

## **ELECTRONIC CROSS-BORDER ACCESS TO LEGAL MEANS AND PROCEDURES IN EUROPE - THE GREEK eCODEX PILOT**

**George Pangalos**, Informatics Laboratory, Faculty of Technology, Aristotle University of  
Thessaloniki, 54006, Greece, pangalos@auth.gr

**Ioannis Salmatzidis**, Director, IT Center of Aristotle University of Thessaloniki,  
jsal@it.auth.gr

**Ioannis Pagkalos**, Department of Electrical and Computer Engineering, Aristotle University  
of Thessaloniki, ipagkalo@auth.gr

### Abstract

*European integration has resulted in a fast increasing number of legal procedures containing cross-border effects which require better cooperation between the national judicial systems and more efficient and faster procedures for the users. ICT technologies can help make cross-border judicial procedures more transparent, efficient and economic, both in civil and criminal matters. e-CODEX is an important project of the EU in the domain of e-Justice that aims to provide to citizens, enterprises and legal professionals an easier access to justice in cross border procedures, as well as make cross-border collaboration of courts and authorities easier and more efficient. It develops the required infrastructure and the organizational, procedural and legal environment necessary and also conducts a number of real life cross-border pilots. One of the first such pilots to become operational is that of the European Payment Order (EPO), in which Greece also participates. In this paper we briefly present the services of cross-border access of citizens and legal professionals to legal means in Europe provided by e-CODEX and also the Greek e-CODEX pilot of European Payment Order, which has already launched operation in the framework of this major e-Justice project.*

*Keywords: eJustice, crossborder IT services, automated legal procedures, elaw*

### **1. NEED AND OBJECTIVES**

The European integration and the resulting high mobility of European citizens, procedures and businesses, has resulted in a steadily increasing number of legal procedures containing cross-border effects. These procedures require better and faster cooperation between the different national judicial systems involved. Different forms of communication to cope with the continuous growth in data exchange, beyond the traditional exclusively manual ones, are also necessary. ICT (Information and Communication Technology) can help make judicial procedures more transparent, efficient and economic. It can also help citizens, companies, administrations and legal practitioners get facilitated access to justice. This results in both smoother access to information and the ability to process cross-border cases more efficiently.

Several initiatives have already been undertaken by the European Union to facilitate the above. One of the most important ones is the e-Justice initiative (eJUSTICE, 2015). e-Justice aims to improve access to justice and to facilitate cross border judicial proceedings through the use of information and communication technology and EU-wide interoperability. It also targets the information deficit and language barriers. Its potential audience includes citizens,

businesses, legal practitioners and the judiciary. It also strives to develop the European e-Justice Portal, a one-stop (electronic) shop for justice information in the EU (eJUSTICE, 2015).

e-Codex (e-Justice Communication via Online Data Exchange) is one of the most important Large Scale Projects of the EU in the domain of e-Justice that aims to provide to European citizens, enterprises and legal professionals an easier access to justice in cross-border procedures and to make cross-border collaboration of courts and authorities easier and more efficient by creating interoperability between the existing national ICT solutions (eCODEX, 2015).

The main objective of e-CODEX is to enable access to justice systems across Europe and provide an easier (digital) way to execute cross-border procedures and exchange legal information between EU-countries, replacing bureaucratic paperwork, no matter the differences between the EU countries. More specifically, e-CODEX aims to provide an easy and secure access to legal information and procedures in other EU Member States for businesses and citizens, greater cross-border effectiveness of legal processes through common standards and greater interoperability of information systems. It also aims to improve efficiency of cross-border judicial processes through standards and solutions that ease and facilitate the cross-border case-handling activities (eCODEX, 2015).

The e-CODEX project started in 2012, it is funded through the ICT Policy Support Program of the EU and has a duration of 50 months. Twenty five EU and EU-associated countries participate in the project (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Estonia, France, Germany, Greece, Hungary, Italy, Ireland, Jersey, Lithuania, Malta, Netherlands, Norway, Poland, Portugal, Romania, Spain, Sweden, Turkey, United Kingdom, CCBE and CNUE). Greece participates in e-CODEX through the Greek Ministry of Justice, which has mandated the overall responsibility for the national participation and implementation to the Informatics Laboratory of the Aristotle University of Thessaloniki.

Beyond the development of the required infrastructure and the organizational, procedural and legal environment necessary for providing the e-CODEX services (organized around seven work packages), e-CODEX also runs a number of real life pilots (use cases). One of the first such pilots to become operational is that of the European Payment Order (EPO), in which Greece also participates. In the following chapters we will briefly present e-CODEX objectives and structure, mostly based on (eCODEX, 2015), and the methodology used and experience gained from the implementation of the first Greek EPO pilot.

## **2. TECHNICAL APPROACH AND IMPLEMENTATION STRUCTURE**

As noted already, as the European Union evolves, it requires different forms of communication to cope with the continuous growth in data exchange caused by increasing commercial activities. Exclusively manual processing does not provide the responsiveness that a modern society requires. There is therefore an urgent need to automate legal procedures and to make cross-border judicial procedures more transparent, efficient and economic both in civil and criminal matters. Information and Communication Technologies can significantly help in this direction since they allow the use of e-Services and the interconnection of the national infrastructure that Member States have already established. e-CODEX aims to automate legal procedures without re-inventing the wheel, thus making the system more mature.

In this context, electronic transport of data and documents is a key piece of the solution. Any functionality developed for a cross-border e-Justice service will necessarily mean transport of

information from one country to another, including communication between the e-Justice Portal and some national solution. Because there is a focus on security and availability for the cross-border e-Justice service, e-CODEX coordinates and establishes an appropriate, efficient and secure e-Delivery solution (figure 1).

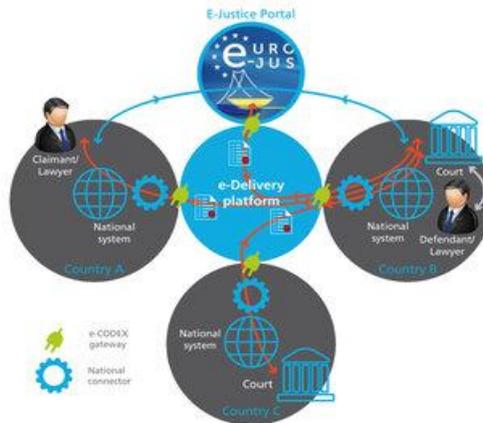


Figure 1: The e-CODEX e-Delivery solution and inter-connection approach

The e-CODEX e-Delivery solution and inter-connection necessitates that interoperability in several technical and semantic aspects is guaranteed. Thus, e-CODEX cross-border e-Justice services are based on a decentralized approach consisting of (i) an e-CODEX e-Delivery platform, (ii) an e-CODEX Gateway, (iii) an e-CODEX National Connector, and (iv) a National System (service provider) (figure 2). This approach makes it easier to integrate existing national solutions into a new cross-border e-Justice service (eCODEX, 2015).

The National Connector is responsible for all semantic local mapping and guarantees the ability of the national systems to communicate with the e-CODEX gateway. It is usually linked to a National System which is, in turn, used by the courts. The e-CODEX Gateway establishes a secure and standardized connection with any other Gateway on either the national or portal side (figure 2).

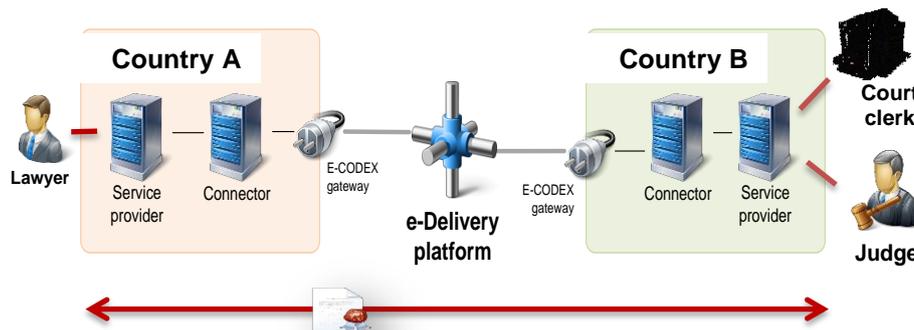


Figure 2: The overall information flow supported by e-CODEX

Communication flows from the National System, to the National Connector, to the National e-CODEX Gateway and then, respectively, to the foreign country's e-CODEX Gateway, their National Connector and their National System. The e-Justice Portal of the EU is the only e-CODEX component that communicates directly with the gateway without a connector (since there is no necessity to transform documents to a national standard). Depending on the service

to be supported, the bi-directional communication could be from the e-Justice portal to the courts, from court to court, from court to the secure mailbox in the e-Justice portal, etc. The overall information flow supported by e-CODEX is also depicted in figure 2.

### **3. THE E-CODEX BUILDING BLOCKS**

A basic characteristic of e-CODEX is that the project develops common building blocks that can be used in, or, between Member States to support cross-border operation of processes in the justice field. Such solutions have been developed in different areas, ranging from safe transportation to identity and document standards, and are used in several different e-CODEX pilots. The developed solutions also enable a safe environment for all kinds of different user-groups to access a wide range of legal services across Europe. More specifically, e-CODEX is currently using the following main building blocks (components) (eCODEX, 2015):

- a. e-Delivery: The e-Delivery building block is at the center of the e-CODEX architecture and is responsible for securely transporting information between member states. The e-Delivery system includes for every participating country the gateway and a basic framework for the national connector. The connector is then customized by each participating country to fit its specific needs. The e-CODEX e-delivery / e-transport building block is a reusable connection solution based on the ebMS 3.0 standard (based on the Holodeck b2b messaging software) and the ETSI REM, and ISO, OASIS and ETSI standards. It is essentially a content agnostic, plug and play cross-border connection solution, that could also be used as the basis of other inter- European and world-wide projects.
- b. e-Signature: The e-Signature building block is part of the national e-CODERX connector and helps to sign documents and generate the so-called ‘trust-ok’ token. It also checks the validity of incoming signed documents and, thus, helps keep the cross-border transmission of documents secure. It also provides connection with the national e-identity frameworks (existing national solutions). The implementation and verification of e-Signatures is based on the so-called DSS-Tool (eCODEX, 2015).
- c. e-Identification: The e-Id building block makes it possible for EU citizens and legal professionals to access e-CODEX services and the e-Justice portal by authenticating themselves through the use of their national identities. A role authentication system for lawyers called “Find a lawyer 2” is also being considered to be connected to e-CODEX.
- d. e-Document: The e-Document building block deals with document conversion and semantics. Documents need to be converted to conform to national standards. The document conversion is done through the use of XML schemas and mappings. The XML data accompanying the documents are automatically converted to fit the national case management system. This conversion again takes place on the way back to transform data to the EU standard. This makes it possible for national systems to stay independent and still participate in the cross-border exchange of data. All of this takes place in the national connector.

### **4. THE E-CODEX PILOTS**

Beyond the development of the necessary infrastructure and the organizational, procedural and legal environment necessary for providing the e-CODEX services, e-CODEX also runs a number of real life pilots (use cases). During the piloting phase, which started in 2013, real life scenarios are being tested. Upon completion of the pilot phase, an evaluation will also be done and further adaptations will be undertaken. Pilots will be easily adoptable by countries wishing to join the use case at a later stage, provided that they fulfill the necessary technical and legal requirements. These pilots also respond to some of the weaknesses that have been identified in regards to current practices, by providing a possibility to reduce delays, in the

interest of both the judicial authorities and the requested person, and ease the collection of statistical data.

Five major legal procedures have been identified by e-CODEX so far as use cases for piloting:

- The European Payment Order (EPO), based on Regulation (EC) No 1896/2006 of the European Parliament;
- The Small Claims (SC), based on Regulation (EC) No 861/2007 of the European Parliament;
- The Secure Cross-Border Exchange of Sensitive Judicial Data, based on (EC) Council Decision 2005/671/JHA of 20 September 2005;
- The European Arrest Warrant (EAW), based on (EC) Council Framework Decision 2002/584/JHA of 13 June 2002;
- The Mutual Recognition of Financial Penalties, based on (EC) Framework Decision 2005/214/JHA of 24 February 2005.

## **5. THE EUROPEAN ORDER FOR PAYMENT PILOT**

The swift and efficient cross-border recovery of outstanding debts is of prime importance not only for EU citizens but also for companies, as late payments often constitute a major reason for insolvency, threatening the survival of many small, medium-sized and even large businesses and resulting in numerous job losses. EU has taken the initiative to simplify and speed up the recovery of uncontested monetary claims in cross-border cases by creating a harmonized European order for payment procedure (EPO) (EPOR06, 2015). EPO procedures are applicable in several cases. For example, sales contracts, rental agreements, contracts of service (related to transport, hotels, restaurants, etc), subscription agreements (newspapers, magazines, etc), insurance contracts, out-of court settlements, membership fees, e.t.c.. It must be noted that many such small claims don't reach courts, since the expected financial outcome doesn't worth the effort (accounting for 63% of all such cases EU-wide today) (eJUSTICE, 2015; eCODEX, 2015).

Cross-border communication in this area used to be so far mainly paper-based. The EPO e-CODEX pilot implements the necessary technical infrastructure and interfaces for secure electronic cross-border submission of business documents, based on the European order for payment procedure. The e-CODEX pilot enables companies, institutions and legal professionals (e.g. lawyers), to electronically file EPO cases to the competent court in another piloting Member State, by connecting to the respective national filing systems via e-CODEX.

EU citizens are therefore supported by a new functionality, through which they are able to fill directly from their desk the application-form for a European order for payment and submit this application and the accompanying documents directly in electronic format to the competent court in any other Member State participating in the pilot. All of the above result in speedier access to efficient justice in cross-border money claims. Courts also become more efficient in handling more cases with less burdensome paper effort.

The e-CODEX implementation of the EPO cross-border pilot is based on the EPO workflow, as described in current EC regulations (1896/2006 and 936/2012) (eCODEX, 2015). According to the EU regulations, a claimant fills in the claim, signs it with his electronic signature and sends it to the competent court. The court considers the applicability of claim and decides to issue an EPO, or rejects it, or requests further information, or assesses that only a part of the claim meets requirements. The defendant then either accepts or contests this

decision. Finally, if there is no reaction by the defendant, the court declares EPO enforceable and processes it.

The main stakeholders of the e-CODEX EPO pilot are the legal professionals and companies which need to submit EPO claims using electronic interfaces, the EU citizens which are enhanced to support electronic communication via e-CODEX, and the Courts which are connected via their national electronic filing systems and their national back-office applications for court case management. Other stakeholders of the e-CODEX EPO pilot include the Justice Ministries of the participating Member States, which are responsible for the national filing systems and the national court case management systems, as well as the EU Commission, which is responsible for running the European e-Justice Portal.

Some EU Member States already allow the electronic filing of EPO cases, especially for key customers of justice that produce the main case load for courts in civil proceedings (e.g. lawyers, banks, insurance companies and social security institutions). For example the national filing system "EGVP" (Elektronisches Gerichts und Verwaltungspostfach) in Germany, and the "ERV" (Elektronischer Rechtsverkehr) system in Austria. However, currently these national filing systems can only reach participants in their own Member State, while the e-CODEX EPO pilot aims to provide interfaces for cross-border communication between EU member states.

## **6. THE GREEK EUROPEAN PAYMENT ORDER PILOT**

Each country intending to participate in the different use cases selected for the e-CODEX piloting phase has to meet a number of organizational and technical requirements. For each one of the use cases a country participates in, a corresponding national case management system has to be available (or be implemented). The participants have also to make sure that their national technical, organizational and legal framework provisions allow for the respective electronic submission and processing of documents to a court.

The key players for the implementation of the first e-CODEX EPO pilot in Greece have been the Greek Ministry of Justice (overall political responsibility and guidance), the Aristotle University of Thessaloniki (national coordinator and technology provider, responsible for setting up the e-CODEX Gateway and the National Connector and for implementing the national EPO Case Management System - CMS), and the Athens Court of First Instance (CMS host and also responsible for involving stakeholders during the piloting stage - mainly lawyers of the Greek Bar Associations). Just prior to the EPO pilot launch (beginning of 2014), the electronic submission of documents to Greek courts was also made available to the lawyers of Attica.

Significant time and effort was spent during the design and implementation phase of the Greek EPO pilot on discussing with potential users, mainly lawyers of the Greek Bar Associations. Also on assessing the current conventional practices of the paper-based procedure and on organizational issues regarding the potential and limitations for the application of EPO procedure in Greece and their exploitation by local lawyers. Those include:

- The detailed organizational analysis of the Greek Payment Order procedure
- The detailed study of the e-Codex requirements regarding e-Signatures and e-ID and the assessment of their compatibility with the Greek eID government portal "Ermis" (ERMIS, 2015).
- The analysis of the European Payment Order and its actual implementation at national level by the Greek courts and lawyers

- The organization of the involvement of stakeholders: the Athens Court of First Instance (Judges and Court Administration), the Athens Bar Association and more recently the Thessaloniki Bar Association
- The setting up of the necessary technical transporting infrastructure (Gateway, National Connector, CMS, etc.)
- The development and Implementation of a suitable security policy and the necessary procedures foreseen by the ‘Circle of Trust’ agreement signed among all EU partners participating in the pilot
- The development of the national EPO Case Management System
- The promotion of dissemination activities for local stakeholders, etc.

The involvement of stakeholders (mainly lawyers, court clerks and Judges) from the early stages of the exercise has been crucial in order to gather information on organizational issues regarding the actual courts’ application of the European procedure and the actual use of the procedure by lawyers, their attitude against the new procedure and the issues that they may encounter. The Greek – specific problems encountered include the scarce use of the EPO procedure by Greek lawyers, the relatively scarce number of EPO claims that courts receive, the difficulties for lawyers in identifying the competent courts in another country and the payment of fees. Issues and difficulties that other future piloting countries may also encounter.

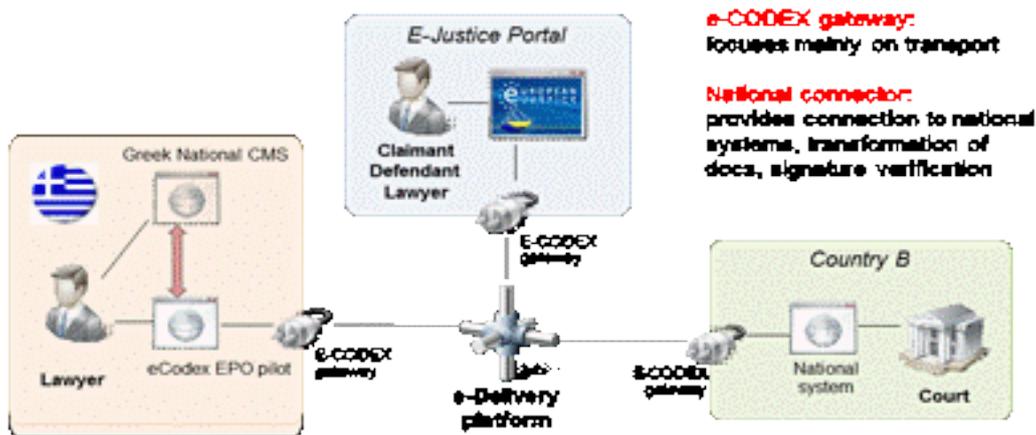


Figure 4: Overall structure of the Greek EPO pilot

The Greek EPO pilot (figure 4) is already operational. Greek Lawyers can today submit and process easily, from their offices, using a fully automated, fast and easy electronic procedure, EPO cases directly to competent European courts (figure 5). Lawyers from other piloting European countries can also do the same. For the time being, cases from abroad can only be submitted to the Athens Court of First Instance (which however covers approximately 60% of all cases at national level). A detailed users’ manual (handbook) for the Greek e-CODEX EPO pilot and an instructions manual for the Greek users are also available (figure 6) (HEPO, 2015; GEPO, 2015).

**Πρωτοδικείο Αθηνών**

**Προσθήκη Νέας Υπόθεσης**

Στοιχεία Υπόθεσης

Τίτλος/Αριθμός Υπόθεσης:

Ημερομηνία Υπόθεσης:

Τύπος Υπόθεσης:  Ευρωπαϊκή Διαταγή Πληρωμής (EPO)  Ευρωπαϊκή Διαδικασία Μικροδιαφορών (Small Claims)

Κράτος μέλος στο οποίο θα αποσταλούν οι σχετικές φόρμες:

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**Application for a European order for payment**

**Form A** Article 7 (1) of Regulation (EC) No 1896/2006 of the European Parliament and of the Council creating a European order for payment procedure

Please ensure that you read the guidelines on the last page – they will help you to understand this form!

Please note in particular that this form must be completed in the language or one of the languages accepted by the court to be seized. The form is available in all official languages of the European Union; this may help you fill in the form in the required language.

|                 |      |         |
|-----------------|------|---------|
| <b>1. Court</b> |      |         |
| Court           |      |         |
| Address         |      |         |
| Postal code     | City | Country |

|   |
|---|
| Case number<br>(to be completed by the court) |
| Received by the court                         |

Figure 5: On-line submission forms for a new EPO case – Form ‘A’

To deal with a manageable technological and organizational complexity is key to the success of piloting. For this purpose, Greece decided to follow a gradual piloting approach. Initially piloting is restricted to lawyers. It will be open to citizens with digital signatures at a later stage. This has nothing to do with technological limitations, but rather with the speculation that the electronic procedure may be too complicated for the average user at this stage, especially when it comes to understanding the legal terms and procedures, the retrieval of the competent court and the payment of fees.

Finally, in order to ensure that a recently installed system (e-CODEX gateway and connector) works correctly, a peer with an already working system must send a variable number of test messages. This can prove difficult to set up, since it is difficult to predict exactly when these messages are needed. For this purpose, we are also currently setting up an automated testing tool that can be easily adapted to send test messages to future piloting countries. The testing platform may acquire all relevant roles (sender and receiver) and support not only EPO XML schemas, but also schemas regarding the rest of the use cases, such as small claims, criminal law use cases, etc.



Figure 6: The EPO handbook and the instructions manual for the EPO Greek users

The implementation and use of the Greek EPO pilot so far has shown that its introduction has several advantages. It helps to speed up and makes easier the processing of EPO cases that include parties domiciled in different member states by removing physical distances and transforming them in an electronic system. It is also important to note that no special expertise or infrastructure is required for installing and using the system (only a computer, an internet connection and a digital signature is needed). The new system also supports a rapid debt recovery, by reducing delays often occurring in today's civil procedures, and thus helps build a better economic environment all over Europe. It also provides a direct and secure communication with courts and also provides for the acknowledgement of exchanged forms through proofs of receipt. It also helps reduce costs of cross border communication by running the entire process electronically (instead of registered mail). Finally it helps eliminate language barriers since filling of documents is made in own language (court accepted languages are only used for some small parts of the form). It should finally be noted that the Greek lawyers that have used the system so far are very positive on its usefulness and simplicity of use.

## 7. CONCLUSIONS

The fast increasing number of legal procedures containing cross-border effects in Europe requires better cooperation between different national judicial systems and simpler and more efficient procedures for the users (citizens, lawyers, companies, etc). Information and Communication technologies can help make those procedures more transparent, efficient and economic, in civil and criminal matters alike. e-CODEX aims to provide to citizens, enterprises and legal professionals an easier access to justice in cross border procedures and to make cross border collaboration of courts and authorities easier and more efficient. The project has already developed the required infrastructure and the organizational, procedural and legal environment necessary. It also runs a number of real life cross-border pilots. One of the first ones to become operational is the European Payment Order (EPO) one. In this paper we briefly presented the services of cross-border access of citizens and legal professionals to legal means in Europe provided by e-CODEX as well as the Greek e-CODEX pilot of European Payment Order, which has already started operating in the framework of this major project. Today, through this pilot, Greek lawyers can easily submit and process EPO cases directly to the competent European courts from their offices, using a fully automated, simple and fast procedure. Lawyers from other piloting European countries

can also do the same. All they need is a computer, an Internet connection and a digital signature. It was, therefore, shown that modern Information and Communication Technologies can help improve efficiency of cross-border judicial processes, through solutions that ease and facilitate the cross-border case-handling activities.

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