



A digital boost for the Justice System

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Our digital competences have rapidly changed since the beginning of the Corona Pandemic. We all got used to setting up videoconferencing systems and communicate mostly online to replace face-to-face meetings. But how is this digital bypass applicable to the judicial system? What tools are used by courts and legal practitioners to fulfil their judicial duties under the rule of law in the pandemic and are there already legal provisions in place?

Firstly, there are some instruments and legal provisions for courts in national law such as § 128a ZPO (German Code of Civil Procedure), which allows a video-trial. In several Member States videoconferencing equipment is already provided for in court rooms. However, courts and legal practitioners are cautiously using them or refrain from using them due to security and privacy concerns. The recast of the Regulation on the Taking of Evidence and the Regulation on the Service of Documents are important steps in order to achieve the digitalisation of justice, using a decentralised IT system which will be based on an interoperable solution, such as e-CODEX, as the means of digital transmission. By implementing the Company Law package into national law it will enable companies to benefit from a fully-online procedure throughout the company's life-cycle. Also, public administration will encounter changes when the Single Digital Gateway will be fully operational as well as under the new implemented Open Data Directive (EU) 2019/1024 until July 2021.

That's the state of play – but what does the future hold?

With its package on the digitalisation of justice the European Commission sets out an ambitious roadmap for Member States to achieve the digital transition in the justice sector. By identifying four areas which need to be addressed in close cooperation with Member States and European authorities (Europol, Eurojust, EPPO etc) the Commission wishes to create more coherent and an interoperable solution for everybody to fully benefit from the digitalisation. Bearing in mind that digital tools should not exclude parts of society, especially elderly and vulnerable people from access to justice. Therefore, it is welcomed that the Commission stresses the respect for fundamental rights and in particular the right to a fair trial as key principles which accompany all planned initiatives.

The digital transition will be costly but in the long-term the investment will pay off. The Commission points out funding opportunities such as the new Justice program and the Digital Europe program and encourages Member States and organisations to apply for grants and participate in projects to boost and facilitate digital solutions.

A robust and resilient framework with strong safeguards requires a horizontal approach. New provisions in particular when using AI-applications in the judicial system require a harmonised set of requirements to create a level-playing field and ensure that all citizens and business have the same benefits throughout the EU. This

is even more evident when it comes to long-term goals of further interconnecting databases and registers. Courts and legal practitioners need to operate under the same conditions to establish legal certainty and access to justice. Inevitably, this will lead to some Member States having to adapt their legal traditions, however by installing the necessary safeguards these amendments should neither distort well established practices nor hamper digital developments.