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from :	Presidency
to :	Coreper/Council
Subject :	Report by the Council Working Party on Legal Data Processing (E-justice)

I. Introduction

1. On 20 December 2006[1], Coreper gave the Council Working Party on Legal Data Processing a temporary remit to carry out preparatory work on the subject of "E-justice".

2. A total of three meetings (20 February 2007, 20 April 2007, 21 May 2007) enabled the Working Party to outline a possible future framework for action, formulate priorities and make some initial analyses of content.

3. The Working Party concluded this work with the following report, which is being submitted to Coreper and to the Justice and Home Affairs Council in June 2007. The report sets out the arguments in favour of future permanent assignment of E-justice tasks to a Council Working Party without prejudice to the current competences of other Council Working Parties.

[1] 13521/1/06 REV 1 JURINFO 23.

4. In particular, Coreper pointed out in its remit that consideration should be given to the legal aspects enabling work to be carried out on E-Justice. This question was examined and it was considered that the Treaties do not contain any particular provision conferring general powers to carry out work in this area. The determination of the legal basis needs therefore to be examined case by case on the basis of a concrete proposal to be submitted with a view to implementing work in the area of E-justice.

II. Report

1. Overview of the situation regarding the use of IT in judicial systems [1]

5. Given the multiplicity of judicial systems in the EU, there are inevitably many different concepts of E-justice. At present, nobody is in a position to give a comprehensive overview of the main technical concepts used in Europe and of the current state of play as regards the overall use of information and communication technology in Member States' judicial systems.

6. That is why the European Academy of E-Justice has been commissioned to make a study of the situation regarding use of IT in judicial systems. The purpose of the study is first to take stock of the overall situation and then to provide a basis for new impetus to further development of E-justice concepts.

7. In agreement with the Working Party, a questionnaire was drawn up and answers were received from 26 Member States. The European Academy of E-Justice has analysed all the questionnaires returned and has reached the following provisional conclusions:

[1] See Council document 9573/07 JURINFO 17 JAI 243 (European Academy of E-Justice).

1.1.

(a) General information on the judicial systems in the EU Member States

8. The number of judges/public prosecutors per 100 000 inhabitants varies enormously in Europe. This does not seem to be related to either the size of a country's judicial system or the number of inhabitants. Even in the case of countries with comparable numbers of inhabitants, the number of judges per 100 000 inhabitants ranges from 2,83 to 20,44.

9. The judicial systems in most Member States are centrally administered or organised. A decentralised administration of the judicial system exists in only 7 countries and 3 of those countries have opted for autonomous administration. In 3 countries there is both centralised and decentralised administration.

10. In all Member States, workplaces in the judicial system have PCs, the internet is used and there is e-mail communication. In the majority of cases, more than 90 % of workplaces are equipped with PCs, internet and e-mail. In 4 countries, between 50 % and 90 % of workplaces in the judicial system are equipped with computers and in only one country is the figure lower than 50 %.

11. Speech-recognition systems are not at present part of standard equipment in the judicial systems of the Member States. Judges' and public prosecutors' workplaces are in the main equipped with PCs, internet and e-mail to the same extent as those of other employees. In about half the Member States, court rooms are almost fully equipped with computers, internet access and e-mail.

12. In the majority of countries, both the PCs in the various court buildings and the courts themselves are networked with one another. In by far the majority of cases, the networking of the courts corresponds to the organisational structure in the judicial system.

(b) Electronic documentation

13. In a clear majority of cases, electronic documentation is basically permitted in the EU Member States. Only three States indicate that electronic documentation is generally not permitted.

14. In most Member States, it is permitted to maintain parts of documents in both electronic and paper form. It is apparent that the scope of electronic documentation is limited to metadata in most countries and the actual content of judicial documents is maintained in paper form.

15. In only eight Member States are there types of procedure in which documentation must be maintained in electronic form. All these countries previously indicated that not only metadata but also the other contents of judicial documents may be maintained electronically. Half the EU Member States have technical standards for electronic documentation.

    In five countries, compliance with such technical standards is required by law or by other rules. In six countries, compliance with technical standards is regulated but not uniformly.

16. Only two countries make exclusive use of standard software for electronic documentation. Many countries use either exclusively specifically developed solutions or both specifically developed solutions and standard software.

17. In the majority of cases, both judges and public prosecutors are partly involved personally in work on electronic documents. In five countries, their involvement in electronic documentation is minimal.

18. Only five countries allow paper versions to be destroyed when documents which are kept in both electronic and paper form are archived.

19. In 25 of 26 EU Member States, persons involved in proceedings who are not directly employed in the judicial system may inspect judicial documents in paper form. In four countries, consultation is limited in the conventional way to inspection of paper documents. In all other EU Member States, inspection of electronic documents is provided for by law with the predominant methods being electronic transmission of the document or direct access to the document via a public network. In only seven countries does the law provide for access to electronic documents via an internal network.

20. In only one Member State has full technical implementation of access to electronic documents been achieved. Moreover, access to electronic documents by persons involved but not employed in the judicial system has been implemented in the Member States only partly or not at all.

21. Only about a quarter of the Member States have standards for inspection of electronic documents. In those Member States which do have standards, compliance with them is mostly required by law.

    On the whole, only little use is made of the possibility of inspecting judicial documents in electronic form (max. 10-50 %). Account should be taken of the fact that in by far the majority of cases full technical implementation of access to electronic documents has not yet been achieved.

(c) Electronic communication with persons involved in proceedings

22. In 16 Member States, the submission of electronic documents in particular proceedings is permissible and has been implemented. In 7 of those Member States, submission of electronic documents is permissible and has been implemented in all proceedings. In 4 Member States, submission is currently not permissible or planned in any types of proceedings. In 5 countries, there are plans for the introduction of legislative rules for the submission of electronic documents, partly limited to certain types of proceedings. Use of this facility, insofar as it has been technically implemented, in most cases amounts to between 10 and 50 %.

23. In the majority of Member States, it is still possible to change the method of transmission at a later stage where proceedings were initiated electronically or by conventional means. In 2 countries, this is not possible.

    With the exception of 5 Member States, no inducements are offered for submitting documents electronically.

24. With few exceptions, transmission of electronic documents from the courts to persons involved in proceedings corresponds to the legal and actual situation regarding submission of electronic documents to the courts. The electronic output almost exactly mirrors the electronic input.

    Slightly more than half the EU Member States have technical standards for electronic communication with courts and public prosecutors.

    In five countries, compliance with technical standards is required by law or by other rules.
    In four countries, compliance with technical standards is regulated but not uniformly.
    In 5 Member States, the documents are transmitted via an extranet. 17 countries use the internet for transmission. One State has opted for another solution.

In five countries, the electronic data are not transmitted in structured form. In thirteen Member States, the electronic data are transmitted in structured form. In eleven of those States both metadata and the documents are transmitted in structured form.

25. Structuring of the data and documents is mainly done using the data-exchange format XML. 8 countries make available an electronic form.

26. Seven countries indicate that they use an electronic communication software developed specifically for judicial purposes. A further four countries have opted for a standard market software. Eight countries use both specifically developed and standard software.

27. The authenticity and integrity of the data sent is not ensured in the EU Member States by a uniform protection technique. In 2 countries, only the simple signature is used. In 2 countries only the advanced signature is used. In 4 countries, only the qualified electronic signature is permitted. 2 countries make exclusive use of other protection techniques. In one country, the simple, advanced and other protection techniques are all used. In 2 countries, use is made of the qualified signature and other protection techniques. In 3 countries, all forms of electronic signature are used. In one country, both the advanced and the qualified signatures are used. 3 countries do without protection techniques.

28. In civil law actions, the use of video-conferencing is not permissible in slightly more than half the countries. Where it is permissible, the rate of use is consistently lower than 10 %.

29. In criminal proceedings, the use of video-conferencing is permissible in by far the majority of countries. Here too, the rate of use is mainly lower than 10 %.

30. In administrative proceedings, the use of video-conferencing is not permissible in just over half the countries. The greatest use of video-conferencing clearly occurs in criminal proceedings.

(d) Electronic Registers

31. Where the Member States maintain Commercial Registers and information, these are electronic and in the vast majority of cases centralised.

32. About three quarters of the Member States in parallel maintain Business Registers, which are also electronic and in the vast majority of cases centralised.

Almost all Member States maintain Land Registers electronically.

33. The least common are Experts Registers, followed by Compulsory Auction Registers, Enforcement Registers and Societies Registers. Finally, 5 Member States do not maintain any Debtors Registers.

Where electronic registers are decentralised, they are in a slight majority of cases not networked with one another.

34. Commercial/Business Registers and Land Registers also figure significantly in retrieval rights, as these are accorded in (cumulatively) 18 Member States in the case of the Commercial/Business Register and in 15 Member States in the case of the Land Register. Most Member States have not decided to impose electronic use for consultation.

Input rights are accorded more restrictively than retrieval rights and to differing extent. No input rights at all are accorded in 14 Member States.

So far, only two countries have imposed electronic proposal of input.

35. Fewer than a third of Member States offer outsiders inducements to encourage electronic applications.

36. Technical standards for electronic registers have been established in just under half the Member States.

In 9 of the 12 Member States which have established technical standards, compliance is required by formal regulation. In only one country are there uniform technical standards without any formal regulation.

37. The vast majority of Member States make use in their electronic registers of commissioned software, which is developed specifically for their respective judicial systems. Only 6 Member States make exclusive use of standard software; 4 Member States use both specifically developed and standard software.

(e) Presence on the internet of the judicial system

38. In nearly all Member States, the courts and Ministries of Justice post information on the internet.

39. In 3 countries, the courts do not at present post any information on the internet, but there are plans for them to do so.

40. In 2 countries, the Ministries of Justice do not post any information on the internet. In most Member States, the courts and Ministries of Justice have national home pages.

41. In six Member States, the courts do not at present have any national home page, but plan to create one.

Home pages of the Ministries of Justice exist in all Member States.

42. In 12 Member States, the judicial system has no regional presence on the internet. In 14, there is a regional presence on the internet. In four of the 12 Member States which have no regional presence on the internet, there are plans for such a presence. The overall trend in the EU Member States is clearly pointing towards additional regional presence on the internet.

43. In the vast majority of EU Member States, court judgments are rendered anonymous before being posted on the internet. In 6 countries, court judgments are not or only partly rendered anonymous before being posted.

2. General principles

(a) E-justice activities and users

44. At European level, there are various ways of obtaining information [1] on laws in Europe via the Internet. The opportunities offered by "E-law" were last considered in detail in November 2006 during the festivities to mark "25 years of European law on-line" in Luxembourg.

45. However, the envisaged cross-border E-justice activities are much more ambitious. Citizens, businesses, judicial or other authorities and courts are not only to be the recipients of legal information; the aim should also be to enable them to engage with one another directly.

46. For example, documents sent electronically reach the courts sooner than letters and faxes and have the advantage that they can be used to open electronic case files. This avoids less economical and error-prone media discontinuity, i.e. the conversion of electronic documents into hard copies and vice versa. Such electronic communication can also play an important role in the context of cooperation between competent authorities.

[1] e.g. EurLex, N-Lex, European Judicial Atlas, the European Judicial Network in Civil and Commercial Matters and the European Judicial Network in Criminal Matters.

47. The study on the situation regarding the use of IT in the judicial sphere [1] has shown that all Member States practise and are further developing E-justice. However, work on cross-border E-justice is still in its first stages, although it is precisely in cross-border proceedings that there is special potential for using modern information and communication technology.

48. In this framework, it is suggested that work should be carried on in the area of E-justice with a view to creating at European level a technical platform giving access, in the sphere of justice, to existing and future electronic systems at national, Community and, where appropriate, international level.

(b) Non-legislative nature of the work

49. The aim of the E-justice exercise is therefore to create a technical platform at European level. The planned E-justice measures are not aimed at laying down new rules of law at European level. Their purpose is to facilitate and enhance actual cross-border communications between judicial systems and those involved in the proceedings, in full respect of the national, community and international rules in force.

(c) E-justice as a supplementary, cross-cutting issue

50. E-justice issues will not be confined to specific areas of law, but will arise in many fields of civil, criminal and administrative law. E-justice is therefore a cross-cutting issue, which will affect all justice-related proceedings in which cross-border aspects play a role. In this context a gradual approach, dealing with problems as they arise, seems to offer greater prospects for success than constructing an abstract pan-European E-justice strategy.

[1] See II. 1 (p. 2 ff).

(d) Cooperation with other Council bodies

51. Against this background the Working Party on E-Justice sees itself as a "horizontal" working party with a coordinating function for dealing with any technical issues and organisational aspects which arise during discussions in other Council bodies**.** This implies that legislative work should be carried out by the relevant Council working parties as for example COPEN or the Committee on Civil Law Matters. On the one hand, this will leave the specialist working parties more time to address legal aspects and on the other, it will ensure that technical issues are discussed by national specialists with the relevant expertise, who can make sure that overarching technical issues are solved using the same benchmarks, and geared towards defined overarching goals and standards.

52. In order to meet specific demands for technical support from the specialist working parties, there will be a need for close coordination and cooperation between the Working Party on E-Justice and other Council bodies and European institutions and programmes (e.g. IDABC and EJN.). The Working Party on E-justice could be able to give technical assistance to other Council working parties, where required, with a view to ensure, to the extent possible, a consistent approach to IT in the sphere of justice.

(e) Non-compulsory nature of E-justice

53. In principle, the work of the Working Party on E-Justice should not oblige Member States to introduce new electronic systems at national level or make fundamental changes to national developments. Council discussions on E-justice are primarily intended to define interfaces with national systems and formulate communication standards. They can also provide assistance and guidance for those Member States which are planning to modernise their systems in the short- or medium-term anyway, and wish to make use of European potential from the outset.

This should not rule out the possibility, to be examined case by case, for the adoption of binding rules in certain areas – for example in adopting organisational and technical conditions for the electronic networking of criminal records.

54. The development of E-justice is an evolving process. Therefore, even if the projects are open to all Member States, not each Member State should be required to fully participate in all aspects of E-justice from the outset.

3. Architecture of the system

55. At their informal meeting in Dresden in January 2007 a large number of the Justice Ministers expressed the wish of creating a decentralised system at European level that would link up Member States' existing systems, giving access to search interfaces between national systems, and thus guarantee maximum independence and flexibility. Particularly bearing in mind that establishing a central E-justice system at European level would take a great deal of time and money, interconnecting and developing existing systems seems a more effective approach.[1]

56. In this context, Member States would be invited to provide the corresponding interfaces to their existing national systems with the relevant interfaces, or if necessary create new national systems (e.g. portals). This approach, which would be more flexible, would permit the individual national systems to operate in relative independence of one another.

57. However, a decentralised system will require a degree of coordination and standardisation at Community level, as with the N-Lex system.

58. The creation of national search interfaces will require close cooperation as to access procedures, content and services, as well as the technologies used**.**

[1] This architecture of the system will also imply that it should be possible for a user of the system to have access directly from a portal of a Member State to the portal of another Member State.

4. Scope of E-justice

(a) Cross-border issues

59. The agreements to be reached on E-justice should cover cross-border issues only. Proceedings with a purely internal dimension would not come within the purview of European E-justice activities.

(b) Substantive scope

(aa) Portals

60. Some Member States make information concerning access to law and justice available in national justice portals. In some Member States these portals also allow users to carry out certain operations directly, on-line.

61. At their informal meeting in Dresden in January 2007 a large number of the Justice Ministers expressed the wish to work on the idea of having a whole set of data that could stimulate access to law and justice between Member States. The European Judicial Networks, Eurojust and the IDABC-programme have been dealing with cross-border access to law and justice for a long time; this targeted E-justice exercise should now seek ways of implementing the existing cooperation electronically.

62. A European justice portal could provide a single point of access to Member States' national portals. Members of the public, businesses and persons employed in the legal system would no longer have to conduct lengthy searches on the Internet to find out whether a Member State involved in cross-border proceedings has a justice portal and what operations can be carried out through that portal.

63. In organisational/technical terms, it would be possible to adopt a decentralised approach in this respect, by joining up national portals.

64. The European Justice Portal should not only give access to information but also open the possibility for users to play an active role. Therefore, the European portal should include the integration of applications, processes and services as well as functions relating to the security applications, identification and authorisation of users.

65. It should be examined whether the authorisation/authentication in the national (access) portal could be accepted, as a principle, in all other Member States and would open up access to the applications offered by the relevant (application) portal in the other Member State. This would require a similar, but not identical IT security structure for authentication and authorisation in all Member States. Given the variety of services accessed via the portals consideration might also be given to agreements on authorisation categories on the one hand and authentication categories on the other hand for cross-border portal uses.

66. Further aspects which still need to be clarified in detail by the Working Party relate to national provisions restricting access to certain types of information to members of defined professional groups, linguistic diversity and – in accordance with national rules – to partial liability for costs for some uses. It will also have to be borne in mind that some Member States have linked their national justice portals with general administrative portals or do not have a separate justice portal.

67. It is important to reach agreement at the earliest possible stage on what can be accessed, since this will determine the design of portal structures and interfaces**.**

68. First of all, existing instruments of cross-border judicial cooperation in Europe should be incorporated: (EurLex, N-Lex, Eurojust, the European Judicial Atlas and the European Judicial Networks in Civil and Criminal Matters) . In addition, the portal should open up access to national registers. Lastly, the portal could enable certain steps of court procedure to be completed on-line.

(bb) Judicial proceedings

69. It is suggested that consideration be given to all aspects relating to communication between the court and interested parties (applicant, defendant and other participants involved in the proceedings) in the fields of civil and commercial law and criminal law as well as other fields having cross-border effects. Accordingly, the following aspects could be examined as a framework for the work and subject to the existence of a legal basis:

- the lodging of an application/claim with a court;
- the service of a document on the defendant/person involved in the proceedings and subsequent communications between the court and the parties who are involved or who participate in the judicial proceedings;
- the possibility of the decision being served by electronic procedures;
- the giving of evidence in court by electronic means;
- cooperation between judicial authorities.

70. In this connection, attention could be given to issues relating to obtaining evidence gathered by audiovisual means in another Member State. To speed up the judicial proceedings and reduce the ensuing costs, there is a need to enhance the possibility of hearing witnesses by video-link, provided for in Article 10 of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union and in Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters. If video techniques are to be established as secure, efficient and also economic techniques which allow simultaneous document processing, we need to take a modern approach to problem solving and pool existing achievements.

(cc) Specific procedures

71. At the informal Council meeting in Dresden a large number of Justice Ministers considered that particular attention could be given to the use of IT in the implementation of the European order for payment procedure as adopted by Regulation (EC) No 1896/2006 of the European Parliament and of the Council [1].

[1] The European Commission will shortly be commissioning a feasibility study on electronic implementation of the European payment order procedure. The results of the feasibility study are not likely to be available before mid 2008, but the Regulation becomes binding from the beginning of 2009.The Council should therefore already start specific discussions on the technical requirements which Member States will have to meet in future. Close cooperation with the European Commission seems therefore appropriate.

72. Cross-border use of IT also could be studied in the following areas:

- small claims procedure
- financial penalties
- European Arrest Warrant
- enforcement of freezing orders.

(dd) Access to registers

73. Member States increasingly keep their judicial registers in electronic form. Examples are land registers, company registers, registers of enforced payments, insolvency registers and criminal records. The Working Party on E-Justice could consider how such registers could allow access from any Member State in accordance with the law of the place where the register is located. It could also consider how such electronic registers could be encouraged and how user-friendly access to them could be established regardless of from which Member State a request for access was made.

74. One example of successful networking of records is the pilot project between Germany, France, Spain, Belgium, the Czech Republic and Luxembourg for networking national criminal records with which electronic data exchange really started in 2006. It showed that European judicial information systems can operate on the basis of agreement on national interfaces and common communication standards, with national records remaining decentralised. Without fundamentally changing the national IT systems, it proved possible to achieve efficient and rapid exchange of information within a short time. As the TESTA network is already available Europe-wide for secure electronic communication between authorities, data exchange security is not a major problem. The experience gained from this project could be used for future electronic communication between other national records. In this connection, account should however be taken of the fact that the sensitivity of the data stored in the records varies and is subject to different conditions governing access.

(c) Priorities

75. To take account of the gradual approach to the subject of E-justice that is set out under 2(c), the Working Party has set priorities for structuring its possible future work. The aim is to identify, coordinate and further develop solutions and also react to particularly urgent needs. Work on the various projects could be carried out horizontally and simultaneously. The following list does therefore not indicate a ranking of the individual projects.

It should be emphasised that many projects could require the drafting of common electronic forms, partly on the basis of existing paper forms. Such forms are also an excellent means of facilitating translation into the official languages of the Member States.

(aa) Judicial portal

76. For many European E-justice projects, a uniform European judicial portal seems the basis for successful international IT-based communication. The solutions found in this connection (for example with regard to problems concerning authentication, technical standards, language questions, etc.) could be used for other sets of issues to be worked out later.

(bb) Networking of registers

77. Furthermore, priority should be given to continuing the work on the electronic networking of judicial registers. This work should take into account the fact that different registers provide for different rights of access, as defined or as to be defined by the relevant applicable rules.

78. It is suggested that technical and organisational aspects of the networking of criminal records, which have hitherto been dealt with by the Working Party on Cooperation in Criminal Matters, in the future could be followed within the framework of E-justice. The experience gained could then be applied to the networking of other registers.

79. First of all, networking of the insolvency registers of the Member States seems particularly promising, as these registers are available with a similar structure in almost all Member States and are accessible without restrictions. The creation of a prototype system in this area could also be considered.

80. The networking of commercial and business registers is also a possible field of action for E-justice work, which should take account of preliminary work by the EBR or BRITE projects.

81. The networking of land registers could build upon EULIS work.

(cc) Electronic payment order proceedings

82. Taking account of the work on the feasibility study to be carried out by the European Commission (see point II 4(b)(cc)), work should be started for preparing the use of IT in the European payment order proceedures.

(dd) Video-conferencing

83. In the field of court proceedings, attention could be given first of all to improving the use of video technology in international proceedings. Despite the fact that nowadays video-conferencing is already playing an important role in many international proceedings, it has to contend with the perception that no sufficiently simple and user-friendly technical system is available. By improving the flow of information, the judicial authorities of the Member States must be made aware that video-conferencing is possible and easy to use and may have a range of uses (not only for the taking of evidence but also for obtaining interpretation)**.** The possibilities of providing technical access to video-conferencing through the E-justice portal itself should be examined. Against this background, coordination by the Working Party on E-justice seems a particularly promising way of making international proceedings faster, less costly and more efficient very soon. In this sphere too, the preliminary work carried out by the European Judicial Atlas could be the starting point.

5. Technical aspects

(a) Standardisation of communication

84. Various technical standards exist for electronic communication, encryption and security. On one hand the Member States' security requirements must be taken into account and data protection requirements complied with, but on the other hand it should be pointed out that insufficient interoperability impedes or even prevents the further development of the applications.

85. In order to achieve the greatest possible compatibility between the Member States' various technical and organisational arrangements for the judicial application while maintaining the greatest possible flexibility, it is necessary to reach agreement at European level on standardised formats and communication protocols in order to make efficient, secured and rapid exchange possible.

(b) Authentication mechanisms

86. Directive 1999/93/EC of the European Parliament and of the Council creates a Community framework for electronic signatures. Compatibility between the signature and authentication technologies that can be used in the EU Member States should be further considered.

87. An essential precondition for the efficient operation of E-justice beyond frontiers is the development of uniform standards or uniform interfaces for using authentication technologies and signature components. It is necessary to examine the differing legal situations in various countries and the technologies applied there and, on the basis of the knowledge and experience acquired, determine how an international electronic document exchange system that is as legally secure as possible can be created.

88. Various European institutions have already been looking into the international use of signature and authentication technologies. For example, the European Commission has already carried out a considerable amount of preliminary work in the framework of the IDABC programme. This preliminary work as well as the future work in this area should be taken into account.

(c) System security

89. With regard to the introduction of an E-justice system, account must be taken of the fact that some of the data will be confidential, as they concern citizens' private lives, for example. Full security should therefore exist for communications within the E-justice framework. The IDABC's preliminary work could also be taken into account in this respect.

6. Languages

90. The issue of dealing with language diversity in Europe is not limited to the field of E-justice. In this context, aid to translation and interpretation is another important element to be taken into account in the framework of E-justice.

91. However, as modern technology will enable parties to proceedings and courts to work together more closely internationally and the precise and correct use of special terminology is very important in judicial proceedings, the language issue arises with greater acuity in the field of E-justice. Here, too, a flexible approach is desirable: differing requirements may apply depending on the persons or institutions between which electronic communication takes place. Whenever judicial institutions communicate with citizens or citizens wish to have recourse to judicial services, communication in the citizen's official language should be made possible. Where possible, and in full respect of the rules in force, it should be examined to which extent national authorities could communicate in a language other than their own. In judicial proceedings, the language specified for the court concerned must be the norm.

92. A particular opportunity offered by modern technology is the use and further development of machine translation in specific fields of action to be determined. This can be relatively simple, if forms for the processing of judicial proceedings are already available in all languages. They then only have to be put into electronic form. Machine translation of XML compatible information can also be carried out without great difficulties: such information has a specific structure. However, the Member States must agree on certain basic information.

93. Processing of electronic forms and data sets that can be used for different functions could be a priority for further E-justice work

94. Particular attention should however be paid to the fact that although individual words can be translated without difficulty, they can mean quite different things depending on the Member State and/or the context in which they are used. Since this is the case, one could envisage starting by categorising information, producing glossaries, agreeing the contents and in this way establishing a fuller explanatory framework. The experience already gained in this area from the European Business Register and the project to network criminal records could serve as a basis for this work.

95. The European justice portal the creation of which is proposed should be available in all languages of the institutions of the European Union. Existing portals such as EURLex and N-Lex prove that multilingual access of this kind is possible. Whether Member States' national access and applications portals should be made available in languages other than the national languages, and if so in which other languages, should be for each individual Member State to decide.

96. Similar principles apply to the registers to be networked: although it is still conceivable that these registers could be accessed – for instance via the justice portal – in all languages, no Member State can be obliged to make the contents of the register concerned available in more than one of, or indeed in all, the languages of the institutions of the EU. Mutual access to registers of qualified interpreters and translators in the Member States should be considered.

7. Remit for a Working Party

97. As explained in the introduction to this document, the Working Party on Legal Data Processing has, to date, held only a temporary remit for E-justice. In the course of three meetings, detailed discussions have already begun, which – as indicated above – show that the cross-border use of modern information and communication technology in Member States' judicial systems will become increasingly important in future.

98. When Council Working Parties draft new legal texts, arrangements are not in place for taking sufficient account of cross-cutting information technology and organisational issues. In this context, an expert Working Party for E-justice issues could allow the necessary technical assistance to be given to Council working parties, where required, with a view to ensure, to the extent possible, a consistent approach to IT in the sphere of E-justice.

99. In view of the above, a working party could be given horizontal advisory competence on request for all technical issues[1] concerning the cross-border use of IT of specific relevance to the judicial system.

8. Other aspects

(a) Financing and infrastructure

100. The Working Party, in consultation with the Commission, should examine in detail the financing which is already available at Community level on the basis of existing programmes and could be used for E-justice measures in general. The realisation of European E-justice measures should be accompanied by a cost-benefit analysis.

101. Consideration should be given as to whether and to what extent central infrastructures need to be established.

(b) Collaboration with existing organisations at Community and/or Member State level

102. The study referred to above, on the situation regarding the use of IT in the judicial systems in Europe, includes an overview of work already carried out at Community and/or Member State level and of existing instruments in the field of cross-border E-justice.

[1] Legislative aspects are therefore excluded.

103. The aim of the proceedings of the Working Party on E-justice is to build on that work and on the experience gained in other areas of work (e.g. in connection with the European Commission's IDABC programme, the activities of the Council of Europe or the e-government projects in the Member States), in order to avoid duplication and prevent different solutions being developed to similar problems.

(c) Data protection

104. The electronic transfer of information may involve aspects with data protection implications. Although statutory provisions exist for a large proportion of these data, it should be discussed whether it is necessary to take account of aspects relating to fields of activity for which the rules are not governed by the relevant European legal instruments.

III. Conclusion

105. The Coreper/Council of Justice and Home Affairs is requested to take note of this report.