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NOTE

from:	Presidency
to:	Council
Subject:	Draft Strategy on European e-Justice 2014-2018

1. Delegations will find below a revised version of the draft "Strategy on European e-Justice 2014-2018" to be submitted to the Council for adoption. The amendments are based on comments made by the delegations at the meeting of Coreper on 27 November.
2. The Council is invited to adopt the draft Strategy and to decide on its publication in the Official Journal C-series.

I. INTRODUCTION

1. The adoption of the Multiannual Action Plan on e-Justice 2009-2013 has constituted a further step in the development of e-Justice. The dematerialisation of legal procedures and the use of electronic means in the communication between all those involved in judicial activities has become an important element in the efficient functioning of the judiciary in the Member States. The Member States and the European institutions share a willingness to continue the construction of the European e-Justice system.
2. European e-Justice aims at the use and development of information and communication technologies at the service of the Member States' judicial systems, in particular in cross-border situations, with a view to enabling greater access to justice and judicial information to citizens, businesses and legal practitioners and facilitating cooperation between judicial authorities of the Member States. It strives to enhance the effectiveness of the justice system itself whilst respecting the independence and the diversity of the judicial systems of the Member States as well as fundamental rights.
3. In particular, European e-Justice must continue to be developed as a direct service for European citizens who will benefit from its added value, including via the e-Justice Portal. It should be ensured that the users of the European e-Justice system, including citizens, can rapidly reap the practical benefits of the e-Justice tools.
4. The results already achieved, the constraints encountered and the objectives envisaged for the future require a comprehensive European e-Justice strategy in order to drive engagement and participation at a strategic level. The new Strategy on European e-Justice 2014-2018 aims to build upon the work already undertaken.

II. CONTEXT FOR THE DEVELOPMENT OF E-JUSTICE AT EUROPEAN LEVEL

1. Background

5. In June 2007 the JHA Council decided that work should be carried out with a view to developing at European level the use of information and communication technologies in the field of justice, particularly by creating a European portal to facilitate access to justice in cross-border situations.
6. In response to the Council, the Commission presented its Communication "Towards a European e-Justice Strategy" of June 2008¹ aimed at promoting the development of e-Justice tools at European level in close coordination with the Member States. The objective was to create synergies between efforts at European and national levels in the area of e-Justice and to offer economies of scale at European level.
7. At its meeting on 19 and 20 June 2008 the European Council welcomed the initiative to "progressively establish a uniform EU e-Justice portal by the end of 2009." The aim of this Portal would be to provide a single, multilingual, user-friendly access point ("one-stop shop") to the whole European e-Justice system, i.e. to European and national information websites and/or services.
8. The first multiannual European e-Justice Action Plan (2009-2013), prepared in cooperation with the Commission and the European Parliament, was adopted by the JHA Council in November 2008.
9. In conjunction with the adoption of the first Action Plan the Council endorsed the setting up of a new working structure. The Council Working Party on e-Law has subsequently carried out considerable work to deliver the mandate given to it by the Council. The objectives set out in the first Action Plan have largely been achieved and the related work is ongoing.

¹ COM (2008) 329 final

10. The European Parliament has demonstrated its interest in the work carried out in the area of e-Justice. On 18 December 2008 it adopted a Resolution on e-Justice¹, in which it stated, inter alia, that a suitable machinery should be set up to ensure that future legislation is designed in such a way that it can be used in on-line applications. It also adopted a Resolution on e-Justice at its Plenary meeting on 22 October 2013², calling for the use of electronic applications, the electronic provision of documents, the use of videoconferencing and the interconnection of judicial and administrative registers to be increased in order to further reduce the cost of judicial and out-of-court proceedings.

2. Main achievements

11. The e-Justice Portal, which is hosted and operated by the Commission in line with the guidelines of the Council, was launched on 16 July 2010. The development of this website by the Member States and the Commission has since steadily advanced in the form of new functionalities (such as dynamic electronic forms) and the regular addition of new content. The European e-Justice portal aims to serve as a "one-stop shop" for European citizens and legal professionals, allowing them to obtain, in their own language, information on European and national procedures and the functioning of justice.
12. Various Member States have already developed and participated in a number of pilot projects in the area of e-Justice, for example with a view to interconnecting Member States' insolvency registers and introducing significant technical developments. An infrastructure for European e-Justice is gradually being developed. An important element is formed by the technical and organisational infrastructure for the secure exchange of legal data between the judiciary, governmental organisations, legal professionals, citizens and businesses in the framework of the e-CODEX project.

¹ (2008/2125 (INI))

² (2013/2852 (RSP))

13. A large number of Member States have introduced videoconferencing systems to accelerate judicial procedures by facilitating the hearing of witnesses or of the parties.
Work aimed at incorporating the websites of the European Judicial Network in civil and commercial matters and that of the Judicial Atlas is underway. The Council has also adopted a decision establishing cooperation with the European Judicial Network in criminal matters.
14. The results of the recent questionnaire on e-Justice¹ show that this area has evolved considerably in the Member States since the adoption of the first multiannual European e-Justice Action Plan. The Strategy on European e-Justice 2014-2018 will build on this success.
15. In the area of e-law important building blocks for the accessibility and semantic interoperability of legal sources have been developed. In 2009 the Council adopted Conclusions on the European Case Law Identifier (ECLI) to improve the findability, and to facilitate the unequivocal citation of judgments issued by European and national courts. Several Member States have already implemented ECLI. The Commission and several Member States are preparing to introduce the European ECLI search interface on the e-Justice Portal by the first quarter of 2014. The introduction of ECLI is also being prepared by the Court of Justice of the European Union and the European Court of Human Rights.
16. In 2011 the Council adopted Conclusions on the European Legislation Identifier (ELI), introducing a voluntary standard for identifying, tagging, and electronically citing European and national legal instruments. The standard has been adopted for use in EUR-Lex and is being introduced by several Member States.

¹ See 15690/1/12 REV 1 EJUSTICE 73 JURINFO 46 JUSTCIV 331 COPEN 244 CONSOM 139 DRS 126 DROIPEN 159

3. Consistency with the e-Government framework

17. European e-Justice should strive for further consistency with the general framework of e-Government, which is specifically described in Commission Communication (COM (2010) 744 final) introducing the European Interoperability Strategy (EIS) and the European Interoperability Framework. In these documents it is made clear that enhanced interoperability at legal, organisational, semantic and technical level, leading to the creation of a sustainable ecosystem, are essential to maximise the social and economic potential of information and communication technologies. The European e-Justice system must be developed in accordance with the principles of judicial independence and separation of powers.

III. GENERAL PRINCIPLES

18. Work in the area of European e-Justice is based on the following basic principles:

a) Voluntary action

19. Voluntary participation in European e-Justice projects is at the discretion of each individual Member State, except where a European Union legislative instrument has been adopted which includes a requirement to implement a specific project in the context of the European e-Justice system.

b) Decentralisation

20. The European e-Justice concept is based on the principle of a decentralised system at European level interlinking the various independent and interoperable national systems in the Member States. According to this overall principle of decentralisation it is incumbent upon each Member State to ensure the technical implementation and management of the national e-Justice systems needed to facilitate interconnection between Member States' systems.

21. However, a certain degree of centralisation at EU level is necessary. Centralisation may also be envisaged in some specific situations, e.g. when this is a more cost-effective solution or where a legislative instrument has been adopted.

c) Interoperability

22. Interoperability, which allows the interconnection of the Member States' systems and the use of centralised solutions when necessary, is a fundamental element of decentralised systems. Compatibility between the various technical, organisational, legal and semantic aspects selected for the judicial system applications should be ensured, while guaranteeing maximum flexibility for the Member States.

d) European dimension

23. The Strategy on European e-Justice is intended to cover projects with a European dimension in the areas of civil, criminal and administrative law.
24. Projects developed under European e-Justice, in particular all projects to be included in the Portal, must have the potential to involve all the Member States of the European Union and all Member States should be encouraged to participate in all projects in order to ensure their long-term viability and cost-efficiency. All projects should have the potential to give a direct practical benefit in particular to citizens, businesses and/or the judiciary.
25. The development of the European e-Justice system should also take into account national projects offering European added value.

IV. THE OBJECTIVES OF EUROPEAN E-JUSTICE

a) Access to information in the field of justice

26. The objective is to improve access to information in the area of justice in the European Union. The e-Justice Portal has an important role to play in achieving this objective.

b) Access to courts and extrajudicial procedures in cross-border situations

27. The European e-Justice should aim to offer better access to courts and facilitate the use of extrajudicial proceedings by using electronic communication in cross-border situations.
28. Therefore it is necessary to continue the work already initiated at national level in a number of Member States and to create the conditions for interactive cross-border judicial services at European level.
29. The dematerialisation of judicial and extrajudicial proceedings should be continued in accordance with the principle of voluntary action by the Member States.

c) Communication between judicial authorities

30. Simplifying and encouraging electronic communication between the judicial authorities of the Member States is of particular importance (e.g. via videoconferencing or secure electronic data exchanges).
31. Members of the judicial authorities should be given secure access to the various functionalities reserved for them; they should have differentiated access rights and a uniform or interoperable authentication method should apply.

V. IMPLEMENTATION OF THE STRATEGY

1. The European e-Justice Portal

32. The European e-Justice Portal must continue to be developed as a one-stop-shop. This does not preclude other means of communication (e.g. via network-to-network transmission).
33. The e-Justice Portal should provide information to citizens, businesses and legal practitioners about the law of the EU and its Member States. The Portal should also be a means of offering access to other related information at national, European and international level in the field of justice.

2. Interoperability

34. Organisational, legal, technical and semantic interoperability should be ensured. To that end, technical solutions for European e-Justice should be developed for the secure exchange of data between the judiciary, national administrations, legal professionals, citizens and businesses. Available open technical standards and already developed solutions (e.g. projects like e-Codex) should be taken into account before developing new ones. The Member States should also play an active role in the development of these solutions and the decision-making thereon.

3. Legislative aspects

35. The need to ensure consistent use of modern information and communication technologies in the implementation of new EU legislation in the area of justice, including amendments and recasts of existing legislation, should be taken into account in the legislative process. Data that have to be transferred must be described just by their contents, and not by any possible visual representation. Means of transferral of data or documents must be described in a functional, technology-neutral way.

4. European legal semantic web

36. The exchange of legal information across borders, and in particular data relating to European or national legislation, case law and legal glossaries, is hampered by the lack of effective means for sharing this type of data.
37. Different projects can address this issue and increase the exchange and semantic interoperability of legal data throughout Europe and beyond. Work should continue on a voluntary basis on the development of the European legal semantic web, aimed at improving the accessibility and processability of legal information by making the identification and semantics of legal data interoperable.

5. Interconnection of registers

38. The interconnection of national registers containing information that is relevant to the area of justice should be promoted. The necessary technical and legal preconditions should be ensured to make such interconnections possible.
39. Action in this area should be focused on the interconnection of registers which present an interest for citizens, businesses, legal practitioners and the judiciary.

6. Networks

40. The e-Justice system can create the conditions for facilitating the functioning of various existing European level networks in the area of justice, such as the European Judicial Network in civil and commercial matters and the European Judicial Network in criminal matters. To that end, the possibilities offered by the European e-Justice system and the e-Justice Portal should be further explored in consultation with the relevant authorities.

7. Cooperation with legal practitioners and other users of European e-Justice

41. The implementation of the European e-Justice Strategy calls for the participation of the judiciary and other relevant legal practitioners in the Member States. Therefore these legal practitioners should be involved in discussions and projects in the area of the European e-Justice in order to ensure that the solutions to be developed meet the actual needs of each target group.
42. Accordingly, it is essential that the representatives of the judiciary of the Member States have the opportunity to contribute to the work on European e-Justice, especially on the solutions to be put in place for European e-Justice in such a way that their points of view and user needs can be taken into account.
43. In addition, it is desirable that other legal practitioners, for example lawyers, notaries, judicial officers and others, be involved in future discussions on European e-Justice to ensure that the solutions to be developed meet their real needs.
44. It is in this context that a cooperation mechanism with such legal practitioners should be put in place to ensure that issues of mutual interest are taken into account in the context of the European e-Justice Strategy.
45. Consideration should also be given to gathering the views and feedback from representatives of the greater public, including Portal users, as well as business operators.

8. Translation

46. The concern that European citizens should be able to enjoy easy access to the European e-Justice system will mean that robust and cost-efficient long-term measures for translation will have to be considered. The e-Justice Portal should offer reliable translations of its content in all official languages of the European Union.

9. Rules and rights in the area of e-Justice

47. Future developments in the area of European e-Justice will bring new challenges for the protection of personal data. It is foreseeable that the scale of data collection and sharing will increase with the implementation of the future strategy on European e-Justice. Personal data protection therefore plays an important role in this context. Future work in the framework of e-Justice will have to take into account the rules on protection of individuals with regard to the processing of personal data and the rules on the free movement of personal data.
48. Rules on ownership of information should be established, as necessary, to determine liabilities regarding data content to be published on the e-Justice Portal. In principle, each content provider is solely responsible for its work and must comply with intellectual property rights and any other applicable legal requirements.
49. Similar rules should be established for the use of electronic functionalities allowing information exchange, including the exchange of personal data, between Member States' judicial authorities and for the electronic submission of documents to be used in court proceedings.
50. In this context in particular, the Commission is invited to continue examining the need to adopt a proposal for a legislative instrument in the field of e-Justice. This instrument should define the overall legal framework and the means of implementing a concrete e-Justice strategy at European level.

10. Promotion

51. In the implementation of the European e-Justice Strategy, consideration should be given to the promotion of the available functionalities among the users of the European e-Justice systems.

11. Financing

52. The development of European e-Justice requires considerable financial resources. Therefore it is important to provide adequate financing at EU level, in particular to:
- (a) encourage the setting up of e-Justice systems at national level to pave the way for European e-Justice, as will be implemented in the light of this strategy, including actions such as those mentioned in paragraph 30 and the interconnection of national registers; attention should also be given to ensuring the sustainability of the results of projects such as e-CODEX and e-SENS;
 - (b) enable projects at European level to be developed, including the operation, maintenance and further development of the European e-Justice Portal;
 - (c) ensure that the e-Justice Portal can continue to be offered in all official languages of the Union.
53. European level financing of the work in the area of e-Justice (both at national and European level), including the concrete projects to be defined and implemented under the future Action Plan, must be guaranteed by the Multiannual Financial Framework 2014-2020 and in particular the financial envelope for the Justice Programme 2014-2020.
54. e-Justice related projects within the meaning of this strategy and related Action Plan can also be funded under other existing Union programmes provided they meet the criteria laid down in those programmes¹.

¹ The Commission is invited to present a table of all the potential financing mechanisms available for projects at EU and national level which could be used to finance e-Justice.

12. External relations

55. The Union and its Member States should, to the extent feasible, develop cooperation with third countries in the area of e-Justice.
56. This possible cooperation has to be implemented respecting the institutional rules established at the European Union level.

13. Multiannual Action Plan on e-Justice 2014-2018

57. A Multiannual Action Plan should be adopted during the first semester of 2014 in order to implement this strategy and to serve as a practical guide for its follow-up. The Action Plan should contain a list of the planned projects for the period in question with clear indications of those wishing to participate, actions for their practical implementation and an indicative timetable to allow a concrete follow-up of the Action Plan by the Working Party on e-Law (e-Justice) and, where appropriate, by relevant stakeholders. Results of the previous multiannual Action Plan on e-Justice and the related roadmap will be taken into account and, if appropriate, followed up in the new Action Plan.
58. The Working Party will prepare the Action Plan in consultation with the Commission and will at least once per semester monitor its implementation, which should be adapted if so required by on-going developments.
59. If necessary, informal groups of the Member States involved in specific projects can meet in order to make progress in these areas of work. The results of these meetings should be presented to the Working Party on e-Law (e-Justice).