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MODULE III

UNIT XI

E-Justice: online justice in the EU. E-justice 2009-2013 Action Plan. E-Justice Portal. E-Justice - working toward more effective judicial cooperation: interconnection of registries and databases, exchange of information, videoconference

ONLINE COURSE
The judge in the European Judicial Area: Civil and Commercial matters
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SUMMARY

Since the Treaty of Maastricht (through the Justice policy implemented in the European Union and developed subsequently in the Treaties of Amsterdam, Nice and Lisbon) particular importance has been attached to ensuring that a citizen's chances of obtaining effective judicial protection are not lessened by the fact that the dispute in which he/she is involved is connected with more than one EU country.

This regulatory labour has been particularly intense in both criminal and civil matters, with rules designed to facilitate judicial cooperation, regulatory harmonisation and even the unification of proceedings (such as the European order for payment procedure or the European small claims procedure). Given the complexity of this matter and the fact that the national legal and judicial systems are different, an e-Justice strategy has been created at European Union level (essentially by means of the creation of a specific portal) which offers all this information in a harmonised fashion while at the same time containing several elements that facilitate proper application of the existing common instruments and communication between the judicial actors and legal professionals.



E-JUSTICE: ONLINE JUSTICE IN THE EUROPEAN UNION

As indicated in the Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee of 30 May 2008 "Towards a European e-Justice Strategy", e-Justice can be defined as using information and communication to improve citizens' access to justice and to make legal action more effective, the latter being understood as any type of activity involving the resolution of a dispute or the punishment of criminal behaviour.

At the level of the European Union, action began with the Communication mentioned above, which established that the priority for EU action in the field of e-Justice was to allow citizens, in particular, when victims of criminal offences, to have access to information, without being hindered by the linguistic, cultural and legal barriers related to the multiplicity of systems. The above was to be augmented by maintaining mechanisms that favoured cooperation between legal authorities. To that end, the aim of the creation of a European e-Justice portal was established in order to facilitate access to justice for citizens and companies in Europe, with three basic functions: (a) Access to information (national and European): on the rights of victims in criminal proceedings and on their rights to indemnification, on the rights of persons charged in criminal proceedings and on the basic principles affecting citizens' ability to initiate proceedings before a court in another Member State, or their defence when summoned to appear before such a court; (b) Referral, so that the portal serves as a platform providing access to other existing websites (Eur-lex, Pre-lex, SCADPlus, Eurovoc and IATE), to the European judicial institutions, or to the different networks that exist for judicial matters, as well as the instruments created by them. (c) Direct access to certain completely electronic European procedures (European small claims or order for payment procedures). With regard to judicial cooperation, the aim was to create electronic tools to accompany the implementation of the EU's judicial cooperation instruments, continue the interconnection of criminal records, create a network of secure exchanges for sharing information among judicial authorities, and facilitate the use of videoconferencing and provide aid for translation.

Meanwhile, the European Council of 18 and 19 June 2008 celebrated the initiative designed to progressively create, from then until the end of 2009, a single online justice portal for the European Union, and on 18 December 2008, the European Parliament approved a Resolution with recommendations for the Commission on e-Justice (2008/2125(INI)) in which it gave its full support to the initiative.



On the basis of the above, the Council approved a Multi-annual European e-Justice action plan 2009-2013 on European justice online (2009/C 75/01) which contained a special reference to the European e-justice portal, stating that it was to provide access to the entire European e-justice system, i.e., European and national information websites and/or services. It was to permit, by means of a uniform authentication procedure, to open up for members of the legal professions the various functionalities reserved for them, to which they would have differentiated access rights, even providing for such a possibility for authentication for non-professionals also. Finally, it also stated that it was to provide access to national functionalities by means of a user-friendly multilingual interface, making them understandable to the European citizens.

Finally, the Stockholm Programme (“An open and secure Europe serving and protecting citizens”) approved by the European Council on 11 December 2009 sets the guidelines for political action by the European Union in the field of Justice for the 2009-2013 period and devotes special attention to e-Justice stating: “1.2.7.....It asks the Commission to devise a strategy on how best to explain to citizens how they can benefit from the new tools and legal frameworks, for instance through the use of e-Justice and the e-Justice Portal....3..... In this respect, the European Council emphasises the horizontal importance of e-Justice, which is not confined to specific areas of law. It should be integrated into all areas of civil, criminal and administrative law in order to ensure better access to justice and strengthened cooperation between administrative and judicial authorities.....3.2.4.... To that end, the European Council calls for the more active involvement of Eurojust and the European Judicial Networks in civil and criminal law to participate in improving cooperation and the effective application of Union law by all practitioners. Work should continue on improving the electronic tools that have so far been developed and the necessary resources should be provided for pursuing this work. 3.2.5..... The European Council also considers that all modern means of electronic communication should be used to the fullest extent, and that the judicial authorities as soon as possible should be given means for secure electronic communications to enable safe correspondence. The Union should also put an emphasis on videoconferencing and on assisting the development of translation tools in order to make them as accurate as possible. These developments should be accompanied by and form part of the implementation of the e-Justice action plan. In addition, measures should be taken to enhance cooperation, while taking full account of data protection rules, between competent authorities so as to detect addresses where persons live as their habitual residence, in connection with service of documents.....3.4.1.... The European Council considers that e-Justice presents an excellent opportunity to provide easier access to justice. The multiannual European e-Justice action plan, adopted at the end of November 2008 by the Council, sets the framework for developing European e-Justice activities until the end of 2013. The European e-Justice





portal will be a way of keeping people better informed of their rights and giving them access to a range of information and services on the various judicial systems. Better use should be made of videoconferencing, for example to spare victims the effort of needless travel and the stress of participating in court proceedings. In accordance with data protection rules, some national registers will be gradually interconnected (for example registers on insolvency, interpreters, translators and wills). Some existing databases may also be partially integrated into the portal (for example the European Business Register and the European Land Information Service). In the medium term, some European and national cross-border procedures could be dealt with on-line (for example the European order for payment, the European small claims procedure and mediation). Furthermore, the use of electronic signatures should be promoted within the framework of the e-Justice project.”

The portal was opened on 16 July 2010 and its address is the following: <https://e-justice.europa.eu>. Its content is still being developed and at present it is essentially of an informative nature, with sections devoted to: citizens in general, companies, judges and magistrates and legal professionals.

In the medium term, the aim is to include (in addition to information):

- Electronic processing of the European order for payment procedure, transnational justice requests and the European small claims procedure.
- Databases of interpreters and translators, as well as directories of notaries public and lawyers in all European Union countries.
- Glossaries and tables of semantic concordances.
- Videoconference: user manual, information on equipment and even reservation systems.
- Promotion of the use of modern technologies in mediation and electronic mediation.
- Secure online electronic communication and payment systems.
- Interconnection of insolvency registers, registers of wills and criminal records.
- Possible integration of the EBR (European Business Register - <http://www.ebr.org>) and interconnection of EULIS land registers (European Land Information Service - <http://eulis.eu>)
- Mechanisms for automatic legal translation.
- Access to law and case law (national and European).



WEB LINKS

European Union e –Justice Portal

<https://e-justice.europa.eu>

European Judicial Atlas in Civil Matters

http://ec.europa.eu/justice_home/judicialatlascivil

European Judicial Network in civil and commercial matters

<http://ec.europa.eu/civiljustice/>

European Commission (Justice)

<http://ec.europa.eu/justice>

Eur-Lex (EU Legislation)

<http://eur-lex.europa.eu>

Pre-Lex (EU Legislation under preparation)

<http://ec.europa.eu/prelex/apcnet.cfm>

N-Lex (National Legislation)

<http://eur-lex.europa.eu/n-lex>

SCAD-Plus (European Legislation by areas – Justice)

http://europa.eu/legislation_summaries/justice_freedom_security/index_en.htm

Eurovoc (the EU's multilingual thesaurus)

<http://eurovoc.europa.eu>

IATE (Inter-Active Terminology for Europe)



<http://iate.europa.eu>

EBR (European Business Register)

<http://www.ebr.org>

EULIS (European Land Information Service)

<http://eulis.eu>

Case law of the Court of Justice of the European Union

<http://curia.europa.eu>

