

Envisioning the Next Step in e-Justice:

In Search of the Key to Provide Easy Access to Cross-border Justice for All Users **Ernst**

Steigenga, Marco Velicogna Envisioning the Next Step in e-Justice

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Summary: This paper is the result of a long chain of working activities and cooperation which arose out of a problem: Cross-border legal procedures in civil matters are not producing the expected results regardless of all e-justice investments done so far. The aim of this present work is to explore how existing technical and legal components and those under development could be used or reinvented to better address the problem. The question of how cross-border e-justice service provision should proceed will also be addressed. This paper has been produced with the financial support of the Justice Programme of the European Union (API for Justice project JUST/2014/JACC/AG/E-JU/6965). The contents of this paper are the sole responsibility of Ernst Steigenga and Marco Velicogna, and can in no way be taken to reflect the views of the European Commission.

(A) Introduction

This paper has been written by two practitioners of the EU e-justice after more than five years of working together on this topic in the EU co-founded e-CODEX Large Scale project and in other initiatives such as the EU Council Working Party on e-Law. The Conference “From Common Rules to Best Practices in European Civil Procedure” held in Rotterdam on the 25th and 26th of February 2016 provided the opportunity to take a step back from the EU e-justice operational activities and to reflect on our experience. It also provided the motivation to begin adopting a broader perspective on the work that needed to be done to make cross-border e-justice service provision viable. The e-CODEX experience has taught us the risk of taking a perspective that is too narrow whilst allowing us to discover the potential of digitization of European Justice. The **organizational, legal, social and political complexity** of developing a pan-European infrastructure capable of supporting legally valid cross-border judicial communication has already demonstrated in the initial phases of the e-CODEX project the inadequacy of the “technological determinism and instrumental rationality underlying systems development”,¹ which characterises the “current orthodoxy within IS theory and research”² and the current ICT development practice, to address the problem at hand. This perspective on design and implementation of Information Systems is based on software engineering and information systems design methodologies “which focus on the development and use of information systems in narrow technical/rational terms”.³ This is a direct result of “the initial diffusion of business applications of computers and networks, and the highly formalized nature of programming and software, suggested a vigorous and structured understanding and representation of the multiple systems practices, from requirement analysis to use, maintenance, and documentation.”⁴ The limitations of this deterministic perspective, not giving sufficient attention to the open nature of the technical,

¹ D. Howcroft, “Information Systems”, in M. Alvesson et al. (eds), *The Oxford Handbook of Critical Management Studies*, OUP, 2009, 393.

² Howcroft, *supra* n. 1, at 393.

³ Howcroft, *supra* n. 1, at 394.

⁴ C. Ciborra, *The labyrinths of information: Challenging the wisdom of systems: Challenging the wisdom of systems*, OUP, 2002, at 1.

social, organizational and legal components that a complex information system must integrate, or to the knowledge that needs to be developed in order to discover, interpret, redesign and assemble these components, have been often acknowledged in practice, where high rate of ICT failures are reported.⁵ This seems to be particularly true in the justice domain,⁶ due to various factors including the highly regulated context⁷ where “traditional ways of getting things done in the judiciary are entrenched in laws, regulations, and consolidated practices”⁸ and the need to be institutionally compatible with constitutional values such as the judges independence.

As a result of coping with this complexity, of the need of “unveiling the hidden or dark side of information systems”,⁹ what started as an effort to develop “a technological tool to support judicial procedures”¹⁰ ended up as a reflective experience that forced the people involved in the project to look at the question from a much broader perspective, relating to that of the cross-border justice service provision. As Hanseth opines, “we cannot understand the problem by addressing only technological or organizational (or social) issues, we need to understand both and their interactions and interdependencies”.¹¹ This perspective required not limiting the work to the design of a technological artefact, but to consider, investigate and engage the broader, **multi-layered context**.

Being a Large Scale Pilot, e-CODEX managed to mobilize the resources needed to create a broad network of people and institutions over a long time span. This network showed the capability to tackle the various layers of the problem through activating research, technical, legal and political resources to carry out a constellation of loosely but effectively coordinated initiatives and actions ranging from the use case centric approach development, legal cross-border procedures, theoretical and practice investigation, technology deployment, National and EU political initiatives to support MS active and EU Commission involvement and long term sustainability. The involvement of non-governmental organizations representing key stakeholders such as the CCBE, and of research institutions such as the National Research council of Italy or the Aristotle University of Thessaloniki, has also contributed in providing the network with a different balance than the one available on other EU tables such as the working parties of the EU Council.

As e-CODEX formally ended in May 2016, its gravitational pull is declining. Weekly conference calls of e-CODEX partners have ceased to take place, distribution lists are being closed down and people are moving to other projects. New initiatives, deriving from the e-CODEX experience, are trying to move forward. At the same time, there is a perception of the risk of losing focus and momentum. It is a critical moment to consider the next

⁵ O. Hanseth, “Introduction: integration–complexity–risk – the making of information systems out-of-control”, in O. Hanseth and C. Ciborra (eds), *Risk, complexity and ICT*, Edward Elgar Publishing, 2007, 1; Howcroft, *supra* n. 1, at 396; M. Velicogna, “Justice Systems and ICT: What Can Be Learned from Europe?”, 3 *Utrecht L. Rev.* (2007) 129, at 130.

⁶ F. Contini and G.F. Lanzara (eds), *ICT and Innovation in the Public Sector. European studies in the making of e-government*, Palgrave, 2009; M. Fabri (ed), *Information and Communication Technologies for the Public Prosecutor’s Office*, CLUEB, 2007.

⁷ R. Mohr and F. Contini, “Reassembling the Legal: The Wonders of Modern Science’ in *Court-Related Proceedings*”, 20 *Griffith L.Rev.* (2011) 994, at 995.

⁸ M. Velicogna et al., “Building e-Justice in Continental Europe: The TéléRecours Experience in France”, 9 *Utrecht L. Rev.* (2013) 38, at 39.

⁹ Ciborra, *supra* n. 4, at 2.

¹⁰ M. Velicogna and G. Lupo “From Drafting Common Rules to Implementing Electronic European Civil Procedures: The Rise of e-CODEX”, in this book.

¹¹ Hanseth, *supra* n. 5, at 5.

steps and reflect on the organizational means and the governance framework that are available or that could and should be deployed to pursue them.

In order to determine the next possible steps of EU e-Justice, and to consider the lessons learned from e-CODEX, it is important to highlight the origin and evolution of the demand that e-Justice is called to answer. Whilst the first European research seminar on information and communication technology in the European judicial systems was held in Bologna in September 2000,¹² the political discussion on EU e-Justice started back in 2006 when the Austrian Presidency organised the first e-Justice conference. The central theme was how Justice could benefit from digital support and what approach would be fruitful. Some 10 years later, one can observe that the perspective has progressively changed, broadening the scope of the initiatives taken which spilled over from the ‘technical’ field to the legislative and political ones. The theme of the May 2016 e-Justice conference held under the Dutch Presidency of the EU, “*e-Justice: it’s not about technology!*”, exemplifies this development. At this conference, both the representatives of the EU Parliament and Commission have shown their keen attention to the topic. Our observation is that this process is still emergent, and indeed needs to be discussed and organized. The on-going discussions in the Council (Justice and Home Affairs) Working Party on e-Law, in its permanent expert group on e-CODEX related issues, and in several EU co-funded projects, in particular the API for Justice project, coordinated by the Ministry of Security and Justice of the Netherlands, are part of this process. This paper, also a part of this process, is intended to provide an understanding of which direction the e-Justice should take and how.

In this perspective our intention is to look at how existing instruments and tools in development can be used to improve the available options, but also to explore better options and solutions, combining existing legal, organizational and technological components in ways that can redefine the present justice service provision. We suggest that a **three steps approach** should be followed, starting from a **short-term initiative** to enhance the use and usability of existing legal instruments through the use of available technological solutions. This should be combined with a **mid-term initiative** addressing how escalation mechanisms works in relation to EU cross-border procedures in civil and commercial matters. Finally, a **long-term initiative** should consider how the overall cross-border procedures service provision in civil and commercial matters should be reconceptualised and re-designed, with the focus being not on single legal procedure, technology or organizational configuration, but on the requirements of a multi-channel (which use multiple electronic and non-electronic channels to support the delivery of one or multiple services), and possibly mediated (e.g. opening the field to organizations which may provide services) strategy. One of the end objectives for e-Justice, especially the part servicing citizens and small and medium enterprises, is therefore the creation of effective dispute resolution services in which realistic steps can be taken to achieve a (judicial) solution of cross-border justice problems of civil and commercial nature. In order to achieve this, the organizational and institutional means and the **governance framework** needed to create them needs also to be addressed.

(B) Where It All Began: At the Origins of the Cross-border Access to Justice Topic

The perceived need for a quicker, faster and cheaper cross-border civil justice within the EU raised in the political agenda due to a number of factors, between which great relevance had the increase circulation of people, goods and money.¹³ In 1992, the Maastricht Treaty listed **judicial cooperation in civil matters** as one of the areas to be regarded “as matters of common interest”.¹⁴ Five years later, the Treaty of Amsterdam placed

¹² M. Fabri and F. Contini (eds), *Justice and Technology in Europe: How ICT is Changing the Judicial Business*, Kluwer, 2001.

¹³ See for example <http://www.eppgroup.eu/press-release/Cross-border-judgments%3A-cheaper,-faster-and-better-access->; http://ec.europa.eu/justice/newsroom/civil/news/150817_en.htm.

¹⁴ P.61 Art K.1, Treaty on European Union, OJ 1992, C 191.

judicial cooperation in civil matters at Community level, stating that in order to establish progressively an area of freedom, security and justice, the Council should adopt measures in the field of judicial cooperation in civil matters “having cross-border implications [...] insofar as necessary for the proper functioning of the internal market”,¹⁵ improving and simplifying the system for cross-border service of documents; the taking of evidence, the recognition and enforcement of decisions in civil and commercial cases and “promoting the compatibility of the rules on civil procedure applicable in the Member States”.¹⁶

In 1999, the Tampere European Council 15 and 16 October 1999 Presidency Conclusions the political relevance at EU level of the establishment of “a genuine European Area of Justice [where] individuals and businesses should not be prevented or discouraged from exercising their rights by the incompatibility or complexity of legal and administrative systems in the Member States”. Since then, this trend “has been reconfirmed in the 2004 Hague Programme in order to strengthen justice as well as by the European Commission in the so- called 2009 Stockholm Programme”.¹⁷

The growing political attention and recognition of the matter in the Treaties and EU institutions, in time, led to the development of a number of **legal instruments** to replace time-consuming and costly procedures addressing specific elements of judicial procedures in the areas such as “the taking of evidence,¹⁸ cross-border service of documents,¹⁹ and international jurisdiction, recognition and enforcement,²⁰ but also “harmonised procedures that provide an automatic recognition and enforcement of the judgment issued for certain types of civil and commercial matters (e.g. the European Order for Payment (EOP),²¹ the European Small Claims Procedure (ESCP)²² and the European Account Preservation Order (EAPO)²³”.²⁴ The aim of these tools can be seen as to

¹⁵ Art. 73m Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts, OJ 1997, C 340.

¹⁶ Ibid.

¹⁷ https://e-justice.europa.eu/content_cooperation_in_civil_matters-75-en.do.

¹⁸ 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, OJ 2001, L 174.

¹⁹ Council regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000, OJ 2007, L 324.

²⁰ Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, OJ 2012, L 351.

Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims, OJ 2004, L 143.

²¹ Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure, OJ 2006, L 399.

²² Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure, OJ 2007, L 199.

²³ Regulation (EU) No. 655/2014 of the European Parliament and of the Council of 15 May 2014 establishing a European Account Preservation Order procedure to facilitate cross-border debt recovery in civil and commercial matters, OJ 2014, L 189.

²⁴ T. Zwiefka, Report on the implementation and review of Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, European Parliament Committee on Legal Affairs, 2009/2140(INI); M. Velicogna et al., “Simplifying access to justice in cross-border

provide a “legal framework which is consistently structured and easily accessible”;²⁵ consequently unifying and harmonizing relevant subject matters such as *lis pendens*, jurisdiction clauses, notification procedures etc.²⁶ While procedures such as the EOP and the ESCP have been designed with a clear political objective of making justice directly accessible to the citizen, it should be noted that these tools have an equally important impact on the legal protection of cross-border commerce. In addition, in assessing these instruments, it should be noted that “Judicial decisions can affect interests far beyond those formally represented in the courtroom”,²⁷ and therefore economic and social results should not be assessed by only looking at the number of cases.

The attempt to create legal instruments to support EU cross-border judicial procedures has resulted in a clear improvement to the previous situation.²⁸ However, they still present many layers of **complexity** and have not been particularly successful in terms of usage.²⁹ EU citizens, legal professionals, their associations, scholars and politicians are showing an increasing concern for the cross-border justice and for the increasing amount of money and effort that is being committed to make it work.

A number of initiatives have been taken in the attempt to tackle these problems, ranging from the drafting of guidelines to EU research projects investigating the actual functioning of these procedures (e.g. BIECPO) to surveys trying to collect data on the problems affecting these instruments to legal revision (of forms, Small Claim procedure revision etc.). Many of these initiatives have been in the field of **e-Justice**, due to its “great potential to redefine court boundaries and make it more accessible and comprehensible to the public”.³⁰ The following paragraph explores such initiatives in further detail.

(C) The e-Justice Now

e-Justice covers a wide range of topics. Although all structuring can be questioned, a useful classification of e-Justice might be the one that distinguishes between e-Legislation, e-Law and e-Justice. Under **e-Legislation** we would bring all initiatives that offer digital support for the process to draft legislation. The majority of the initiatives in this field are within Member States such as Slovakia, Estonia and The Netherlands. **e-Law** focuses on the access to legislation and jurisprudence in both the European Union and its institutions and the implementation in the Member States. The European Publication Office is an important contributor in this field but also instruments like the European Case Law Identifier and the European Legislation Identifier have proven

litigation, the national practices and the limits of the EU procedures. The service of documents example”, EGPA Conference (26-28 August 2015), Toulouse, France; M. Velicogna, G. Lupo, E.A. Ontanu, “Simplifying access to justice in cross-border litigation, the national practices and the limits of the EU procedures. The example of the service of documents in the order for payment claims”, *IJPL* (2017)1.

²⁵ T. Zwiefka, *supra* n. 24.

²⁶ T. Zwiefka, *supra* n. 24.

²⁷ C. Guarnieri and P. Pederzoli, *The Power of Judges*, OUP, 2001, at 9.

²⁸ T. Zwiefka, *supra* n. 24.

²⁹ X.E. Kramer, “A European Perspective on E-Justice and New Procedural Models: Transforming the Face of Cross-Border Civil Litigation and Adjudication in the EU”, 2015, available at SSRN 2696978; M. Mellone, “Legal Interoperability in Europe: The Cases of the European Payment Order and the European Small Claims Procedure”, in F. Contini and G.F. Lanzara (eds), *The Circulation of Agency in E-Justice: Interoperability and Infrastructures for European Transborder Judicial Proceedings*, Springer, 2014, 83; G.Y. Ng, “European Payment Order and European Small Claims Procedure in Practice: Findings from a Simulation Experiment”, in F. Contini and G.F. Lanzara (eds), *The Circulation of Agency in E-Justice: Interoperability and Infrastructures for European Transborder Judicial Proceedings*, Springer, 2014.

³⁰ M. Velicogna and G.Y. Ng, “Legitimacy and Internet in the Judiciary: A lesson from the Italian Courts’ websites experience”, 14.3 *IJLIT* (2006) 376.

their added value at the EU level. **e-Justice** encompasses anything that enables cross-border cooperation through the use of digital instruments. The cross-border cooperation either aims at the digital processing of cross-border legal procedures or the use of digital tools for cooperation between professionals located in different Member States. To illustrate the diversity of e-Justice, due regard must be given to some of its instruments such as video conferencing, Find a Lawyer, the Court Database and the digital processing of cross-border legal procedures as developed for e-CODEX pilot services.³¹ This paper relates mostly to the developments in e-Justice as described here.

In looking at the developments in the e-Justice domain, one should also consider that, in the last decade, communication networks and information systems have become an essential component in economic and social development but also in the national service provisions and in the public perception of how such services should be provided. “Computing and networking are now utilities in the same way as electricity and water supplies”.³² This notion of ICT as a commodity has slowly made an appearance in the European Justice through e-CODEX. e-CODEX provides a broad exchange platform including the infrastructure to support judicial communication between legal actors in the Member States, semantic interoperability that ensures mutual equal interpretation of data and recognition of electronic identities of individual and organisations. The main techno-legal standards have been agreed, even if they may require further improvements to achieve maturity, and, as time goes by, will need to be adapted to ever changing technologies and legislation.

(1) e-Law

In terms of access to legal information, information provision can perform a number of functions in the justice domain. Ten years ago, Velicogna and Ng already observed that “websites can be a tool to enhance accountability, transparency, legality and representativeness of the judiciary”.³³ Based on their empirical research, however, the same authors noted “that this is not always the case”.³⁴

“Legal information can be divided between general and specific. General legal information concerns general rules, procedures, practices, examples of forms or pleadings for the guidance of litigants, the explanation of terms and documents used in the court process etc., which can be applied to each and every court.³⁵ Specific information pertains to an individual court’s rules, procedures, practices, forms etc.”³⁶ Perhaps a more useful categorization, from our perspective, can be between theoretical knowledge, which can be found in books and procedural laws, and the practical knowledge which is needed to understand and present clearly the legal case (which elements are relevant from a legal perspective) and to complete all the activities required to carry out the procedure e.g. filling of the forms, payment of the fees and attachment of receipts, phone numbers to ask for clarifications etc. It should be stated that while book knowledge and a part of practical knowledge are explicit and can be shared electronically,³⁷ the other part of practical knowledge is tacit³⁸ (or implicit) and therefore much more difficult to transfer, especially through electronic means.³⁹

³¹ Tim Roubos et al. Electronic Channels for e-Justice Services, API for Justice project working document, 2016.

³² ENISA, Good Practice Guide for Incident Management, 2010, at 8.

³³ Velicogna and Ng, *supra* n. 30, at 370.

³⁴ Velicogna and Ng, *supra* n. 30, at 370.

³⁵ J.M. Greacen, “Legal Information Vs. Legal Advice, Developments During the Last Five Years”, 84 *The Judicature* (2001), at 198-199.

³⁶ Velicogna and Ng, *supra* n. 30, at 380.

³⁷ N. Hara, “Information Technology Support for Communities of Practice: How Public Defenders Learn About Winning and Losing in Court”, 58 *JASIST* (2007) 76, at 84.

The main tool to provide access to information on cross-border judicial procedures is the e-Justice portal. The e-Justice portal was launched on 16 July 2010 as the flagship from the Multi-Annual European e-Justice Action Plan 2009-2013. It is hosted and operated by the European Commission in line with the indications provided by the Council.⁴⁰ Each Member State also contributes to the contents of the portal. It is to be regarded as a “one-stop-shop in the area of justice”⁴¹ providing information for European citizens about justice in the European area. Characteristically, the e-Justice portal provides guidance and tools to support access to cross-border judicial procedures. Despite the appreciation of the initiative of the e-Justice portal and of the constant improvement from its initial steps, it must be recognized that the road ahead for the e-Justice portal to fulfil its ambition seems to be quite long.

Some of the issues that still need to be addressed:

- The focus of the e-Justice portal is on theoretical information and formal structured knowledge while a user is in want of practical knowledge and decision making support. Furthermore, the quantity of information available tends to overload the user.
- Guides are still too theoretical e.g. “Practice Guide for the application of the Regulation on the European Order for Payment.”⁴² At the same time, it looks difficult to be able to provide clear guides as the implementation into the national system of the European procedures is very diverse and that, in absence of proper implementation rules for these instruments, the task of the courts, and especially the judges, can be very demanding, leading to divergent practices and interpretations.⁴³
- Tools available to navigate some of the complexity are not easy to find for a non-repetitive player.
- Catchy names of some of the tools describe more the future than the present (e.g. find the competent court help finding a court address, not to clarify if it is competent to deal with a case).

(2) e-Justice

One of the first steps in digital cross-border cooperation, in the Justice domain, was the interconnection of national registers like those on land, business or insolvency. This initiative was followed by the legal professions, especially the lawyers, to assist European citizens and companies in locating a qualified legal professional in another European country for representation in legal procedures. Furthermore, in criminal law the connection of registers has proven to be a good starting point as evinced by ECRIS. The possibility to consult verified data in other Member States has proven valuable and also a starting point to endeavour for example the options for cross-border updates of registers. A further step in digital cooperation across borders has been the introduction of video conferencing. Originating in domestic video conferencing mostly for court hearings, the

³⁸ M. Polanyi, *Personal knowledge*, University of Chicago Press, 1958; M. Polanyi, *The Tacit Dimension*, University of Chicago Press, 1966.

³⁹ J. Roberts, “From know-how to show-how? Questioning the role of information and communication technologies in knowledge transfer”, *12 Technology Analysis & Strategic Management* (2000) 429.

⁴⁰ Draft Strategy on European e-Justice 2014-2018, 2013/C 376/06.

⁴¹ <https://e-justice.europa.eu/>.

⁴² <https://e-justice.europa.eu/fileDownload.do?id=79895a32-067e-4a6e-b7fc-c117d59bf87f>, see also: E.A. Ontanu, *European Uniform Procedures, a Way to Efficient Cross-Border Litigation and Enforcement? A Comparative and Empirical Research*, Thesis, Erasmus School of Law, 2017.

⁴³ E.A. Ontanu, in this book.

spread of local experiments over Europe resulted in ongoing projects to use video conferencing for many different applications. Examples include: hearing of witnesses over distance and conferences between judges involved in cross-border cases.

The digital processing of cross-border legal procedures depends on the availability of digital solutions in the Member States. Currently, apart from national systems allowing for e-filing of cases through national ICT systems and following national technical, legal and procedural requirements, cross-border legal transaction services in EU are enabled through the e-CODEX platform. The main principle in the ICT architecture of e-CODEX is subsidiarity. This principle originates from the desire and requirement to ensure the independence of the judiciary amongst other reasons. The principle of subsidiarity is politically appealing as it has the potential to limit the impact on national ICT systems for processing of legal procedures. It was initially clear that for e-CODEX to become a success, the safeguarding of the large investments in domestic solutions was essential. A further argument for subsidiarity is the resulting independence of each Member State to upgrade and change domestic systems at its own pace. e-CODEX is an extensive, well documented and broad exchange platform. Broad in this instance means that e-CODEX supports electronic delivery, semantic interoperability and recognition of electronic identities.

In addition, eu-LISA, EuroJUST and EULIS are organisations in the domain of European Justice that manage and share information from dedicated systems under their control. These European organisations receive case related data from national organisations and store these data within a European system. This approach is a centralized approach, which is quite different from the e-CODEX. e-CODEX does not store any case related information. e-CODEX relates to national systems and does not store any case related data. The only data that is temporarily stored is data about the delivery of data from one national system to a national system in another state. e-CODEX distributes data between national solutions from cases based on European legal procedures in such a way that the delivery is accurate and secure, authenticity of the sender is guaranteed and traceable and the data related to the case is equally interpreted by the parties involved. e-CODEX project is described in detail in the article by Marco Velicogna and Giampiero Lupo in this book. The next section presents some of its features and experiences that in our perspective provide some of the key elements for envisioning the next steps that should be taken in the EU e-Justice, particularly in relation to European Civil Procedures.

The deployment of e-CODEX in the Civil Law domain experience

In the domain of Civil Law, two procedures are currently using e-CODEX. These procedures are the EOP procedure, based on Regulation (EC) No 1896/2006 and the Small Claims use case based on Regulation (EC) No 861/2007. Both e-CODEX pilots support the connection of national ICT filing systems via e-CODEX infrastructure thus enabling electronic cross-border filing to the competent court in another piloting Member State.⁴⁴ A current development is a new functionality in the European e-Justice Portal to allow citizens to fill the application-form for a European Payment Order and to submit this application directly in electronic format to the competent court in a Member State participating in the pilot.⁴⁵

The supported procedures were selected by the e-CODEX partners mainly on the basis of policy goals of the Member States and of the European Commission. In a so called feasibility check, the Member States decided on the basis of criteria including the number of supporters, the extensibility, existence of other systems or initiatives covering the procedure, legal basis, expected volume of cases, their relevance and potential beneficiaries and last

⁴⁴ A prerequisite of a system to be connected to the e-CODEX infrastructure is that documents exchanged through the system have to be at a minimum created by an advanced electronic system or signed with an advanced electronic signature.

⁴⁵ M. Velicogna et al., “D7.6 Architectural Hands on Material (Update of D7.4)”, e-CODEX Deliverable, 2016.

but not least, countries willing to participate in the piloting of the procedure to take up such a procedure as a use case for e-CODEX.

Once the feasibility of the digitization of a cross-border legal procedure was decided upon and embraced, the next steps were of a more technical nature. These next steps dealt with the mutually dependent steps of process analysis, data analysis and digital delivery. The mutual dependency originates from the requirement that for electronic processing of any procedure data must be recognizable in its context in order to be processed appropriately. Within e-CODEX a protocol was developed to manage these three steps. According to this protocol, the process analysis is carried out involving people dealing with the legal procedure on a regular basis. The knowledge and experience gained from regular handling of cross-border legal procedures is considered essential to discover the many legal and procedural complexities of these procedures and to develop digital solutions with added value. The process analysis describes the scope of the process, the process steps in the procedure, so called 'Business Collaborations' and results in the definition of 'Business Documents', the actual information exchanged in a process step.

The business transactions and the data required, as defined in the business documents, are the starting point for data analysis in e-CODEX. Contrary to the process analysis, the data analysis is mostly dealt with by a team of data modelers. The team of data modelers consists of semantic specialists that either identifies or creates the semantic concepts based on the requirements from the process analysis and definition of the business documents. The figure below shows the concepts and the relations between the concepts for Small Claims.

../Bilder/image001.jpg

Figure 1. Concepts from Small Claims

A user council, mostly consisting of people also involved in the process analysis and representing all stakeholders, decides on the use of the concepts definition. Once approved by the user council, the concepts are deployed in schemas for the business document that carry the information as identified. The XML schema definitions (XSD) are created by the schema creation group. The schema creation group is also responsible for the validation of the XSDs.

The proper digital processing of a cross-border legal procedure requires the process described above to take place at both the European level as within a Member State. This approach is intended to seek maximum flexibility on the one hand and to respect the differences between legal systems of the Member States on the other. For a procedure to be carried out electronically and for the semantic information not to be lost in the communications, Member States need to transform their data definitions into the data definitions of e-CODEX for each legal procedure. This transformation process is called 'Mapping'. It is up to the Member States to decide when, if and how, business documents and the XSDs are transformed from the European level to the national solutions. As this can be a very time consuming activity, specialists from the Member States must be involved as early as possible in this process. e-CODEX has facilitated several mapping workshops for the 'national data mapping' to guide the Member States and help them to pick the right 'mapping method' for their context. Each mapping method contains a collection of template rules: instructions and other directives that guide the processor in the production of the output document.

e-CODEX has created a long term strategy for the establishment of semantic interoperability for European Justice to support the digital processing of cross-border legal procedures. The aim of the long term strategy is twofold. The first aim is to guarantee the correctness of the processing of cross-border legal procedures. The second aim is harmonizing legal concepts to enable faster deployment of these procedures. The long term strategy builds upon existing methodologies and instruments. In the context of this paper, it seems worthwhile to have a closer look at 2 elements of the e-CODEX long term strategy for the establishment of semantic interoperability to support the digital processing of cross-border legal procedures:

- 1. The Core Legal Concepts

e-CODEX noticed that currently each time a legal procedure is taken up for electronic proceeding, basic legal concepts like 'claimant', 'defendant' and 'court' have to be analysed and modelled to match exactly the definition in the legislation at hand. Inspired by ISA's

Core Vocabularies, harmonisation of legal concepts in European legislation through the introduction of Core Legal Concepts is desirable. For generic legal concepts, the Core Legal Concepts are meant to describe the minimum set of attributes allowing additions to meet any necessary nuance. The minimum set of attributes harmonises these legal concepts. Core Legal Concepts would enable faster electronic deployment of cross-border legal procedures.

- 2. Semantic interoperability deployed through a Domain and Document Model

e-CODEX deploys semantic interoperability through a distinction between a Domain Model and a Document Model. The meaning of domain in this context is the legal procedure that is processed electronically by e-CODEX. At the Domain level, concepts used in the legal procedure are first described legally and next modelled semantically. All transactions in the context of this legal procedure will use the concepts defined and described at the Domain level. The instantiation of a transaction in the context of a legal procedure is a document, and is formed using the semantically defined concepts at the Domain level.

The generic nature of this method allows for an uptake of e-CODEX by other cross-border legal procedures. The infrastructure and method are easily deployable for other domains of Civil Law like family law, insolvency, but also in Criminal Law, where e-CODEX has been recognized as a valuable instrument. The uptake by Public Prosecutors Offices in Member States is growing and the interest to join even more, especially to exchange data on Legal Assistance.

In Family Law, The Hague Conference (HCCH) is using the e-CODEX infrastructure to pilot its iSupport solution. iSupport is used to exchange data on parental obligations relating to the financial support of children after a divorce. Also elements from Brussels II bis have been looked into for support by e-CODEX.

Basically e-CODEX is capable to support any cross-border legal procedure that is processed in a decentralized manner. Decentralized, here, means that the procedure at hand involves multiple states with distinctive competences in the procedure. It means that data originating in or used for a legal procedure can be stored and processed in more than one country.

A further characteristic of e-CODEX is the possibility of the embedding of services from third parties, from inside or outside the domain of Justice. A crucial service from this perspective would be the EC's Court Database to be able to identify the competent legal authority in any of the Member States for a specific legal procedure. Another example is the 'Find a Lawyer (FAL)' service that allows any applicant to check the status of a lawyer in European countries. Such information is of course highly relevant when dealing with cross-border legal procedures. The integration or better, structured exchange of data with such services may strengthen e-CODEX in its role as a pivotal platform for information exchange in cross-border legal procedures.

However, possibilities do not only lay in e-CODEX embedding other services. It could be vital for the acceptance of e-CODEX in the European legal community that e-CODEX as a platform and provider of standardized exchange mechanisms to be open for use by other services as well. Law firms, notaries, bailiffs, Legal Aid organisations and the like, have invested in software to support their clients making applications under procedures now available on e-CODEX. Making connections to these existing and vibrant communities of stakeholders should be a priority for e-CODEX. The idea of e-CODEX as a, broad and broadening, service to be used by many different intermediaries in the Justice domain needs to be further investigated. These topics are at the core of projects like *API for Justice* and *Pro-CODEX*. These projects, financially supported by the European Commission look into the technical, organizational and legal requirements to open e-CODEX for users outside the Judiciary and Legal authorities in the Member States.

In our vision, the next step for e-CODEX is to neither just push for its use, nor even to directly provide the tools for the users, but to build the tools to allow the use of such tools (if existing) or to build the needed tools if not. The next step is to use e-CODEX, and the lessons learned throughout it, as an instrument for a more substantive goal. That goal is the embrace of European citizens and companies of cross-border Justice as a well-conceived and perceived means of legal protection over a wide range of topics. Tools such as the e-CODEX protocol for process analysis, data analysis and digital delivery, Core Legal Concepts and Semantic interoperability deployment through a Domain and Document Model can provide substantive help in achieving such goal.

(D) Cross-border Justice From the User Perspective: The User Story Approach

The description of the main e-Justice initiatives and achievement at EU level provides a taste of the available tools and possibilities in light of the general objective of providing easier access and better cross-border justice, but fails to provide an indication of what should be done to concretely improve the situation from the user perspective. This is due to the fact that the solution to this problem cannot be found by just considering the legal procedures. The complexity that lies in the implementation of the procedures is too high and its impact too significant. Empirical knowledge on EU cross-border procedures generated by the BIECPO and similar research initiatives, but also by the explorations carried out within the e-CODEX project have clearly shown this. The lesson here is that the attempt to imagine where e-Justice should go, should build on the existing framework, legal instruments, technological infrastructures and tools, but also on the observed practices and their limits.

With the objective of developing a legal transaction services provision infrastructure, and faced with the still fragmented knowledge available on the practical implementation of cross-border procedures and with the impossibility to gather all the information required for an omni-comprehensive approach, e-CODEX developed a use case oriented approach. While this approach performed well within the scope of the project, the next step requires a different level of analysis. The API for Justice Project has begun to map the user needs through the description of a number of user stories. The attempt of the API for Justice Project is to move from a use case oriented approach developed in e-CODEX to a user oriented approach, in order to envision which techno-legal services are required to support existing procedures. Whilst the objective of the API for Justice Project is to devise which functions of an API are called in order to facilitate cross-border judicial procedures, the analytical method developed and the work done so far in the project can be used for the border purpose of assessing the potential of the existing e-Justice installed base and to support its **reconfiguration** in the **short, medium** and **long term**.

(1) An Example of User Story Derived From the API for Justice Project: DIY Application for the European Order for Payment

Marek, a polish small business owner has sold an agricultural machine to Francois, who is a wine producer from Montauban, France. Sadly, Francois has not yet paid the invoice of € 28.000, even after repetitive reminders by Marek. Evidently, Marek wants to have his invoices paid. An Internet search leads him to the discovery of the EOP procedure. He learns that it is one of the available legal procedures that can be used in cross-border disputes to seek his right. The procedure allows him to apply for a payment order to the competent court. But which is the competent court? As Francois' firm is located in France, Marek is of the belief that the competent court will be a French one. Marek optimistically starts his application and soon encounters some questions to which he doesn't really have an answer. Firstly, he is to address the correct court in France. He tries to find out for himself what court this can be. It appears that he has to turn to a 'Court of First Instance', but Marek is a little unsure because he reads that such courts have jurisdiction up to a claim amounting to € 10.000. Since his claim is higher than that, he may have to turn to another type of court such as the commercial court, the Magistrate court or even the Agricultural Land Tribunal. Even if he knew what type of court has jurisdiction to handle his case, Marek would still have to know which court of that type will accept his case. Would that be the one closest to the seat of Francois' business or maybe a dedicated court for cross-border disputes...? The "Practice Guide for the application of the Regulation on the European Order for Payment"⁴⁶ is not of much help on this point. However, it refers to a "'Competent courts' tool of the Atlas",⁴⁷ and following that lead, Marek discovers the

⁴⁶ <https://e-justice.europa.eu/fileDownload.do?id=79895a32-067e-4a6e-b7fc-c117d59bf87f>.

⁴⁷ <https://e-justice.europa.eu/fileDownload.do?id=79895a32-067e-4a6e-b7fc-c117d59bf87f>.

“finding a competent court” function on the e-Justice Portal.⁴⁸ The “finding a competent court” function provides a number of courts in the area, but also telephone numbers, which he can call for information. As he is dealing with several French clients, he is able to call and talk to the courts personnel in French to discover which court is competent. He then proceeds by filling the claim form. He is unsure of which elements are relevant for the case, so he describe the case to the best of his abilities in French. After completing the form, he prints it and signs it. He is unsure of the documents he needs to attach, but he decides to send a copy of the contract and of the delivery receipt. While reading the “Practice Guide for the application of the Regulation on the European Order for Payment” one last time before sending, he also discovers that fees may “have to be paid to the relevant court along with the application”.⁴⁹ He finds the Court fees concerning European Payment Order procedure sections on the e-justice portal. Unfortunately the flag pointing to the information concerning fees, available means to pay, post-payment actions for France is not active.⁵⁰ He interprets it as an indication that maybe no fee is applicable or that it should be paid at a later stage and sends the claim. Now he has to wait for the French court to respond to his application. If he has filled the form completely and correctly, the court will process the application. In other cases, the court may ask Marek to amend the application. Since he has completed the form online and the content of his initial application was not stored there, he needs to fill out the entire form again instead of just making amendments to the initial claim.

(2) Getting away from frustration

This kind of representation of the procedure establishes a theoretical analysis on the existing and needed tools to support the smooth functioning of the procedure. It simultaneously provides a reflective tool on the overall functional requirements of the procedure, which may be addressed at technological, organizational or procedural level. As an example, the question of jurisdiction can be addressed through the design of an API which, given the amount of the claim and some other elements, provide the name of the court and address of the court (on-going initiative). As an alternative, initiatives could be taken to reduce the number of courts involved in cross-border proceedings as some Member States have decided to for some procedures. This would also help with the complexity of non-structured communication with foreigners through phone calls or even physical appearances, and with procedural specialization, sometimes interpreted as centralization as organized in some countries to cope with the observations that “it is highly likely that a judge will receive only a few procedures in a year, if any at all.”⁵¹

Another topic to take into account for improving the accessibility of cross-border legal procedures is the complexity of the forms developed to structure the communication within the procedures. The legal procedures and the attached forms are drafted by legal experts from Member States. The experts of the Member States focus mostly on the legal aspects of the procedure. The procedure should bring the legal measures aimed for. What is easily overseen by these legal experts is that it is not only the legal validity of the procedure that is important but also the accessibility of the forms for foreseen users. These are essential factors to achieve the aims. For this perspective, e-CODEX’s approach to semantic interoperability provides tools to improve access to legal procedures, while API for Justice user stories focusing on forms, may provide a better understanding of the practical problems.

⁴⁸ http://ec.europa.eu/justice_home/judicialatlascivil/html/cc_searchmunicipality_en.jsp#statePage0.

⁴⁹ <https://e-justice.europa.eu/fileDownload.do?id=79895a32-067e-4a6e-b7fc-c117d59bf87f>.

⁵⁰ https://e-justice.europa.eu/content_court_fees_concerning_european_payment_order_procedure-305-en.do.

⁵¹ A. Ontanu, in this book.

In June 2015 the expert group responsible for the developments forms of the European Account Preservation Order, (EAPO, 655/2014), was presented a digital version of the form to apply for an EAPO⁵². Although the work on the forms for EAPO had not been finished, based on the then current version of the forms, a digital form was developed. The digital form was designed to present the applicant, a set of questions and input fields to support the application, assuring all necessary data were collected. In fact, the single form was replaced by a structured digital interaction that results in the collection of the required data to start the procedure. The design of the interaction resulted from an analysis of the most mentioned reasons not to complete the filling of a form. The reason most mentioned, is that it takes too much time to complete a form. Another reason is that the process to fill a form is too complicated. Third in line of the most mentioned reasons, is that to complete a form takes people out of their comfort zone, due to their limited experience with legal matters.

Most participants in the expert group were pleasantly surprised by the attractive ‘look and feel’ of the digital version of the form. Another observation by some participants was that, an ‘awful lot’ of personal data is collected before an EAPO application can be submitted. These positive reactions makes one believe that fertile ground for digitization of legal procedures exists under legislative experts. At the same time, the legislative experts’ greater understanding of the problems faced by the users, after the demonstration, shows the need of tools such as the API for Justice user stories at this EU policy level.

(E) Where to Go From Here

The intent of this paper is to move from the attempt to create an e-now, an electronic copy of the off-line procedures, to e-tomorrow, pushing the boundaries, trying to imagine which services can be provided to address the cross-border justice demand and reconfigure the justice service provision. The idea is therefore, not to identify what is required for digitizing off-line tools, but what e-tools, business models and services could be built, in order to begin working on the components required to build them. This starts from the idea that “citizens should be able to find the information they are looking for, and that such information is reliable”.⁵³ Moreover, business and citizens should be provided easy access to cross-border judicial procedures and means to support the decision on whether to seek a legal solution to their problem. A strategy to raise volume of cross-border legal procedures and to move towards the e-tomorrow might be to work on easy digital access to cross-border procedures on the **short-term**. Projects such as Me-CODEX and Pro-CODEX, and calls for proposals such as CEF-TC-2016-2: European e-Justice Portal supports this objective. For the **mid-term**, we might aim for an interconnected escalation mechanism for conflict resolution between suppliers and consumers and to take full profit of the potential of IT. The **long-term** strategy must be to integrated IT and process knowledge in design and development of legislation. Our source of inspiration for this strategy is the perspective of the justice services user. What would it take to help the European citizens and companies in having full profit of the available Justice instruments in Europe? How can these instruments be reconfigured to provide the services people and businesses need or will need? The attempt is to move from a procedural to a substantive and subjective perspective in looking at cross-border civil justice service.

The idea is to start from the user perspective in its quest to define its legal problem, identify the available possibilities and available tools, and explore how existing and under development components could be combined or re-invented to support such progress. The objective is to design services capable of offloading the complexity of cross-border procedures from the user (especially if not repetitive), by delegating the complex tasks to the system. The function of offloading such complexity can therefore be delegated to a technological artefact, but not only... e.g. intermediaries, which are typically lawyers in the justice domain, but can also be other professionals or organizations.

⁵² https://www.youtube.com/watch?v=6j1w4swtu_E (short version) or <https://www.youtube.com/watch?v=GSYGNP8d4gA> (long version).

⁵³ Velicogna and Ng, *supra* n. 30, at 370.

Try to picture the array of tools needed to successfully tackle the problems raised by the justiciable questions the justice user faces, taking into account its technical capabilities and legal and competence limits. To support easy access to justice, it is necessary to consider the social process through which “experiences become grievances, grievances become disputes”.⁵⁴ Felstiner et al. stressed that the “the antecedents of disputing are as problematic and interesting as the disputes that may ultimately emerge.”⁵⁵ This is the case not only from a theoretical perspective, but also because it draws the attention to a part of the cross-border judicial services that is neglected, leaving its solution to some generic information provision: ‘if you have a money claim the EOP may provide a tool’. But how does the potential claimant know if it has a claim? And how can it assess if it is worthwhile to pursue it through legal means or if it is possible (or more reasonable) to seek other means of dispute resolution? (e.g. arbitration mechanisms, reputation based tools etc.).

At this point it seems worthwhile to share an intermediate observation concerning the accessibility of cross-border legal procedures. In order to have people persist in their effort to enter into cross-border legal action, people should be offered first guidance *to* the right procedure from the several procedures available to have justice done across borders. Second, people must be offered guidance *through* the selected procedure to submit an appropriate application.

Non-repetitive players especially, lack the possibility to develop practical knowledge needed to overcome the problems emerging in the attempt to use a cross-border legal instrument. Factors affecting the transfer of knowledge to users not specialized in this kind of procedures include at first the potential isolation of the user in its quest for understanding. Second, the information over-load deriving from the quantity of information available, especially those of a general and theoretical nature, whereas the nature of the knowledge required is mainly practical. Such practical knowledge concerns the identification of the competent court in another Member States – often subject to legal interpretation – and understanding the requirements for electronic submission.

Non-repetitive users of cross-border legal procedures face a frustrating situation. In their current appearance, cross-border legal procedures do exist by legal understanding but do not exist as practical solution for the average European citizen. The non-existence is because of the complexity of these procedures resulting in such little added value to non-repetitive users that the legal procedures might as well not exist for them. One reason leading to this frustration might be that the presentation of the procedure to the public is following the orientation of the legal procedure, *not* the orientation of the user. Examples of a more user oriented approach are given by, among many others, Refund.me and Scheidingswijzer.

Refund.me assists airline customers in receiving compensation for delayed flights. The customer’s rights are laid down in the Regulation EC 261/04. Refund.me is available through a website and an App. The minimum 25% commission comes along with a ‘no win no fee’ policy towards customers. Refund.me first checks the details provided by the customer and next takes over legal action if the claim is considered feasible. Refund.me explicitly urges its customers to leave all communication with the experts at Refund.me and not to enter into communication with the airline company or court themselves.⁵⁶ Refund.me is a clear example of guidance *to* a legal procedure.

Scheidingswijzer is a website that assists couples in their separation or divorce. The couples learn about their legal options while receiving support through a digital interest based dialogue. The active contribution of the partners is essential to come to a successful end to the process. However, the partners are rewarded with a

⁵⁴ W.L. Felstiner, R.L. Abel and A. Sarat, “The Emergence and Transformation of Disputes: Naming, Blaming, Claiming...”, 14 Law and Society Review 1980 631, at 632.

⁵⁵ Felstiner, Abel and Sarat, *supra* n. 54, at 633.

⁵⁶ <https://www.refund.me/flight-delay/>.

tailored outcome against lower costs.⁵⁷ This initiative is after introduction in The Netherlands gaining follow up in Canada, England and Wales. Scheidingswijzer is a clear example of guidance *through* a legal procedure.

These two examples of a more user oriented approach in taking legal action bring up another topic. At the moment the access to legal procedures is mostly in the hands of the Judiciary, the European Commission or national governments. However, with the availability of digital platforms it might be an idea to leave the development and maintenance of user friendly access to (cross-border) legal procedures to private companies such as those who understand how to attract customers and serve them to their needs. This idea is at the heart of the *API for Justice*⁵⁸ Project. API for Justice investigates the technical and legal conditions under which the e-CODEX platform can be opened to third parties, to allow these third parties to provide services. Although the project is still ongoing, it is already clear that especially ‘liability’ is a key element in the legal constraints towards the API for Justice. Furthermore, the question of how to regulate the participation of private companies to the justice service provision is particularly sensitive and needs to be carefully addressed.

The figure underneath shows an overview of the e-Justice instruments that currently exist or of which the potential is under investigation. The figure is created in the API for Justice Project aiming to distinguish the primary goal and audience for each of the channels servicing European Justice.

../Bilder/image002.jpg

Figure 2. Representation of European e-Justice landscape⁵⁹

The figure is also helpful in the development of a framework that encompasses e-Justice services. Such a framework seems desirable to evaluate on one hand, white spots in coverage of e-Justice services. On the other hand, the framework might service well as a guide for a discussion on the governance of e-Justice services.

Such a discussion on governance is welcomed since the results of e-Justice over the last 10 years have been promising. It is also promising because one can notice the potential of digital cooperation in European Justice as well as its shortcomings. First of all, the coverage of e-Justice is not equal across all Member States. For example, by the end of 2016, e-CODEX was implemented by 10 Member States and EOP, the most deployed procedure was available between 6 Member States. Second, with the results of the efforts in e-Justice, the time has come to evolve from innovating pioneers, into reliable providers of services. With the increase of volume of processed cases, attention will be drawn to the legal validity and adherence to fundamental rights of the e-CODEX solution. Next to this, legal questions concerning the scope and extensibility of e-Justice instruments will have to be addressed. Third, one might raise questions on the readiness of legislators, legislative experts and legal professionals to embrace e-Justice and rely fully on the available instruments.

Going back from the governance level to the procedural level, there is another frustration to citizens. Besides the complexity of the forms of European legal procedures there is currently no connection between the conflict management of online services like Amazon or eBay, the European Online Dispute Resolution (OTP) and or with European procedures in civil law. Citizens are compelled to take each step in the escalation process themselves and are confronted with different conditions at each step. An interconnected escalation mechanism for disputes in the European jurisdiction would be as valuable as user friendly electronic access to European legal procedures.

⁵⁷ [Http://rechtwijzer.nl/uitelkaar](http://rechtwijzer.nl/uitelkaar).

⁵⁸ A project funded by the European Commission under JUST/2014/JACC/AG/E-JU – 4000006995 API for Justice. API stands for Application Programming Interface, a set of routine definitions, protocols, and tools for building software and applications.

⁵⁹ Source: A.A.V.V. “User story for the European Order for Payment Procedure”, API for Justice project working document, 2016.

Another issue is to create diversity in information provision for different steps and different users. The objective is balancing the risk of information overload for non-repetitive users, and simultaneously being accurate from the start about what to expect in terms of required activities, time and resources, when involved in a cross-border legal procedure.

A third issue is looking into the offloading or delegation of complexity from practical tasks by explanation, legal and procedural simplification or delegation of tasks to the technologies or intermediaries. More attention needs to be paid to the reasons for intermediaries and third parties in participating in the off-loading of complexity.

These issues urge us to a call for assistance and reflections from the e-Justice community to communities in circles of research, academics, practitioners and the like to support this endeavour. We have experienced in e-CODEX that a broad network of people and institutions over a long period can deliver a working solution for e-Justice. We believe that the broader perspective on e-Justice has been essential for the acceptance of the e-CODEX instruments. Therefore, we believe that the further broadening of the e-Justice network will help to deliver even better solutions resulting from cross breeding of ideas and experiences given by many different communities of research and practice.

As previously mentioned, e-CODEX provided a coordination mechanism and a driving force for a plurality of institutional and non-institutional actors over the last six years. While powerful, this tool showed its limits. Furthermore, the project has ended and its gravitational pull is decreasing. In our perspective, a **governance infrastructure** for EU (e-)Justice -with the involvement of non-governmental organizations representing key stakeholders and of research institutions- needs to be established. This will help to bring the needed competences, skills, information and momentum to the right tables for decision and policy making.