

Commission Plans to Speed Up Digitalisation of Justice Systems



Thomas Wahl

News

According to its [Communication of 2 December 2020](#), the Commission wishes to bring the digitalisation of justice in the EU up to full speed. The Commission provides evidence that the use of Information and Communication Technologies (ICT) tools in the EU Member States' judicial systems is very uneven. In addition, the COVID-19 pandemic has highlighted the need to speed up efforts to digitalise judicial institutions' handling of cases, to enable the electronic exchange of information documents between parties and lawyers, and to strengthen easy access to justice for all.

The objective of the Communication is twofold: First, at the national level, it aims to help Member States move their national justice systems into the digital era. Second, it aims at further improving cross-border judicial cooperation between competent authorities at the European level. The latter would especially concern promoting the use of secure and high-quality distance communication technology (videoconferencing), facilitating the interconnection of national databases and registers, and promoting the use of secure electronic transmission channels between competent authorities.

After having outlined the challenges for justice systems in the digital age, the Communication proposes a toolbox for the digitalisation of justice. The toolbox comprises binding and non-binding measures and entails financial support to Member States from the EU, legislative initiatives, IT tools, and the promotion of national coordinating and monitoring instruments. The Commission stresses that any actions in relation to the digitalisation of justice must be implemented in full compliance with fundamental rights, notably rights to the protection of personal data, to a fair trial and to an effective remedy, and the principles of proportionality and subsidiarity.

Next to an explanation of the toolbox items, the Communication includes an outline of the actions that are proposed in 2021 and the years after. More concretely, this means:

- *Financial support for Member States*: Under the next Multiannual Financial Framework, the Commission will continue to financially support the digitalisation of justice, *inter alia* via the 2021-2027 cohesion policy instruments, the Recovery and Resilience Facility, the Digital Europe Programme, and the Justice Programme.
- *Digitalisation of cross-border cooperation*: The Commission announces that it will present a legislative proposal in the fourth quarter of 2021 that will make judicial cooperation instruments both in civil/commercial and criminal matters (e.g., the European Arrest Warrant) fit for the digital age. Digital communication between the competent authorities should become the default option. Interoperability of and between the national systems will be promoted.

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- *Artificial Intelligence (AI)*: The Commission reiterates the Commission's assessment with regard to the benefits and opportunities offered by AI-based applications, balanced against their inherent risks (→ previous eucrim issues). From 2021 on, the Commission will promote a number of targeted measures. These include quarterly expert webinars in which EU institutions, JHA agencies and bodies, legal professional organisations, etc. can exchange best practices and lessons learned on the use of innovative technologies in the field of justice. In 2021, together with Member States, the Commission will also start exploring ways to increase the availability of relevant machine-readable data produced by the judiciary in order to establish trustworthy machine-learning AI solutions for use by interested stakeholders.
- *Interconnection*: The Commission will take further action in order to improve the interconnection of registers and to enhance digital access to information. Member States should pursue the establishment of electronic registers and databases as a priority. Furthermore, Member States are encouraged to recur to the use of videoconferencing (whenever possible) by developing the facilities in accordance with national law and in close coordination with one another.
- *Secure cross-border cooperation: e-CODEX* (e-Justice Communication via Online Data Exchange) – the main tool for secure cooperation in civil, commercial, and criminal law proceedings across borders – is to become the gold standard for secure digital communication in all Member States. To this end, the Commission presented a [proposal on a Regulation for the EU-wide e-CODEX system](#). The regulation shall lay down the definition and composition of the system. It entrusts the [European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice](#) (eu-LISA) with the management, further development, and maintenance of the e-CODEX system as of July 2023. By 2024, the Commission aims to expand the scope of another IT tool: eEDES (the e-evidence digital exchange system), by means of which Member State authorities can securely exchange European investigation orders, mutual legal assistance requests, and associated evidence in digital formats. eEDES should be developed further, integrated into the framework of the new e-evidence Regulation (→ [eucrim 1-2018, 35-36](#)), and made available to all EU Member States.
- *Digital criminal justice at the EU level*: The Commission plans a series of measures to equip the EPPO, Eurojust, and Europol with the necessary tools to better cooperate with each other: Eurojust's [Case Management System](#), which allows the agency to cross-check different cases in order to coordinate the EU-wide fight against serious cross-border crime (including terrorism), will be modernised. In addition, amendments to the Europol mandate will introduce a hit/no-hit link between the EPPO and Europol. Thanks to these "hit/no-hit connections" between their case management systems, Eurojust, Europol, and the EPPO will become aware of ongoing investigations and prosecutions. For this purpose, the Commission will create a task force in the first quarter of 2021, bringing together the EPPO, Eurojust, Europol, and OLAF. In 2021, the Commission will also present legislative initiatives for digital information exchange on cross-border terrorism cases and on the establishment of a Joint Investigation Teams Collaboration Platform.
- *"My e-justice space"*: The Commission plans to create a personal electronic space (as part of the e-justice portal), in which a user (or his/her legal representative) can consult or obtain judicial documents; however, judicial documents concerning a person's criminal proceedings are to be excluded.
- *Cooperation, coordination, and monitoring*: The Commission proposes several measures to ensure that progress in the digitalisation of justice is adequately monitored. In addition, new initiatives and tools are to advance cooperation. To this end, the EU justice scoreboard (→ [eucrim 2/2020, 74-75](#)) will monitor progress at the national level. A dedicated section in the e-Justice portal will be set up, so that Member States can share national initiatives on the digitalisation of justice. In 2021, the Commission will also organise an online Digital Justice Ministerial Forum, featuring high-level participation by EU institutions and key stakeholders.

Lastly, the Communication explores ways in which the EU can be equipped for future evolution in the digital sphere. During the second quarter of 2021, the Commission will develop a monitoring, analysis, and foresight programme on justice-relevant digital technology within its Joint Research Center. In parallel, the Commission plans to create a mechanism on the e-Justice portal for regular reporting, analysis, feedback, and exchange of best practices on justice-relevant IT.

The Communication presented on digitalisation of justice in the EU is accompanied by a [Staff Working Document \(SWD\(2020\) 540\)](#). The SWD serves to provide evidence-based background information. It maps the level of digitalisation of Member States' justice systems. It also contains a synopsis of the public feedback received on the Roadmap to this initiative, which took place from 30 July –24 September 2020.

Next steps: The Commission will promptly follow up on its plans. Therefore, the Commission will discuss the digitalisation of justice with the relevant entities, e.g., public administrations, the judiciary, legal professional organisations, etc.

Background: The Commission initiative on the digitalisation of justice can be considered a response to the Council conclusions on this matter adopted on 13 October 2020 (→ [related link](#)). The conclusions, *inter alia*, call on the Commission to develop a comprehensive EU strategy on the digitalisation of justice by the end of 2020. In addition, the Communication contributes to the priorities of the current Commission under *Ursula von der Leyen*, who plans to make [Europe fit for the digital age](#) during her presidency.

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