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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
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Subject:	Report on the implementation of the 2014-2018 e-Justice Action Plan

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1. In order to evaluate the outcome of the 2014-2018 e-Justice Action Plan<sup>1</sup> and optimise the preparation of the 2019-2023 e-Justice Action Plan, the General Secretariat of the Council, at the request of the Working Party on e-Law (e-Justice) drafted a report on its implementation.
2. The first versions of this report<sup>2</sup> served as a basis for the work on the 2019-2023 e-Justice Action Plan<sup>3</sup>.
3. The Permanent Representative Committee is advised to invite the Council to take note of the report in the Annex on the implementation of the Multiannual European e-Justice Action Plan 2014-2018.

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<sup>1</sup> Multiannual European e-Justice Action Plan 2014-2018 (OJ C 182, 14.6.2014, p. 2–13)

<sup>2</sup> WK 598 2018 INIT, WK 598 2018 REV 1 and WK 598 2018 REV 2

<sup>3</sup> 2019-2023 Action Plan European e-Justice (OJ 96,13.3.2019, p. 9)

**REPORT ON THE IMPLEMENTATION**  
**OF THE**  
**2014-2018 E-JUSTICE ACTION PLAN**

1. On 6 December 2013, the JHA Council adopted a Strategy on European e-Justice 2014-2018<sup>4</sup> (the Strategy). This Strategy defines the general principles and objectives of European e-Justice and sets out general guide lines for the establishment of a corresponding multiannual European e-Justice Action Plan (the 2014-2018 Action Plan).
2. The 2014-2018 Action Plan<sup>5</sup> was published on 14 June 2014. It contains a list of the projects considered for implementation in the 2014-2018 period. The Working Party on e-Law (e-Justice)<sup>6</sup> is according to paragraph 2 of the 2014-2018 Action Plan tasked with following up concretely on the Action Plan.

Additionally, the Working Party on e-Law (e-Law) complements the work done by the Working Party on e-Law (e-Justice) by following up on the developments regarding the legal databases and information systems (EUR-Lex and N-Lex) managed by the Publications Office, the future of the Official Journal of the European Union, contacts with Third States in the field of e-Law and the exchange of information in the field of e-Law<sup>7</sup>.

3. The Working Party on e-Law (e-Justice) and the Working Party on e-Law (e-Law) are collectively known as the Working Party on e-Law.

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<sup>4</sup> OJ C 376, 21.12.2013, p. 7–11.

<sup>5</sup> Multiannual European e-Justice Action Plan 2014-2018 (OJ C 182, 14.6.2014, p. 2–13).

<sup>6</sup> Mandate of the Working Party on e-Law: 16113/10 JURINFO 53 EJUSTICE 109 POLGEN 184.

<sup>7</sup> Paragraph 8 of document 16113/10 JURINFO 53 EJUSTICE 109 POLGEN 184.

4. Paragraph 46 of the 2014-2018 Action Plan also called for the Council to assess the implementation activities in the first half of 2016. This task was fulfilled through the adoption of a mid-term review on 9 June 2016<sup>8</sup>.
5. As the 2014-2018 Action Plan came to an end, further evaluation of the results of the 2014-2018 Strategy and Action Plan was necessary. The results of this evaluation guided the drafting of the 2019-2023 e-Justice Strategy and Action Plan.

## **I. GENERAL PRINCIPLES FOR E-JUSTICE**

6. Paragraphs 19 to 25 of the Strategy detailed the general principles on which the work in the area of e-Justice is based. These principles were:
  - voluntary action<sup>9</sup>: notwithstanding initiatives subject to concrete legal obligations pursuant to EU law, implementation of projects contained within the Action plan is left entirely at the discretion of Member States.
  - decentralisation<sup>10</sup>: the European e-Justice concept is based on the principle of a decentralised system at European level, interlinking national systems in the Member States, unless a centralised system has to be envisaged in specific situations, such as when such a solution is more cost-effective or a legislative instrument mandating a centralised approach has been adopted.

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<sup>8</sup> Document 9339/16 EJUSTICE 87 JUSTCIV 124 COPEN 170 JAI 477.

<sup>9</sup> Paragraph 19 of the Strategy.

<sup>10</sup> Paragraph 20 and 21 of the Strategy.

- interoperability<sup>11</sup>: national systems need to be interoperable, in order for them to interlink, as dictated by the decentralisation principle. Compatibility between the various technical organisational, legal and semantic aspects selected for the judicial system applications should be ensured, while ensuring maximum flexibility for the Member States.

7. The objectives of the Strategy were implemented, in accordance with paragraph 7 of the 2014-2018 Action Plan:

- access to information in the field of justice,
- access to courts and extrajudicial procedures in cross-border situations, and
- communication between judicial authorities.

## **II. GENERAL PRESENTATION OF THE IMPLEMENTATION OF THE 2014-2018 STRATEGY AND ACTION PLAN**

8. The Annex to the 2014-2018 Action Plan defines forty-two projects considered for implementation.

Among them, only one<sup>12</sup> did not lead to any kind of follow-up at the level of the Working Party.

9. For the forty-one other actions, follow-up ranged from full implementation to simple assessment of opportunity. Their state of implementation will be detailed further below.

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<sup>11</sup> Paragraph 22 of the Strategy.

<sup>12</sup> Action 19 of the Action Plan, "Register of representative rights and powers of legal representatives".

10. Actions could be divided into three categories: actions driven by Member States, actions driven by external partners (for example, consortium for e-CODEX or the Hague Conference, or by legal practitioners) and actions driven by the Commission.

Among the forty-one actions contained within the 2014-2018 Action Plan, thirteen were driven by Member States, seven by external partners and twenty-one by the Commission.

11. For actions driven by Member States, the usual course of action was the setting-up of an Expert group, which collected information and coordinated with the Commission for implementation, if necessary.
12. The frequency of Expert group meetings varied greatly, depending on the urgency of the work. Progress in some Expert groups is steady, necessitating few meetings per year, but over several years. Some other groups met several times in a short amount of time and conclude their work quickly.

This difference seemed to stem from the varying lengths of actions contained within the 2014-2018 Action Plan: some are conceived as one-off reflections, while some others are long-term projects with evolving goals.

13. For actions driven by the Commission, Expert groups could be set up by the Commission in order to collect feedback from Member States. In this case, the implementation of the action was up to the Commission, which reported on the progress to one of the formations of the Working Party on e-Law.
14. For actions driven by external partners, these partners conducted their own work, with the opportunity to avail of the various relevant EU funding instruments. Follow-up on these actions **was** done in one of the formations of the Working Party on e-Law.

### **III. RESULTS OF THE 2014-2018 ACTION PLAN**

15. The 2014-2018 Action Plan was split into four chapters:

- Access to information in the field of justice,
- Access to courts and extrajudicial procedures in cross-border situations,
- Communication between judicial authorities, and
- Horizontal issues.

#### **A. ACCESS TO INFORMATION IN THE FIELD OF JUSTICE**

16. One of the goals of e-Justice is to give access to information to citizens, concerning judicial procedures and all data relating to the practical enactment of these procedures. This encompasses information detailing the prerequisites and flow of judicial procedures, but also information on professionals involved in judicial procedures, such as lawyers, experts or institutions tasked with protecting fundamental rights. Another aspect of access to information in the field of justice is access to legislation.
17. The main tool for giving access to this information is the European e-Justice Portal (hereafter, the Portal). The Portal is comprised of information pages on various subjects and interactive tools for searching information on members of legal professions.

During the period of implementation of the 2014-2018 Action Plan, a significant amount of new information has been added to the Portal. This includes, for instance, pages on family matters, contributions by the European Judicial Network in civil and commercial matters or rights of victims, as well as the Judicial ATLAS pages.

The tools designed to search for members of legal professions available on the Portal allow for real-time searches for lawyers and notaries. Other search tools for professions linked to judicial proceedings (translators, experts, mediators) were planned in the 2014-2018 Action Plan.

i. European e-Justice Portal (General aspects)

18. General aspects of the Portal encompass updates to the static content of the Portal, expansion of the static content - in total around 30 000 pages at the moment - and inclusion of functionalities defined in the 2014-2018 Action Plan. This was supplemented by a usability study conducted by the Commission, in order to optimise the layout of the Portal and draw more visitors to it.
19. This work was conducted by the Commission, with contributions from Member States and the legal professions to the content of the pages. No Expert group was set up under the remit of the Working Party on e-Law (e-Justice) or e-Law (e-Law).

The aim of the work conducted under this action was to improve access to justice, by informing citizens, businesses and the legal practitioners on particular aspects of judicial proceedings.

20. This action reached an important stage, as the results of the usability study led to an effective revamp of the Portal. A Beta version of this revamped website is already accessible<sup>13</sup>.
21. The statistics provided by the Commission show that the number of visits to the Portal is heavily correlated with content updates. The usability study has shown that the design of the Portal, dating back several years, was an obstacle to user retention. The Commission hopes that the overhaul of the interface and a new content structure of the Portal will draw more visitors to it. The monthly average number of visits is around 300 000 for the time being.

The Portal has proven a reliable tool for access to information on judicial proceedings for its target audience.

22. The main difficulties which were identified are the time consuming updating process and numerous translations to be provided by the Commission. Some of the information displayed on the Portal, originating from the Member States, has to be updated directly by the Member States in the Portal's Content Management System (CMS). Some Member States lack the resources needed to provide updates in a timely manner. In the same way, providing translations in all official languages is a time-consuming effort for the Commission.
23. Taking these difficulties into account, it would be beneficial to streamline the updating process of information pages on the Portal.

This streamlining process would aim at easing the burden on Member States and allowing more accurate information to be displayed on the Portal. This particular point has already led to discussions within the Working Party on e-Law (e-Justice) during the first semester of 2019.

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<sup>13</sup> <https://beta.e-justice.europa.eu/>



The translation effort provided by the Commission could not be significantly lightened, as automatic translation is not yet effective or reliable enough for complex information in all languages, although a machine translation service is already available in the Portal. This would also raise the question of responsibility for the content of translated pages.

ii. European e-Justice Portal - Information relating to minors

24. The aim of this action was to provide information on the roles minors can assume during judicial proceedings. In this case, they can be victims, suspects or even convicted persons. The concrete expected result was to provide information pages presenting a comprehensible overview of the role of minors in judicial proceedings and the different procedural rights attached to these possible roles.
25. In order to collect information on this subject matter, an Expert group, chaired by France, has been set up under the remit of the Working Party on e-Law (e-Justice)<sup>14</sup>. It has collected information by addressing a questionnaire to delegations. This questionnaire concerns relevant aspects of national law.

So far, 18 delegations have responded to the questionnaire, including partial replies.

Its online publication will be done in separate pages on the Portal. For now, information will be provided in the official language of the Member State. The Commission aims to provide translations in the future.

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<sup>14</sup> Its mandate is set out in 11707/15 EJUSTICE 101 JUSTCIV 195 COPEN 228 DROIPEN 91.

26. The work is still ongoing for the publication of the dedicated pages on the Portal. So far, 12 have been made available.
27. The main difficulty has resided in collecting replies from Member States to questionnaires. It appears that specific questionnaires take a long time to reach the relevant persons within the Member States' administrations. The return period was quite long as well. Finally, there were also issues with the collection of replies. Few replies are, in the end, provided.

The Commission has also indicated that it will take time to translate all information into all official languages.

28. This action has produced partial results in the form of replies to a questionnaire on relevant aspects of national law and publication of information . Member States who have not yet responded to the questionnaire are still able to do so.

iii. Penitentiary establishments

29. This action aimed at providing information on penitentiary establishments throughout Europe, in order to help professionals and citizens with a link to prisoners. The information provided would cover the location of the establishments (address) and special services offered there (medical services, special accommodations for couples, for example). The concrete expected result was a search tool for penitentiary establishment.

30. An Expert group was set up<sup>15</sup>, chaired by Hungary, in order to collect this information and reflect on the best possible format for the search tool. This Expert group met twice, before concluding its work<sup>16</sup>. Its report proposing a solution for providing the relevant information was adopted at the meeting of the Working Party on e-Law (e-Justice) on 14 November 2017<sup>17</sup>.
31. The solution entails the communication of information by the Member States to EPIS (European Prison Information System), a database for information on penitentiary establishments maintained by EuroPris. EuroPris is a non-governmental organisation comprised of members of the national and regional penitentiary administrations<sup>18</sup>. EuroPRIS has launched projects, which have been co-financed by the European Union for several of its projects<sup>19</sup>. Several Member States expressed their reluctance to join EuroPris, which led to the recommendation that relevant information should be transmitted without any obligation to actually become a member of EuroPris.
32. The work on this action has been concluded with a call for action from the Commission and Member States. The Commission has been requested to set up a page on the Portal, redirecting to the EPRIS database. Member States were requested to transmit the relevant information to EuroPris, in order to update the EPRIS database, with a deadline for transmission in January 2018. The information has been transmitted for the main part, with EuroPRIS reporting an improved rate for updates.

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<sup>15</sup> Its mandate is set out in 8645/16 EJUSTICE 79 COPEN 134 DROIPEN 78.

<sup>16</sup> In October 2016 and March 2017.

<sup>17</sup> Document 8569/17 EJUSTICE 38.

<sup>18</sup> The Members States participating in EuroPRIS are Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovakia, Slovenia, Sweden and the United Kingdom. The Spanish Autonomous Community of Catalonia is also a member of EuroPRIS. Non EU-States participating in EuroPRIS are Georgia, Norway, Switzerland and Turkey.

<sup>19</sup> <http://www.europris.org/projects/foriner/> ; <http://www.europris.org/projects/era-radicalisation/>

33. Two particular difficulties were noticeable: the lack of interest in a database on penitentiary establishments and the concerns of some Member States with regard to cooperation with EuroPris.

Some Member States consider that divulging information concerning penitentiary establishments is counterproductive at worst and of no added value at best. In order to address this concern, the amount of information displayed has been limited to already publically available information.

The issue concerning membership to EuroPris has been addressed by agreeing with EuroPris and Member States that membership to EuroPris will not be required for the data to be transmitted.

iv. Knowledge management initiative in criminal matters

34. A draft mandate for the setting-up of an Expert group was prepared by the Spanish delegation<sup>20</sup> in 2015 and examined by the Working Party on e-Law (e-Justice) in May 2015. However, it was considered that more cooperation and consultation with EuroJust was needed.

The draft mandate has not been resubmitted to the Working Party on e-Law (e-Justice) since then.

v. Open Data on e-Justice

35. A mandate for an Expert group on Open Data, presented by the Netherlands delegation, was adopted in March 2015.<sup>21</sup>

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<sup>20</sup> Document 6994/15 EJUSTICE 23.

<sup>21</sup> Document 6992/15 EJUSTICE 21 DAPIX 38.

36. The general aim was to reflect on the use of Open Data in the field of e-Justice and develop its use in the context of the EU, but, according to its mandate, the expert group started with making an inventory on which data within the context of the Portal should be made available as open data, and how this could be organized, both legally and technically.

37. The Expert group met twice, in June and September 2015.

The results of its work were a report<sup>22</sup> (endorsed by Council) and a note to the Working Party<sup>23</sup>.

The report makes an inventory of the data collections within the Portal, and makes recommendations on whether and how these data collections should be available as Open Data, as well as to adapt the legal notice on the e-Justice Portal as to align it with the legal framework of the PSI Directive. Not all recommendations have been implemented yet.

38. The Expert group on Open Data has been dormant since September 2015.

vi. Information and assistance for citizens to resolve fundamental rights problems

39. A mandate for an Expert group<sup>24</sup> was adopted by the Working Party on e-Law (e-Justice) in May 2015.

40. The aims of the work of the Expert group were to provide dedicated information on fundamental rights in the Portal and to integrate the CLARITY tool of the Fundamental Rights Agency (FRA) into the Portal.

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<sup>22</sup> Document 11786/1/15 REV 1 EJUSTICE 103 JURINFO 23 DAPIX 175.

<sup>23</sup> Document 12986/15 EJUSTICE 122 JURINFO 25 DAPIX 176.

<sup>24</sup> Document 6993/1/15 REV 1 EJUSTICE 22 FREMP 49.

41. The CLARITY tool provides an efficient search tools for organisations responsible for the protection of fundamental rights within Member States. These organisations range from NGOs to national Ombudsmen. The information on the exact responsibility of these organisations has been provided by Member States to FRA, in order to update and maintain the CLARITY tool. The tool was developed with the aim of providing easy access to contact information for organisations responsible for protection of fundamental rights, but was largely ignored due to its location on FRA's website. A better exposure through the Portal seemed like a good use of resources, as it avoided duplication of efforts, while drawing attention to the work of FRA.
42. A questionnaire<sup>25</sup> was distributed to Member States, in order to assess the accuracy of the pages displayed in the Portal concerning the situation on fundamental rights in each Member State. In all, twenty-one replies were provided.

The information provided was used to orient the debate on the integration of the CLARITY tool onto the Portal and to assess the accuracy of pages already provided concerning fundamental rights in Member States.

43. The work of the Expert group has been concluded in 2016. The CLARITY tool has been integrated into the Portal and is being updated when Member States communicate new relevant information. It is to be noted that only 16 Member States participate in the project for the time being. Information pages on the Portal concerning fundamental rights protection in Member States are also being updated as Member States provide additional information to the Commission.

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<sup>25</sup> Document 12548/15 EJUSTICE 114 FREMP 201DROIPEN 113.

vii. Judicial auctions

44. The Expert group on judicial auctions has been set up in 2015 by the Working Party on e-Law (e-Justice), with the Italian delegation as its chair.

Its goal is to provide access to judicial auctions in a cross-border manner. National auctions systems cannot be easily used by citizens of another Member States, due to lack of access to auctions listings and possibilities to participate in the bidding. The Chair's intention is to foster access to judicial auctions in other Member States, through electronic means, possibly a website acting as a portal.

45. The Expert group has met seven times between October 2015 and November 2017.

46. As a first measure, a questionnaire was drafted, concerning

- the information pages about enforcement and judicial auctions on the Portal, as well as
- convergences between the various legal systems, and
- specific information that will enable EU citizens to obtain access independently to forced sales, without needing to use the services of professionals specialising in this area.

47. Seventeen Member States replied to the questionnaire.

The questionnaire has been used to assess the relevance of the information pages displayed at the time on the Portal on enforcement and judicial auctions. It has also been used to assess the possibility of providing access to citizens in other Member States. The results were used to determine which information is the most relevant for citizens, when looking through judicial auctions listings. This information would then be reflected in the possible searchable items. In addition, certain elements from the questionnaires were included in the Portal - a general page and specific pages pertaining to 14 Member States.

48. Information on auctioned goods could be found through:

- a research engine able to explore national websites, or through
- the insertion of specific information in the Portal, or through
- the interconnection of national websites.

49. In the last meeting of the Expert group, the Italian Chair presented the Italian judicial auctions portal, in order to show an example of a searchable tool for auctioned goods.

The inclusion within the Portal such a tool and the exact means of research will be further discussed within the group.

50. The Working Party on e-Law (e-Justice) has been kept informed of developments within the Expert group.

51. The work of the Expert group continues under the 2019-2023 e-Justice Action Plan.



viii. Judicial official announcements

52. This action was intended to make information on the electronic publication of national official announcements available on the Portal . However, its scope was broadened by the Working Party in the mandate for the Expert group<sup>26</sup> which dealt with the issue.
53. The reason behind this change was the follow-up on an issue brought forward by the Publications Office of the European Union, concerning anonymisation and pseudonymisation of official notices and announcements published in the Official Journal of the European Union. It was decided to study the legal and technical practices of Member States concerning the anonymisation or pseudonymisation of official announcements and possibly to draft guidelines on it. In order to rationalise efforts, a decision was taken in May 2016<sup>27</sup>, to handle the issues together and thus create an Expert group on Official announcements, under e-Law (e-Law) remit.
54. The Chair of the Expert group was attributed to the Netherlands, with Estonia as the co-chair.
55. Through a questionnaire<sup>28</sup>, the Expert Group collected information on the way official announcements are published, anonymised or pseudonymised in national official publications. Seventeen Member States, as well as EU institutions provided answers to this questionnaire, encompassing thirty-nine organisations in all.
56. The Chair drafted a report taking into account the information received. However, the varied approaches concerning anonymisation and pseudonymisation prevented the drafting of common practices.

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<sup>26</sup> Document 9663/16 JURINFO 34 EJUSTICE 115.

<sup>27</sup> Document 8195/16 EJUSTICE 65 JUSTCIV 76 JURINFO 11.

<sup>28</sup> Document 6404/17 JURINFO 7 EJUSTICE 13 DATAPROTECT 20 DAPIX 56.

The Expert group also proposed a format for gathering information concerning national practices for publication of official announcements, to be published on the Portal. This proposal was accepted on 10 November 2017.

57. The Expert group has concluded its work, with the main result being a future publication of information pages on the Portal. No Conclusions or guidelines were adopted concerning this issue, as national practices were too different to draw common guidelines.

However, it should be noted that Conclusions on the online publication of Court decisions, amongst other issues, dealing with anonymisation and pseudonymisation of Court decisions in online case law repositories, have been adopted by the Council and published in the Official Journal on 8 October 2018<sup>29</sup>. This work was co-ordinated independently from the Expert group by the Dutch delegation.

ix. Consumer law database

58. The aim of this action is to give access to information concerning national law on consumer issues to citizens. The information will be formulated in a comprehensible manner, so that non-specialists can still take advantage of it.

This database on the Portal is maintained by the Commission. Member States have been requested to assist with the content, by providing relevant and up to date information on their national legislation in the field of consumer law.

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<sup>29</sup> OJ C 362, 8.10.2018, p. 2–3

59. All Member States have previously provided content for the initial phase.

However, during the current content revision exercise, only a limited number of Member States have provided adequate input – 9 out of 28 during Phase 1 and 7 out of 28 during Phase 2.

60. While this action can be considered successful in that the pages containing the information are available, the information contained within, is for many Member States not up to date. This will necessitate an effort on the part of the Member States.

x. Interconnection of insolvency registers

61. This interconnection project is led by the Commission.

Its goal is to allow access to information on national insolvency cases to all citizens through an interface on the Portal. This objective stems from Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings, which states<sup>30</sup> that the Commission has an obligation to create a central access point through the Portal to Member States' registers containing insolvency information.

62. A first voluntary interconnection of national insolvency registers has been in operation on the Portal since 2014, with partial coverage<sup>31</sup>.

63. Further to Regulation (EU) 2015/848, a new implementation is ongoing with the objective of the interconnection of all Member States<sup>32</sup> registers to the search engine on the Portal. The deadline for the adoption of the implementing acts is 2019.

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<sup>30</sup> Article 25 of Regulation 2015/848.

<sup>31</sup> Nine Member States as of 2018.

<sup>32</sup> With the exception of Denmark in accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union.

xi. Business registers

64. The interconnection of business registers was mandated by Directive 2012/17/EU (repealed by Directive 2017/1132). Commission Implementing Regulation (EU) 2015/884 of 8 June 2015 establishing technical specifications and procedures required for the system of interconnection of registers established by Directive 2009/101/EC of the European Parliament and of the Council defined the technical prerequisites for this interconnection and allowed the Commission and Member States to move forward on this topic.
65. The Business Registers Interconnection System (BRIS) came online on 8 June 2017. Currently 23 Member States<sup>33</sup> are participating in the system. The Member States who have not yet connected to BRIS are expected to join without delay.
66. BRIS already allows for searches and access to the main documents defined by the Regulation. These documents are free to access. Plans are to give access to documents subject to fee at a later date, once a payment system has been developed and put into place.
67. This actions is largely fulfilled. The Member States which are not yet connected are expected to give access to their business registers as soon as possible. The implementation of a payment system for information which needs to be paid for in this context, should be the next step in the development of BRIS.

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<sup>33</sup> Absent Member States are Bulgaria, the Czech Republic, Ireland, Portugal and Romania.

xii. Land registers

68. The Commission has been currently working on developing the land registers interconnection system (LRI) assisted by an expert group. The goal is to give access to all citizens to essential information concerning land ownership. However, it was known from the beginning that a number of legal<sup>34</sup> and technical issues would present a particular challenge.
69. The 2014-2018 Action plan indicated that a feasibility study should be conducted by the Commission, in order to determine the possible extent of the interconnection. The results indicated that the interconnection was theoretically possible, notwithstanding national law issues.
70. In the end, the Commission Expert group was created to assess the best possible system for interconnection. It is currently working on a technical tool for interconnection. As it is a purely technical group, it will not work on legal difficulties existing in this domain.

As this interconnection is not mandated by a legal instrument, it should be a voluntary project.

71. There are four piloting Member States participating in this action<sup>35</sup>.

Two of them<sup>36</sup> were awarded funding by the Commission for the project 'LRI MS Connection' which will carry out the pioneering work by connecting the Land Registers of Austria and Estonia to the LRI platform on the Portal, which will be implemented by the Commission. The 'LRI MS Connection' project should start in March 2018 and has a planned duration of 15 months. The Commission is also working with the European Land Registers Association (ELRA) and EuroGeographics - the association of European National Mapping, Cadastre and Land Registry Authorities. The action is continued under the 2019-2023 e-Justice Action Plan.

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<sup>34</sup> Legal inexistence of a land register in certain Member States, as well as responsibility for the maintenance of these registers.

<sup>35</sup> Austria, Estonia, the Netherlands and Sweden.

<sup>36</sup> Austria and Estonia.

72. This action was very complex, in both legal and technical terms. Many Member States do not have the possibility to establish land registers in electronic format yet, while others face legal difficulties in establishing these land registers.

The main issue in this case was the differing landscapes in the Member States on a technical and legal basis.

xiii. Interpreters' and translators' databases

73. The aim of this action was the addition of a search engine for interpreters and translators in the Portal. This would allow citizens to search for interpreters and translators, whose services they could employ, notably in judicial proceedings.

74. This project was led by EULITA, which is a professional association of interpreters and translators.

A grant from the Commission was applied for in 2014, for creating a LIT Search<sup>37</sup> database of translators and interpreters. Associations from 12 countries participated in the project.

However, as these associations do not represent the entirety of the professionals in their respective countries, it was considered that broader participation from professionals was necessary before integrating the search engine into the Portal.

75. It was therefore decided to put the integration of the search engine on hold for the time being. The project would be taken up again, once EULITA was able to garner sufficient coverage for its database.

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<sup>37</sup> <http://eulita.eu/wp/fr/lit-search-pilot-project-eu-database-legal-interpreters-and-translators/>

xiv. Help for the translation of judicial acts

76. The aim of this project was to establish a database of translators, able to provide translations for judicial acts. This database would be accessible through a search engine on the Portal.
77. The project was launched by the French Ministry of Justice, and was called Babellex<sup>38</sup>. This project was also co-financed by Commission action grants. However, after the French Ministry of Justice presented the first results to the Commission and the General Secretariat of the Council in late 2015, issues were pointed out and the financing was discontinued for the time being.
78. The issues pertained to the verification of professional proficiency and adherence to professional ethics. Inscription into the database for translators was possible for any person, without any preliminary check for proficiency. The verification would be done a posteriori, through user reviews.
79. The Commission considered that the absence of prior verification for credentials was too important a liability in the context of the Portal. The French Ministry of Justice has been working on a new version of its database and search engine since then.
80. The need to offer a database of translators and judicial interpreters on the e-Justice Portal, as expressed in the 2014-2018 e-Justice Action Plan has been reaffirmed in the 2019-2023 Action Plan, taking into account the lessons drawn from LITSearch and BabelLex.
81. Contrary to lawyers and notaries, translators and interpreters are not necessarily members of a unified professional organisation. They can be associated **with** multiple associations, some competing with others. What is more, a simple list of translators/interpreters might not necessarily respond to needs in terms of reactivity and urgency.

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<sup>38</sup> <http://www.justice.gouv.fr/europe-et-international-10045/babellex-laces-aux-langues-pour-le-droit-dans-lue-28953.html>

82. Promoting the transmission of lists of licensed translators/interpreters would allow responding to the practical needs of legal practitioners and judicial authorities in this field. BabelLex, if further developed, would allow to selectively search for licensed translators/interpreters.
83. The tools developed under the 2014-2018 Action Plan can serve as basis for further projects in the field of access to translators/interpreters.

xv. Registers of judicial experts

84. The aim of this action was to create a search engine for judicial experts. This would allow citizens to search for experts in particular domains, in order to employ them in judicial proceedings.
85. Contacts were taken with several judicial experts associations and think-tanks (European Expert and Expertise Institute, EuroExpert...). However, representatives of these associations acknowledged that their databases are not ready for their use in a search engine as
- some Member States do not regulate the use of judicial experts, making the constitution of a reliable database difficult, and
  - associations do not necessarily represent a representative cross-section of experts, necessitating more extensive contacts with other associations.
86. It should be noted that three initiatives with aims comparable to the Action contained within the 2014-2018 Action Plan have been launched by Latvia, the European Expert and Expertise Institute (EEEI) and EuroExpert.



87. A cross-border project called "find a forensic expert", which was co-financed by a grant from the European Union<sup>39</sup> was finalised by Latvia in cooperation with Estonian and Lithuanian forensic science institutions.

The aim of the project was to develop the Unified Register of Forensic Science Experts and the Unified Classification of Forensic Examinations accessible online initially covering the Baltic States. General information on forensic science and forensic science institutions are prepared for the European e-Justice Portal

88. The Find an Expert project<sup>40</sup>, co-financed by the European Union, has been launched by the EEEI. The project team met for the first time in September 2017. Their first step will be collecting information on the organisations responsible for managing lists of judicial experts.

89. Another project has been launched earlier by EuroExpert. They already have a functional Find an Expert tool available<sup>41</sup>. However, their membership is limited to eight Member States<sup>42</sup> (with one additional associate member<sup>43</sup>). This limited membership could prove an obstacle for the inclusion of the tool into the Portal as is.

90. In the end, the future of this action will depend on the ability of the professional associations to draw members in and create wide and reliable databases of judicial experts. Based on that, integration of a search tool to the Portal can be considered.

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<sup>39</sup> Award decision accessible under [http://ec.europa.eu/justice/grants1/files/2014\\_action\\_grants/2014\\_jacc\\_ag\\_e-ju/jacc\\_ag\\_e-ju\\_award\\_decision\\_en.pdf](http://ec.europa.eu/justice/grants1/files/2014_action_grants/2014_jacc_ag_e-ju/jacc_ag_e-ju_award_decision_en.pdf)

<sup>40</sup> <http://gb.experts-institute.eu/-FIND-AN-EXPERT,1007-.html>

<sup>41</sup> <http://www.euroexpert.org/find-an-expert.html>

<sup>42</sup> Austria, Croatia, Czech Republic, Germany, Italy, Portugal, Spain, United Kingdom.

<sup>43</sup> Italy.

xvi. Find a judicial experts

91. As indicated above, comprehensive databases for judicial experts could not be created as of the conclusion of the 2014-2018 Action Plan. This action could not be brought to fruition, although contacts with practitioners were taken and private projects were assessed.

xvii. Interconnection of registers of wills

92. The expert group on interconnection of registers of wills was set up according to the Multiannual European e-Justice Action Plan 2014-2018. The activities were led by Estonia and co-financed by the European Union. Nine expert group meetings took place during the period 2014-2016.

93. The overall goal of the activities was to explore and enhance the possibilities for exchanging succession related information and documents electronically between the Member States in order to improve and hasten the cross-border communication in succession matters.

94. An initial questionnaire was distributed to the Member States in June 2015, to which 24 Member States responded. The subsequent report provided the general framework for the work of the expert group.

95. 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. As a result the Commission updated the content of the e-Justice Portal in this respect.

96. A feasibility study<sup>44</sup>, exploring the possibilities for secure electronic tool for cross-border transmission of certified copies of wills was conducted. A specific questionnaire was sent to the Member States to examine this issue. 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. A concrete suggestions for creating an interactive tool on 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.

The expert group has produced a final report<sup>45</sup>, describing in detail the work it has done.

97. As regards the European Certificate of Succession and its application forms, the expert group has produced specific XML schemas, semantics and a business process description to be used by the Commission in its ongoing work to provide dynamic forms on the e-Justice Portal.

98. Finally, the expert group introduced a Conclusions document<sup>46</sup> with concrete suggestions to the Working Party on e-Law (e-Justice), which were adopted by the Council on 7 December 2017.

#### xviii. Electronic European Certificate of Succession

99. This action was carried out by the Commission, which launched in 2015 a call for tender<sup>47</sup>. The call for tender was concluded on 28 September 2015. The action can be considered as fulfilled.

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<sup>44</sup> Document 12953/16.

<sup>45</sup> Document 13228/16.

<sup>46</sup> 13887/17.

<sup>47</sup> Contract notice: Services - 286241-2015

( <http://ted.europa.eu/TED/notice/udl?uri=TED:NOTICE:286241-2015:TEXT:EN:HTML> )

xix. Register of representative rights and powers of legal representatives

100. Due to the heavy workload of the e-Law (e-Justice) Working Party, a necessary prioritization of work had to be done and current project was not among the first priorities of the Member States. So, valuing the delegates' time and possibilities for contribution it was considered not to launch the activities with this regard at this point.
101. However, the relevance of this project still remains, as in daily business activities as well as everyday life of guardians there is a need to prove power of attorney or guardianship. This highlights the problem which is related to the control of the right of representation. Information about representatives of legal entities can be found from the business register, but powers granted by natural persons or custody information cannot usually be verified without a corresponding document submission and verification of its validity. The right of custody is related to the population register and the availability of data has already been resolved in several Member States, but information about the existence and the validity of proxies (authentications), however, is not available.
102. There are several ways to deal with this initiative:
- provide information about representation rights (what kinds there are, how to check them etc.) in each Member State within the e-Justice Portal;
  - e-Service - Support data exchange between the Member States in order to check the validity representation without forcing citizens to prove it with a piece of paper;
  - Portal - Create single point for such enquiries within the e-Justice Portal.

xx. Find a judicial officer

103. The aim of this action was to allow citizens and practitioners to find bailiff/enforcement authorities through a search engine, on the same model as the "Find a lawyer/notary" tools.
104. This project has been managed by practitioners, who have developed a necessary tool. In this case the building of the database is facilitated by the fact judicial officers are, mostly, a regulated profession. The inclusion into a database is therefore a simple matter of qualification.

In particular, the European Chamber of Judicial Officers (or CEHJ) has developed a search tool for bailiffs<sup>48</sup>. This tool was supposed to be integrated into the Portal, however, the need for additional improvements was identified. The CEHJ has launched a second phase for its Find a Bailiff tool. A conference on the subject took place in Rome on 16 February 2018.

105. The main difficulty for this action was to integrate the tool within the Portal. Since no Member State coordinated the work on this point through the setting up of an expert group, the project has remained in the hands of the practitioners. Further contacts with CEHJ has yielded encouraging prospects.
106. It should be noted that other search services also exist<sup>49</sup>, however, their quality has not been assessed.

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<sup>48</sup> <http://www.europe-eje.eu/annuaire>

<sup>49</sup> For example: <https://www.findabailiff.co.uk/>

xxi. European Case Law Identifier (ECLI)

107. ECLI is an identifier for case law, which aims at facilitating the search for case law in all languages, by assigning metadata to the published Court decision.

This action has been ongoing since the 2009-2013 Action Plan. Council Conclusions on ECLI were adopted on 22 December 2010<sup>50</sup>. These Conclusions set the minimum standards for ECLI. Since then, an Expert group of the Commission has been working towards the general adoption of the ECLI standard, and more specifically with the aim of establishing an ECLI Search Engine as initially mandated by the Council Conclusions.

The Dutch delegation has also been working on other improvements to ECLI, such as better granularity for references within a Court decision. These improvements are part of the Building on ECLI (BO-ECLI) project.

108. In parallel to the gradual adoption of the ECLI standard at various levels, one of the main results for the ECLI action has been the addition of the ECLI Search Engine (ECLI-SE) to the Portal, which went live in May 2016. This search engine allows for free text search in all official languages of the EU and takes into account both the new ECLI and the metadata developed for ECLI.
109. The development of ECLI has been within the remit of the Expert group of the Commission which convened twelve times; eleven times during the development of the ECLI Search Engine, and once after the development was finalised<sup>51</sup>.

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<sup>50</sup> Council conclusions inviting the introduction of the European Case Law Identifier (ECLI) and a minimum set of uniform metadata for case law; OJ C 127, 29.4.2011, p. 1–7.

<sup>51</sup> The expert group convened on 3 May 2011, 27 October 2011, 15 June 2012, 2 October 2012, 5 December 2012, 29 April 2013, 5 June 2013, 25 September 2013, 20 November 2013, 12 February 2014, 26 September 2014, 3 March 2017.

110. Currently seventeen Member States<sup>52</sup> have implemented ECLI in one or more of the public repositories with court decisions. One Member State has implemented ECLI only in an internal database (MT). Three other Member States have started work on such implementation<sup>53</sup>. In addition, the ECLI has also been implemented in the full repositories of the Court of Justice of the European Union, the European Court of Human Rights and the Boards of Appeal of the European Patent Office). Sixteen Member States<sup>54</sup>, as well as the CJEU and the Boards of Appeal of the EPO, have made (all or a selection of) their decisions that have an ECLI assigned, available for indexation by the ECLI-SE, while the Association of Councils of State and Supreme Administrative Jurisdictions of the European Union has connected their Jurifast database to the ECLI Search Engine too.
111. ECLI has been integrated into EUR-Lex for EU case law and parts of the JURE collection<sup>55</sup>.
112. However, due to the now wide use of ECLI and the fulfilment of its initial mission (developing the ECLI-SE), the Expert group of the Commission is not appropriate anymore. The mandate of the Commission group was foreseen to focus on the development of the ECLI-SE tool on the Portal and hence matters of legal or semantic nature, as well as work on the future evolutions of the ECLI standard require a more appropriate governance model. The creation of an Expert group on ECLI, under the remit of the Working Party on e-Law (e-Law) has been proposed to the Working Party on e-Law (e-Justice) and has received wide support. After a final confirmation by the Working Party on e-Law (e-Law), the first meeting of the Expert group on ECLI took place in the first semester 2018.

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<sup>52</sup> BE, BG, CZ, DE, EE, EL, ES, FR, HR, IT, LV, NL, AT, PT, SI, SK, FI.

<sup>53</sup> DK, CY, RO.

<sup>54</sup> BE, BG, CZ, DE, EE, EL, ES, FR, HR, IT, LV, NL, AT, PT, SI, SK.

<sup>55</sup> This collection gathers all decisions taken on the basis of the Lugano Convention.

113. The results of this action have been tangible. It has received wide support in Member States and has been adopted by more than half the Member States. The proposal to create an Expert group on ECLI aims at expanding even further the use of ECLI and sustain the development of ECLI from a governance point of view. It is open to all Member States, including those with an interest for ECLI, but no possibility to contribute at the time.
114. The main issue will be to create a long-term dynamic for ECLI. Its inclusion in the 2019-2023 Action Plan will help in sustaining the project by drawing attention to its usefulness and the commitment to its continued development.

xxii. European Legislation Identifier (ELI)

115. ELI is an identifier for legislation that has been developed by Member States. It allows identifying and tagging legislation through metadata and a Unique Resource Identifier.
116. First common standards on ELI were included in the first Council Conclusions on ELI, adopted in 2012<sup>56</sup>. An updated version has been adopted in late 2017<sup>57</sup>.
117. ELI has been developed by the ELI Task Force, an informal task force created by Member States, led by Luxembourg, assisted by France and the United Kingdom. The Publications Office of the European Union has been cooperating extensively with the ELI Task Force.

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<sup>56</sup> Council conclusions inviting the introduction of the European Legislation Identifier (ELI); JO C 325 of 26 October 2012, p. 3–11.

<sup>57</sup> Document 14172/17 JURINFO 78, Council Conclusions on the European Legislation Identifier adopted on 6 November 2017, awaiting publication in the Official Journal.



118. Currently, twelve Member States have adopted ELI and three more are currently working on implementing it. Further information is provided on <http://eur-lex.europa.eu/eli-register/implementation.html> .

In order to help with the further spreading of ELI, an Expert group has been set up under the remit of the Working Party on e-Law (e-Law)<sup>58</sup>. The Expert Group on ELI has met twice<sup>59</sup>. 18 Member States participated in the last meeting of the Expert group.

119. ELI has been of particular interest to Member States since the beginning of its development. The wide uptake of ELI among Member States shows it has reached a sufficient maturity for possibly general adoption.

The project has also shown that it was sustainable, as the Task Force alone has led the project until 2017. The division of responsibilities between the Task Force and the Expert group has been addressed in the mandate: the Task Force will prepare future developments of ELI, while the Expert group will contribute to the uptake of ELI by further Member States.

120. ELI has been a success for e-Justice. It should continue its development, in terms of both functionality and spread. Barring any unforeseen development, sustainability is assured for the time being.

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<sup>58</sup> Document 14445/16 JURINFO 48.

<sup>59</sup> 15 May 2017 and 16 October 2017.

xxiii. Semantic interoperability

121. Semantic interoperability aims at facilitating the use of tools such as ELI or ECLI by creating lists of terms with their equivalents in all official languages of the EU. This enables legal and semantic interoperability in all languages, and in potentially a wide number of areas, by creating linguistic equivalencies in metadata. This action is led by the Publications Office of the European Union.

122. This action encompasses several thesauri. EUROVOC are the two main thesauri that the Publications Office develops.

The development of these thesauri is ongoing. It is led in cooperation with national institutions dealing with semantics (for example, Legilux or the Thesaurus for Economics produced by the German National Library of Economics) and the EU institutions.

123. The sustainability of these projects is assured by the Publications Office, which develops them in cooperation with other institutions, both national and EU. The Office communicates with institutions, in order to determine the important future developments and has ensured a steady growth for the thesauri.

124. The development for this action should continue, as the thesauri need to be enriched, in order to stay relevant, as vocabulary evolves.

## A. Access to courts and extrajudicial procedures in cross-border situations

125. The actions contained within this chapter are designed to give direct access to citizens to essential elements of procedures. They are mostly led by the Commission (with the exception of the e-Service of documents action).
126. The results of these actions should be accessed through the e-Justice Portal (with the exception of the results of e-Service of documents and Online Dispute Resolution).

Since 2014, progress has been made on a number of issues, however, this progress has not necessarily translated into visible accessible tools.

### xxiv. European Court Database

127. The European Court Database is to a certain extent an improved version of the 'European Judicial Atlas' which was a separate website containing the data provided by the European Judicial Network in civil/commercial matters (EJN civil/commercial)<sup>60</sup>. That separate website has been integrated into the Portal<sup>61</sup> and the older site has been archived. The responsibilities for maintaining the database and its information have not changed.

Note: The e-Justice Portal has kept the term "Judicial Atlas".

128. The main advantage of the European Court Database is that it now supports direct automatic update of the Member States' data on their competent courts (judicial authorities) for cross-border legal instruments – as the update process in the old Judicial Atlas often led to outdated data and involved considerable manual work.

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<sup>60</sup> [http://ec.europa.eu/justice\\_home/judicialatlascivil/html/archived.htm](http://ec.europa.eu/justice_home/judicialatlascivil/html/archived.htm)

<sup>61</sup> [https://e-justice.europa.eu/content\\_european\\_judicial\\_atlas\\_in\\_civil\\_matters-321-en.do](https://e-justice.europa.eu/content_european_judicial_atlas_in_civil_matters-321-en.do)

129. Austria has initiated two projects together with DE, ES, FR, HU, NL, RO, SI, SK and the CEHJ to automate the transmission of its data and consequently to limit the effort of keeping the data in the European Court Database up to date.
130. A second advantage is that the European Court Database allows now both manual search for citizens and companies and also automatic search by programmatic means. For example, now the dynamic forms on the Portal can query for the competent court (judicial authority) based on parameters of the application and then automatically insert the data of the competent court received from the European Court Database into the form before sending.
131. The goal is to create a database containing the information on Court and other authorities' competences for a variety of procedures in a cross-border context. Currently fifteen instruments are concerned. The dedicated section on the Portal is expected to expand further, with other instruments and Member States joining the information contained in the section.
132. The Court database has been progressively enriched since its transfer onto the Portal. This action is dependent on the uptake of legal instruments and the communication of information by the Member States to the Commission. As this system is integrated into the Portal, its sustainability is assured through the sustainability of the latter.
133. The main issue is broadening the scope of the database as there is need for coordination between Member States and the Commission, in order to transmit the relevant information and publish it on the Portal.

xxv. Dynamic forms

134. Dynamic forms are used to facilitate procedures, by providing easily fillable forms for citizens. These forms are now available for:

- European Payment Order forms
- Small claims forms
- Compensation to crime victims forms
- European enforcement order forms
- Judgments in civil and commercial matters forms
- Legal aid forms
- Matrimonial matters and matters of parental responsibility forms
- Maintenance obligations forms
- Serving documents forms
- Taking of evidence forms
- European Account Preservation Order forms

135. These forms rely on the updating of the Portal, to reflect the EU legal instruments in force. The updating is done by the Commission. No input from the Member States is required after the adoption of the legal instrument.

136. The goal of the action has been essentially attained, however, the scope can still be widened.
137. The number of available forms will grow with the number of legal instruments calling for inclusion of forms on the Portal.
138. The dynamic forms functionality can now benefit from the availability of the European Court Database and, for example, perform the search for the competent court based on parameters of the application form and insert the data of the competent court automatically.
139. New developments to these forms could be included in the future, depending on the integration with other projects, such as e-Service of documents. These developments would allow for better service to citizens by providing, not only the form, but also the means to send it electronically to the relevant authority.

xxvi. Online Dispute Resolution (ODR)

140. The ODR platform of the European Commission<sup>62</sup> was launched in January 2016 and opened to the public on 15 February 2016. Its legal basis is Regulation 524/2013<sup>63</sup>. The Regulation provides for the establishment of an online platform to facilitate the resolution of disputes between consumers and traders over online purchases. This platform is available in all EU official languages, Icelandic and Norwegian. It allows for the registration of complaints, finding certified alternative dispute resolution (ADR) entities that help resolve the dispute and conducting relevant ADR procedures online on the platform.

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<sup>62</sup> <https://ec.europa.eu/consumers/odr/>

<sup>63</sup> Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR); OJ L 165, 18.6.2013, p. 1–12.

The platform can be used by consumers living in any EU Member State, Iceland, Norway or Liechtenstein against traders based in the EU, Norway, Iceland and Liechtenstein. Traders from Belgium, Germany, Luxembourg or Poland can use the platform to lodge a complaint against a consumer. The platform is not hosted on the Portal, but on a dedicated part of the Commission website.

141. The system is operational and available on the Commission website. It has drawn 1 323 795 visitors in 2016 and 2,316,392 visitors in 2017.
142. The goal of Regulation 524/2013 has been attained. The ODR platform has been created and has been operational for close to two years. It has drawn close to four millions visitors. 20,176 complaints were submitted in 2016, and 32,559 in 2017. Data shows that 44% of the complaints result in direct settlement between the consumer and the trader. Most settlements are reached before the complaint is transferred to an alternative dispute resolution (ADR) entity. Only a small percentage of submitted complaints is currently transferred to and handled by ADR entities.
143. The platform has been built by the Commission. Its sustainability is assured. In parallel, Member States are required to notify lists of certified ADR entities to the Commission. The Commission then registers those certified ADR entities on the ODR platform. Liechtenstein, Norway and all European Member States except Romania and Spain have so far (as per 25/1/2018) communicated lists of certified ADR entities to the Commission. ODR cannot currently be used against traders domiciled in countries which have not communicated certified ADR entities.

xxvii. Find a mediator

144. This action aims at providing a searchable database of mediators, on the same model as Find a Lawyer or a Notary.

In order to do so, a database of mediators needs to be built.

However, this action has stalled due to the lack of a centralised organisation for mediators. As the profession is not regulated in the same sense as lawyers or notaries, the creation of a database would rely on a professional organisation selecting and vouching for mediators. Some Member States may also not have standards in place for mediators to adhere to, or those standards may differ too greatly from those of other Member States for common practices to emerge.

145. In conclusion, while the technical aspects of the action have already been developed in the context of older "Find a..." tools, practitioners are not in a situation to take advantage of this fact. This action has not been brought to fruition despite informal contacts with some practitioners organisations (GEMME, in particular).

xxviii. e-Service of documents

146. This action is led by the French delegation, chairing an Expert group, as a complementary group to the Expert group on e-CODEX<sup>64</sup>.
147. The goal of this action is to make an inventory of practices on electronic service of documents in Member States and possibly solutions to serve documents in a cross-border manner.
148. The Expert group has met six times, as of the end of December 2017.

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<sup>64</sup> Its mandate can be found in document 8032/1/16 EJUSTICE 52 JUSTCIV 66. This mandate has since then been amended according to document 12733/1/17 REV 1 EJUSTICE 114.



149. The French Chair of the Expert group has drafted a questionnaire<sup>65</sup>, which has been distributed to delegations. Currently more than ten Member States have responded to the questionnaire, along with several practitioners' organisations.

The results were endorsed in June 2018 by the Expert group.

150. The Commission has also expressed its interest in the results of the questionnaire, while practitioners' organisations, such as CEHJ<sup>66</sup> or CCBE<sup>67</sup> have an interest in seeing the work of the Expert group advance. The former is leading the work within Me-CODEX on digitalisation of Service of documents. Practitioners' organisations have been present since the inception of the Expert group and have shared their experiences with Member States.

151. The most obvious difficulty has been collecting the replies from Member States. As indicated above, only a minority of Member States have actually replied to the questionnaire. The inventory of practices is therefore only partial for the time being. The main issue seems to be the circulation of the questionnaire within the national administrations, as the information on the persons responsible for this matter may not be readily available.

152. The action has been progressing more slowly than desired due to the aforementioned difficulties. The outcome of the action will depend on the participation of Member States to the questionnaire. In any case, a report was delivered by the end of the first quarter 2018 on the current practices and with recommendations for possible improvements to be addressed within the working group responsible for the revision of Regulation (EC) 1393/2007.

This Expert group works in close cooperation with the Expert group on e-CODEX, as cross-border e-Service is currently being developed as a use case within the Me-CODEX project, co-funded by the Commission.

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<sup>65</sup> Document 11084/2/17 EJUSTICE 90 JUSTICIV 175.

<sup>66</sup> Chambre européenne des Huissiers de justice ».

<sup>67</sup> Conseil des barreaux européens.

153. The European Investigation Order (EIO) Directive<sup>68</sup> provides that starting 22 May 2017, requests for evidence addressed to another EU country will be facilitated for judicial authorities. The Directive is based on the principle of mutual recognition of judicial decisions when it comes to obtaining evidence for use in criminal proceedings.
154. In the context of e-Justice, one of the first steps has been the publishing of general information on the Portal<sup>69</sup>. Furthermore, the Commission has begun work on the development of an electronic version of the EIO with the help of a Commission Expert group and has started a project to create the ‘e-Evidence Reference Implementation’ which will enable judicial authorities to send and receive EIOs (and potentially evidence in electronic form<sup>70</sup> in the future).
155. The ‘e-Evidence Reference Implementation’ will use the e-CODEX system for secure (encrypted) and reliable cross-border transport of EIO’s and. The goal is to have the ‘e-Evidence Reference Implementation’ ready before the end of 2019.
156. Member States can install the ‘e-Evidence Reference Implementation’ [...] in their national environment to connect their judicial authorities competent for sending or receiving of EIOs and (mainly criminal courts and prosecution offices).
157. Austria together with 16 partners is carrying out the EXEC project which started in February 2018 and will last 24 months. The goal of EXEC is the rollout of the ‘e-Evidence Reference Implementation’ in the partner-Member States and the interconnection of the national instances of the ‘e-Evidence Reference Implementation’ by e-CODEX. The reference implementation is available and currently undergoing testing.

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<sup>68</sup> Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters; OJ L 130, 1.5.2014, p. 1-36.

<sup>69</sup> [https://e-justice.europa.eu/content\\_evidence-92--maximize-en.do](https://e-justice.europa.eu/content_evidence-92--maximize-en.do)

<sup>70</sup> [https://ec.europa.eu/home-affairs/news/how-can-we-improve-cross-border-access-e-evidence\\_en](https://ec.europa.eu/home-affairs/news/how-can-we-improve-cross-border-access-e-evidence_en)

## **B. Communication between judicial authorities**

158. The actions contained within this chapter aim at helping judicial authorities (Courts, ministries, administrations...) communicate with each other, within the scope of judicial proceedings or as preparation for such proceedings.

### xxx. Videoconference

159. An Expert group under Austrian Chair was set up in order to fulfil this action.

160. The aims of this action are to promote the practical use of cross-border videoconferencing and the sharing of best practices and expertise on organisational, technical and legal aspects.

161. Council Recommendations on cross-border videoconferencing<sup>71</sup>, based on the findings of the Expert group, were adopted in June 2015.

162. Work was also continued in the context of a specific project ‘Multi-aspect initiative to improve cross-border videoconferencing’ (short-name: Handshake) co-financed by the European Union with a view to producing practical guidelines for practitioners.

163. The Expert group is also considering the inclusion of external partners in the discussions of the Expert group on videoconferencing, such as the Conference of the Ministries of Justice of Ibero-American countries and the Hague Conference on Private International Law, which has a similar Expert group on the use of video-link in taking of evidence abroad.

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<sup>71</sup> Council Recommendations — ‘Promoting the use of and sharing of best practices on cross-border videoconferencing in the area of justice in the Member States and at EU level’; OJ C 250, 31.7.2015, p. 1–5.

164. This action is continuing for the foreseeable future, as the Expert group is developing further practical guidelines for the use of videoconferencing. The issues discussed are mainly technical and organisational, such as connection standards for secure transmissions or material conditions for successful videoconferencing.
165. The action, as listed in the Action Plan, cannot be completed, as it entails continuous developments. In this framework, the work of the Expert group has been successful, as it has indeed developed technical guidelines for successful videoconferencing.
166. No particular difficulties can be pointed out in the work of the Expert group itself, as cooperation between Member States as well as attendance have been exemplary. Most Member States were present for the meetings of the Expert group. The Expert group still meets under the 2019-2023 e-Justice Action Plan.

xxx. e-APP

167. The e-APP action aimed at developing an electronic apostille system in the framework of the Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents. The e-apostille component of the e-APP program involves the use of a digitally signed electronic file that is transmitted by electronic means, such as e-mail, or is otherwise made available for download or viewing from a website.

xxxii. iSupport

168. The iSupport project of the Hague Conference on Private International Law began in September 2014. This action is led by the Hague Conference itself, which reports on this project directly to the Working Party on e-Law (e-Justice).

169. The objective of the iSupport project is to develop an electronic case management and secure communication system to facilitate the cross-border recovery of maintenance obligations under the EU 2009 Maintenance Regulation and the 2007 Hague Child Support Convention. The development of the system started on 17 July 2015 and is on-going.

The Working Party has last received updates on the state of iSupport on 31 January 2017.

170. The system is working as intended. Updates aiming at improving its functionalities are developed regularly. The system uses e-CODEX to transmit data securely.

171. This action has been a success and a good example of good use of resources, as it is usable, not only by EU Member States, but also by other members of the Hague Conference.

xxxiii. Cooperation with the website of the European Judicial Network (EJN) in criminal matters

172. The aim of the EJN is to improve judicial cooperation between the Member States of the European Union at a legal and practical level in order to combat serious crime, in particular organised crime, corruption, drug trafficking and terrorism.

173. The inclusion of an action related to the EJN in criminal matters (EJN Crim) in the 2014-2018 Action Plan aimed at organising the migration of the website of the EJN onto the Portal. However, due to the complexity of such migration, a decision was taken to proceed firstly with some static content pages, describing activities of the EJN criminal, to be published in the Portal. These pages were included in the BETA version of the Portal in December 2017. Discussions concerning the next steps, including a complete migration, are ongoing.

174. This action could not be brought to fruition due to resistance on the practitioners' side.

### C. Horizontal issues

175. The actions contained within this chapter aim at allowing the use of e-Justice tools through wide-ranging projects or facilitating their use for citizens.
176. They are too varied to draw any conclusion on their overall relevance or success.

Five actions are in fact components of the e-CODEX project

#### xxxiv. Automated machine translation

177. The Commission has been working on automated translation, in order to speed up inclusion of content translations on the Portal. Furthermore, the Commission is considering the use of automated translations in other areas where human translations are difficult or not possible (for example the automated translation of case law decisions provided via the ECLI-SE system).
178. While significant progress has been made, translation into some languages remain unreliable. A new tool for machine translations (e-Translation) became available in 2018. Additionally, this issue would however be alleviated, as more source material is gathered to train the system.
179. Although the machine translation feature has been included in the Portal, and is being actively used, this action is still ongoing, as automated translation is pivotal for a quicker availability of translated content on all EU websites, including the Portal. Its sustainability is ensured for the coming years, by the Commission.

xxxv. Promotion of e-Justice

180. The Commission and Member States are jointly responsible for the promotion of the e-Justice Portal. This action comprises communication actions in several media, including social media.

The Commission intends to organise a targeted communication and outreach campaign following the completion of the re-design of the user interface of the Portal in late 2019.

181. This action is ongoing.

xxxvi. European e-Justice Portal usability

182. This action aims at ensuring that the Portal evolves in terms of usability, and keeps up with modern technological developments. To this end, a usability study was conducted by the Commission and its results were communicated in 2017. The conclusions were that the Portal's design had aged and that the addition of new functionalities contributed to making the Portal less accessible due to increased complexity.

A new version of the Portal was then designed, taking into account those results.

183. The beta-version of this new version has been online since 2017. The new version will be online concurrently with the old version until its complete replacement, presumably in 2019.
184. This action could be considered a success, as it has brought enhancements to the Portal, as was planned.

The action will be followed up by enriching the Portal in a coherent manner. This task is taken up by the Commission. Its sustainability is ensured by the Commission.

xxxvii. Multi-channel strategy

185. The objective of this action was to discuss the goal and prepare the method to follow as regards to a multi-channel strategy for European e-Justice. This action was led by the Netherlands delegation, which chaired an Expert group on multichannel communication strategy.
186. The Expert group met six times. It collected ideas from experts present at these meetings, in order to define the best channels for communication between judicial authorities and citizens. The multi-channel strategy for e-Justice aimed to support legal authorities, legal professionals, citizens and companies in the use of their preferred channels to access legal information, enter into (cross-border) legal procedures and learn about of the legal procedures they are involved in.
187. A questionnaire was set up online, in order to collect feedback on the best ways to reach citizens. The results of this online questionnaire were analysed by the Chair of the Expert group. A report was drafted following this analysis, as well as the analysis of specialised literature, national digital strategies and examples of multi-channel legal services.
188. This report sets out possible follow-up to this action. It has been considered in the last meeting of the Expert group on in November 2017 and was forwarded to the Working Party on e-Law (e-Justice) at the beginning of 2018.
189. This action has been brought to fruition, for what concerns information on possible actions in this domain.

The actual implementation has not yet been considered, due to the variety of the involved partners. The implementation of a multichannel strategy will involve further participation from the Member States and the Commission, as it entails a coordinated presence on social media, the Internet and other media.



190. e-CODEX encompasses five separate actions in the 2014-2018 Action Plan, which are, in fact "building blocks" developed in the framework of e-CODEX.
191. The goal of the e-CODEX project is to improve the cross-border access of citizens and businesses to legal means in Europe as well as to improve the interoperability between legal authorities within the EU.
192. e-CODEX is used to communicate in a secure manner, through a decentralised infrastructure. This infrastructure consists of gateways, placed at the exit of each national system, connected through a connector<sup>72</sup>. e-CODEX secures electronic communication and information exchange between existing national solutions through a common validation tool.
193. The e-CODEX project has been led by a consortium of partners in various Member States (along with non-EU States and practitioners' organisations)<sup>73</sup>. The project debuted in 2010. The five building blocks each answer a particular need in the context of cross border communication.

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<sup>72</sup> <https://www.e-codex.eu/technical-solutions>

<sup>73</sup> Austria, Belgium, Croatia, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Jersey, Latvia, Lithuania, Malta, Netherlands, Norway, Poland, Portugal, Romania, Spain, Turkey, United Kingdom, CCBE and CNUE.

a. e-Delivery

194. E-Delivery aims at allowing the sending and receiving of secure messages, in a way that authenticates the sender and receiver. This building block is notably dedicated to the communication/transmission of documents from judicial authorities.
195. It represents the technological evolution of the secure gateway (access point) software solution originally developed as part of the e-CODEX project. It is content-agnostic and, in the e-Justice field, its technology is already used in the context of the BRIS and ODR projects. Use of e-Delivery is also visible in the context of the new interconnection of national insolvency registers and e-Evidence.
196. This building block has been the focus of the e-Service of documents Expert group<sup>74</sup>. The technical means have been developed and proven to work in a proof of concept. It has also been proven to work in various productive pilot projects within e-CODEX. The underlying legal proceedings are European Payment Order, Small Claims, Mutual Legal Agreement / European Investigation Order.

However, the remaining obstacles are organisational and legal in nature, which the Expert group aims at solving.

b. e-Signature

197. E-Signature aims at ensuring that a particular transmission is authenticated. The signature corresponds to the requirements of a qualified signature:
- documents have to be uniquely linked to a user,
  - the system has to be able to identify the user,
  - the user has to have full control, and
  - any change has to be detectable.

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<sup>74</sup> See above, action 28.

198. The signature authenticates the signing party and, in the context of e-CODEX, through a Circle of Trust agreement ensures the admissibility of the submission in in the receiving Member State. Further to the entry into force of eIDAS (Regulation (EU) 910/2014), qualified electronic signatures now have the equivalent legal effect of a handwritten signature, thus providing valuable legal certainty in the context of electronic communication.

c. e-Payment

199. The e-Payment building blocks aims at providing means of secure payment in the context of online administrative contacts. It would, for example, be used to access information subject to a fee contained in national registers in a cross-border context. The possibility for electronic payment of court fees is also an important future component in a cross-border digital context.

To date substantial work has been carried out by the Commission and Member States in the context of the BRIS project where a need for a payment solution was first identified. Work is ongoing towards establishing a payment service at the level of the Portal allowing users of its services to easily pay for information and documents, and in the future other applicable fees.

d. e-ID

200. Electronic IDs have been more and more widespread in recent years, however, not every Member States provides one to its citizens. In the context of the eIDAS Regulation, this building block has the potential to enable the establishment of and access to electronic services in the field of justice where the need to univocally identify the user in a legally sound manner may exist.

e. e-Document

201. The e-Document aims at ensuring the interoperability of documents, by making them readable by users in other Member States, despite varying means of security and document production.

f. State of play and future developments on e-Codex

202. Discussions on the sustainability of the e-CODEX project were formally initiated under the Italian Presidency in December 2014<sup>75</sup>. These discussions were followed upon by the adoption of Council Conclusions on the sustainability of e-CODEX<sup>76</sup>. These Conclusions recognised the necessity to ensure the sustainability of e-CODEX and invited the Commission to propose solutions for the sustainability of e-CODEX to the Council.
203. An expert group on e-CODEX was established in July 2015 with the aim of ensuring a stable interim governance mechanism for the e-CODEX project and its future successor projects. The expert group prepared a roadmap for the on the sustainability of e-CODEX<sup>77</sup>, which was adopted by the Council in December 2015. The roadmap provided for the handover of some of the project results to the Commission after the end of the project in May 2016. It suggested a post-2018 timeline for a transfer of the technical solutions to an EU agency.
204. The handover was not agreed before the end of 2016 and a maintenance project for e-CODEX<sup>78</sup> was put in place, as a stop-gap measure before the transfer to an EU agency, as a roadmap for e-CODEX, adopted by the Council in November 2016<sup>79</sup> recommended.

Me-CODEX ensured that the project would be sustained until the transfer, by prolonging the maintenance by the Consortium with co-funding by the European Union, through grants. The goal has been the transfer to an EU agency, in order to ensure long-term sustainability, without uncertainties resulting from the potential instability of a consortium.

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<sup>75</sup> Document 14418/14.

<sup>76</sup> Document 15774/14 EJUSTICE 118 JUSTCIV 301 COPEN 296 JAI 910.

<sup>77</sup> Document 13666/15 EJUSTICE 132 COPEN 295 JUSTCIV 253.

<sup>78</sup> Known as Me-CODEX.

<sup>79</sup> Document 14465/16 EJUSTICE 184 COPEN 345 JUSTCIV 298 JURINFO 49.

205. In the Council Conclusions on the way forward to improve information exchange and ensure the interoperability of EU information systems, the Council invited the Commission to submit a proposal concerning the transfer of e-CODEX to eu-LISA.. The Commission indicated in a letter to the Austrian Presidency and to the General Secretariat of the Council of 11 July 2018 that while a transfer of e-CODEX to eu-LISA would appear to be the best option for the permanent management of the system, such a transfer could, in view of the other tasks allocated to that agency, take place at the earliest in 2022. For now, the discussion is stalled, due to the absence of an installed Commission until the end of 2019.
206. E-CODEX has been a success considering its objectives. However, its uptake by Member States has been slower than expected: while many Member States participate in the development of e-CODEX, comparatively few have implemented it.
207. The voluntary nature of the work on e-CODEX means that Member States have no obligation to take up e-CODEX for their cross-border communications. This has delayed the growth of e-CODEX, while allowing Member States to work on their own national systems and, possibly, alternative cross-border communication systems. The adoption of an e-CODEX Regulation would promote the uptake of e-CODEX in Member States, by making it an EU-supported IT tool, and allow references to be made in future legislation.
208. The Commission is currently working to implement the Council's request in June 2016 to create an IT platform for cross-border exchange of electronic evidence<sup>80</sup>, using e-CODEX as the underlying secure communication channel. This should further contribute to increasing e-CODEX's uptake in the Member States.

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<sup>80</sup> In application of the European Investigation Order.

#### IV. CONCLUSION

209. Most of the forty-two actions contained within the 2014-2018 Action Plan have been at least partly implemented. However, the completion of particular actions would need to be assessed, as they depend on factors which cannot be influenced by the Member States or EU institutions, such as the preparedness of professional organisations.
210. Moreover, some adaptability is necessary in the 2019 -2023 period: the need for an additional expert group in the area of security of judicial documents was raised by Poland in the context of the Working Party on e-Law (e-Justice). An Expert group was set up after its mandate was adopted by the Working Party<sup>81</sup>.
211. The Expert group has met 7 times. A questionnaire was drafted by the Chair and circulated to delegations. The results contributed to the determination of priority projects among the proposed projects.
212. A smaller number of actions, which could be completed with reasonable certainty, had the favour of Member States for the upcoming 2019-2023 Action Plan. However, the 2019-2023 Action Plan was conceived not to prevent adapting to new conditions. If a project, which had been envisaged in the previous Action Plans but could not be completed, becomes mature, it is necessary to reserve the possibility of addressing it.
213. Also, some actions could not be completed between 2014 and 2018, despite their presence in the 2014-2018 Action Plan. These actions have been mentioned in the upcoming Action Plan, so as not to stop possible beneficial developments.

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<sup>81</sup> Document 6162/16 EJUSTICE 24 JUSTCIV 19 COPEN 42.