austrian delegation together with other partners. The work on this project would start in October 2015, with a view to developing more efficient videoconferencing facilities in cross-border situations between the EU Member States. A further meeting of the expert group was planned in September 2015.

The representative of the CCBE said that it was important to develop common mandatory minimum technical standards to be applied in cross-border situations between the Member States in the area of videoconferencing, in order to make the use of such systems workable in practice. The representative of the EJM in civil and commercial matters welcomed the ongoing work in this area but expressed concerns about the risk of duplication of work. Further cooperation at a technical level was likely to be useful, however.

The Italian delegation explained that videoconferencing facilities were used in Italy in criminal cases in dedicated high-security prisons. However, the decision on the use of videoconferencing facilities should be left to the discretion of the judge, who should always measure the use of such facilities against the interests of the parties on a case-by-case basis.

The representative of the EJM in criminal matters said that the EJM contact points could be of assistance to national practitioners for the organisation of videoconferencing in court proceedings in cross-border situations. The EJM website also contained a lot of useful information about mutual assistance in criminal matters. The issue of technical connections was, however, a critical issue and the establishment of a specific network could be useful for this purpose.

6. European Certificate of Succession

The Commission explained that Regulation (EU) No 650/2012 on succession would enter into application on 17 August 2015 and that it would soon launch its feasibility study on the electronic version of the certificate, to map the situation and to reflect on different possible options. The use of the European Certificate of Succession was optional (citizens could request it), and it did not replace equivalent national documents. However, the certificate would produce the same uniform effects in all Member States, which was a clear advantage for citizens, since this was not automatically the case with equivalent national documents. The certificate would be issued in the Member State where the deceased person had his/her last residence.

The Commission was reflecting on the possibility of introducing new EU legislation on the establishment of registers of wills in all Member States. The Commission would launch a study to consult the Member States on this issue. All the work done so far in this area should obviously be taken into account.

The Estonian delegation gave a presentation on the Estonian national solution for a prototype of the electronic certificate of succession¹ and the Estonian succession register. Cross-border succession procedures were a problem, as these procedures between authorities were currently paper-based, sometimes without any indication of a possible contact point in another Member State, which was very time-consuming for all the parties involved. It would be important to develop a similar decentralised EU-level solution with an online search option, with a view to facilitating information exchange in cross-border proceedings and for reasons of legal certainty. A specific expert group under Estonian leadership had been established to examine these issues in the framework of the Working Party on e-Law (e-Justice).

¹ <https://succession.rik.ee/>

The representative of the CNUE said that it had already developed an initial solution for the interconnection of registers of wills available to notaries in partner countries. It covered 13 Member States' registers and two non-EU registers (Russia and Switzerland). The CNUE welcomed all initiatives in this area and was willing to cooperate with the EU institutions in this work. The CNUE pointed out that work in this area was complex, taking into account that rules on privacy were different among the Member States. The CNUE also emphasised the need for a common EU database of requests for European Certificates of Succession, since under the current regime heirs could apply for multiple certificates from different notaries in different Member States, as there was no system for tracking applications made in a given Member State.

One delegation pointed out the difficulty of implementing Article 66(5) of the new Succession Regulation, according to which the Member States' competent authorities should provide information held in other national registers (such as land registers, civil status registers, etc.) to other Member States. There would be problems due to language barriers and in identifying the competent authorities in each case. More information about the practical implementation of this provision was necessary. One possibility could be to use the e-justice portal for this purpose. The Chair suggested discussing this issue at the next meeting of the Working Party on e-Law (e-Justice).

7. Static information content of the e-justice portal

The Hungarian delegation presented the results of the recent review exercise concerning the content of the e-justice portal and possibilities for updating and improving it, as set out in 9207/15 and 9208/15. As announced by the Commission, the forthcoming usability study would offer an opportunity to test the portal with real users and to eliminate duplication of content. The Chair informed delegations that the final results could be found in 8279/15 and 8285/15.

The representative of the EJN in civil and commercial matters said that, as regards the ongoing work related to the future integration of the EJN website into the e-justice portal, the visibility of the EJN website should be fully guaranteed. Information should be easily accessible for professionals even with a new layout. It was also important to provide the necessary translations of the EJN pages and to ensure the complete migration of the Judicial Atlas, which was an essential tool for cross-border cooperation between authorities.

The representative of the judicial officers said that, among other things, the CEHJ was planning to set up an online directory of judicial officers ('Find a bailiff'), which would be incorporated into the e-justice portal. The representative of the CCBE pointed out that it was important to move beyond the static content of the portal and start including more dynamic tools on access to justice for portal users.

One delegation suggested that some technical improvements should be made to the dynamic forms available via the e-justice portal, to make it possible to save those forms in pdf format in court files. Some improvements could also be made to the structure of the forms and to the way they were displayed in the e-justice portal.

8. Any other business

No items were raised under this point.
