

## Summary

### Survey of priorities in European e-Justice

On the 6<sup>th</sup> December 2013, the Justice and Home Office Council of the European Union adopted the new *Strategy on European e-Justice 2014-2018*. This strategy has been implemented in the *Multiannual European e-Justice Action Plan 2014-2018* on the 6<sup>th</sup> June 2014. The *European e-Justice portal*, which is operational since the 16<sup>th</sup> July 2010, will provide a single, multilingual, user-friendly access point ('one-stop-shop') to the results of the action plan and the whole European e-Justice system. The strategy 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.' The addressees of the strategy seem to be the Member States' judicial systems. However, in a broader sense the strategy also aims at citizens and legal organizations with the objectives 'to improve access to information in the area of justice in the European Union (through the e-Justice portal)' and 'to offer better access to courts and facilitate the use of extrajudicial proceedings by using electronic communication in cross-border situations.' Moreover, the proposed cooperation in the implementation of the strategy is also ambiguous: 'New projects developed under European e-Justice must therefore 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 on a voluntary basis.' and 'The European e-Justice concept is based on the principle of a decentralized system at European level interlinking the various independent and interoperable national systems in the Member States.' This is followed by: 'The implementation of the European e-Justice strategy calls for the participation of the judiciary and other relevant legal practitioners in the Member States.' and 'For all new and existing e-Justice projects, special attention should be paid to achieving the broadest possible participation base, in order to ensure meeting users' expectations, long-term viability and cost-efficiency of those projects.' and 'In particular, European e-Justice must continue to be devel-

oped as a direct service for European citizens who will benefit from its added value, including via the e-Justice portal.'

The results of this survey showed that from the perspective of the user the focus of the European strategy is probably too broad to be effective in its implementation. Furthermore, the specification of the strategy in legal, practical and technical terms is rather fragmented. Some legal aspects, like the protection of personal data, and some practical aspects, like the promotion of the available functionalities among the users of the European e-Justice systems, are emphasised. The general technical aspects are, with a single exception (interoperability), not elaborated on, except in the context of the 42 specific projects envisioned to be part of the Multiannual European Action Plan.

### **Method and implementation of the survey (chapter 1)**

This survey was commissioned by the Research and Documentation Centre of the Dutch Ministry of Security and Justice (paragraph 1.1.). It aims to:

- (1) Describe *e-Justice* in terms of applicable regulations, involved legal organizations, relevant procedures and technologies and current problems and possible solutions;
- (2) Make an inventory of the experiences with and the needs for e-Justice of a selection of organizations involved in cross-border judicial services.

The results are used to answer a series of specific research questions as commissioned (paragraph 1.2.).

The main research questions are: (1) What are the potential consequences of the digitization of cross-border judicial services in the European Union, as foreseen in the Multiannual European e-Justice Action Plan 2014-2018 and what are the associated bottlenecks and priorities? (2) What actions - not mentioned in the Multiannual European e-Justice Action Plan 2014-2018 – should get priority in a new version of the Action plan?

The method used is described in paragraph 1.3.

The description of e-Justice is made on the basis of a literature search (i.e. European policy documents, scientific publications, regulations, and project websites). The inventory of experiences and needs is based on interviews with representatives

from 22 Dutch organizations involved in cross-border judicial services. The conclusions from the literature search and the interviews are evaluated by two focus-groups that were composed of legal and technical experts and policy advisors of the Ministry of Security and Justice.

The survey offers insight into which projects that are part of the Multiannual European Action Plan matter to Dutch legal organizations and into priorities in the further implementation of the action plan.

### **Literature research (chapter 2)**

The literature review showed that there are serious shortcomings in the availability of information and knowledge in the field of e-Justice. The concept of e-Justice is not used in an unambiguous way in policy documents and websites. The legal, practical, and technical aspects of the concept of e-Justice are not elaborated on coherently and comprehensively. The wide definition of e-Justice in the strategy and the action plan is directly translated into the specific projects of the action plan. The scientific research into e-Justice is scarce and there are no published data on the demand for and the use of e-Justice in legal practice. The status and results of completed and ongoing projects are hardly available. Therefore, in this phase research has focused on a specification of the concept of e-Justice (paragraph 2.1.) and finding as much information as possible about the progression of the 42 projects of the Multiannual Action Plan (paragraph 2.2., appendix 2). A request for data on the use of the e-Justice Portal was submitted to the administrator of the portal. The analysis of these data showed that the portal is used relatively infrequently (paragraph 2.3.). In paragraph 2.4. the use of sources is explicitly accounted for, because the inadequacy of the sources is a serious obstacle for further policy research on e-Justice. The unelaborated space between the definition of e-Justice and the specific projects has been filled in and detailed by a *classification of e-justice* (paragraph 2.5., appendix 9). In this classification, e-Justice related legal questions are listed and described within 51 distinct fields of law. The description encompasses the data needed for answering these questions, the applicable regulations, the legal authorities and organizations involved and the applied procedures and technologies. Finally, the anticipated problems and provided solutions are listed shortly for each identified field of law.

### **Interviews (chapter 3)**

The organizations to be interviewed were selected by the Ministry because of the policy-oriented character of the study (paragraph 3.1.). The contents of the questionnaires were based on the assignment to make an inventory of the experiences and needs of these organizations (paragraph 3.2.). The interviews (paragraph 3.3.) showed, in accordance with the results of the literature review, that the representatives of the selected organizations are not well informed about the concept of e-Justice and the European e-Justice program. The nature of the available communications and information is too general and according to the interviewees should be more directed at the (interests of) the individual organizations. After supplying the interviewees with additional information a sharp contrast between this being uninformed and the expressed interest in and need for e-Justice emerged. All organizations experience a growing practice of cross-border judicial activities. This confirms the increasing importance of e-Justice within all the fields of law found in the literature review. However, the interviewees experienced problems with e-Justice which are different from, especially much less varied and more straightforward than the projects of the Multiannual Action Plan. Bottlenecks they experienced are without exception the availability and costs of translations of legal sources and documents. The need for support in solving these problems is universally present. All organizations, including those having experience with participating in European projects, indicated a preference for bilateral projects, i.e. projects including a maximum of two national organizations from two European member states. To put it differently: European e-justice is unknown, but in essence not unloved. There exists a big gap between European e-justice policy and legal practice. The challenge to policy makers is to narrow this gap. This research provides a number of building blocks for this purpose.

### **E-justice: core conclusions, bottlenecks and priorities (chapter 4)**

The answers to the specific research questions are listed in paragraph 4.1. The conclusions regarding the policies in the fields of regulation, procedures, and technology are summarized in paragraph 4.2. These conclusions were evaluated by the focus groups (paragraph 4.3.) resulting in a selection of *core conclusions* (paragraph 4.4.). The core conclusions are summarized below in the form of three main *bottlenecks* and associated policy *priorities*.

## Summary

---

*The supply of information and knowledge about European e-Justice is deficient and could be improved.* (1) The definition of the concept of European e-Justice could be elaborated on. A more coherent and comprehensive elaboration could connect the definition of the concept with current and future projects; (2) The progress, status (e.g. user statistics) and results of ongoing projects can be published continuously on the project websites; (3) Research into the need for e-Justice of (more) organizations involved in cross-border judicial services could precede the development of new policies and programs; (4) All projects can be evaluated (in parts) both during and after their implementation; (5) The results of the evaluations could be published.

*E-justice policy and programs should be directed at more particular and substantial communication with the organizations involved in cross-border judicial services.* (1) These organizations should be approached directly (1:1) with information tailored to their interests and needs and not primarily through the e-Justice Portal and general publications and conferences; (2) A specific need exists for translations of regulations, case law, policy documents and case documents. There is no primary need for new legal regulations or competences, or for new techniques or technologies.

*E-justice projects should be organized in a more decentralized way.* (1) Projects should be less policy driven and more demand driven (bottom-up). The initiatives and needs of organizations and citizens involved in cross-border legal relations should be the reason to start new projects; (2) Projects must be set up in smaller associations, preferably bilaterally, including at the most two European member states; (3) Priority should be given to the cooperation of Member States and organizations that are more experienced in enabling and facilitating cross-border judicial services and solving the associated problems. Best practices and existing practices ought to prevail over the possible political preference for central solutions and multilateral projects.