

# EUROPEAN PARLIAMENT

2004



2009

---

*Committee on Legal Affairs*

**2008/2125(INI)**

30.9.2008

## **DRAFT REPORT**

with recommendations to the Commission on e-Justice  
(2008/2125(INI))

Committee on Legal Affairs

Rapporteur: Diana Wallis

(Initiative – Rule 39 of the Rules of Procedure)

Rapporteur for opinion(\*):  
....., Committee on Civil Liberties, Justice and Home Affairs

(\* ) Associated committee – Rule 47 of the Rules of Procedure

## CONTENTS

|                                                                                                                  | <b>Page</b> |
|------------------------------------------------------------------------------------------------------------------|-------------|
| MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION .....                                                                | 3           |
| ANNEX TO THE MOTION FOR A RESOLUTION: DETAILED RECOMMENDATIONS<br>ON THE CONTENT OF THE PROPOSAL REQUESTED ..... | 5           |

## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### with recommendations to the Commission on e-Justice (2008/2125(INI))

*The European Parliament,*

- having regard to Article 192, second paragraph of the EC Treaty,
  - having regard to Rules 39 and 45 of its Rules of Procedure,
  - having regard to the work of the Council's Working Party on Legal Data Processing (e-Justice),
  - having regard to the Communication from the Commission: Towards a European e-Justice Strategy (COM(2008)0329),
  - having regard to the ongoing work in this field of the European Commission for the Efficiency of Justice at the Council of Europe,
  - having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A6-0000/2008),
- A. whereas the Council decided in 2007 to start work on the development at European level of the use of information and communication technologies (ICT) in the justice field, particularly by creating a European portal,
- B. whereas, with some 10 million people estimated to be involved in cross-border litigation in Europe, greater recourse to information technology (IT) is essential in order to ensure better access to justice for the citizen and with a view to rationalising and simplifying judicial proceedings and reducing procedural deadlines and operating costs in cross-border litigation,
- C. whereas, if it is applied properly, IT can make a significant contribution to improving the accessibility and efficiency of Europe's judicial and legal systems; whereas, with an increasingly integrated internal market and growing mobility within Europe, the challenges inherently faced by a cross-border judicial system, such as language, distance and unfamiliar legal systems, are likely to become more common; whereas these problems can, however, be eased to some extent through the appropriate application of ICT, thus not only improving access to justice for Europe's citizens but also contributing to the efficiency of the single market,
- D. whereas, in the longer term, the use of IT in dispute resolution and settlement will necessitate fundamental changes in procedural law and in the way legislation is conceived and drafted, and efficient access to the law and justice will require the linking of registers (commercial and companies registers, land registers, registers of wills); whereas Parliament has already been concerned to make access to justice more compatible with the use of IT in its treatment of legislation on small claims, the European enforcement order

and mediation; whereas the use of IT is to be encouraged in all areas, including service of documents, the giving of evidence and the treatment of legal aid applications, and hence reflected in all future legislative proposals; whereas action in the area of electronic acts, transparency of debtors' assets and evidence could already be contemplated,

- E. whereas existing portals are primitive, cluttered and not user-friendly, and whereas the best minds in IT should be deployed to improve access to information, electronic systems and registers; whereas a European justice portal, with differential access for the judiciary and civil servants, on the one hand, and legal and other professionals, on the other, should be accompanied by a citizen's portal; whereas although it is essential to build on and improve the European Judicial Network, the main emphasis, as never before, should be on access to justice by citizens and business,
- F. whereas the Ministers of Justice have endorsed a decentralised approach to developing e-Justice at European level, with some central coordination, enabling information to be shared at European level, whilst allowing the independent operation of national systems and avoiding the burdens inherent in the creation of a new, centralised EU e-Justice system, and whereas certain Member States are engaged in bilateral cooperation; whereas the Council Working Party has concluded that e-Justice initiatives should be non-compulsory for Member States, rather than obliging them to introduce new national systems or fundamentally changing existing ones,
- G. whereas a start must be made immediately in tackling key issues in e-Justice, including that of language,
  - 1. Endorses the Commission's plans, in particular the proposal to promote a European Interoperability Framework (EIF) within the IDABC programme and ongoing work on e-Signature and e-Identity;
  - 2. Considers that the Institutions' work should be more strongly citizen focused;
  - 3. Expresses concern that the bilateral projects being carried out may lead to fragmentation and to particular solutions being adopted that are not necessarily compatible with each other or the best for Europe as a whole;
  - 3. Requests the Commission, after conducting wide-ranging consultations, to submit to Parliament an Action Plan for European e-Justice on the basis of Article 66 and, where necessary, Article 65 of the EC Treaty;
  - 4. Confirms that the recommendations respect the principle of subsidiarity and the fundamental rights of citizens;
  - 5. Considers that the proposal requested does not have any financial implications;
  - 6. Instructs its President to forward this resolution and the accompanying detailed recommendations to the Commission and the Council and to the governments and parliaments of the Member States.

**ANNEX TO THE MOTION FOR A RESOLUTION:  
DETAILED RECOMMENDATIONS ON THE CONTENT OF THE PROPOSAL  
REQUESTED**

***Recommendation 1 (as to the form and scope of the instrument to be adopted)***

The Commission is asked to prepare an Action Plan on e-Justice at European level. It should consist of a series of individual actions as detailed below, some of which might result in legislative proposals, for example for administrative cooperation under Article 66 of the EC Treaty, others to recommendations and others to administrative acts and decisions.

***Recommendation 2 (as to the minimum content of the instrument to be adopted)***

The Action Plan should be made up of at least the following actions:

*1. Action to future-proof legislation*

(a) The Commission should set up suitable machinery to ensure that all future legislation in the field of civil law is designed to enable it to be used in on-line applications. Accordingly, where proposals are made involving forms intended to be filled out by citizens, the forms should be designed and formatted *ab initio* for electronic use and available in all official languages of the Member States. Action should be taken to reduce to a minimum the need to input free text and to ensure that, where necessary, on-line help is provided in all official languages and on-line electronic translation services are available. By the same token, where there is a need to provide for service of documents, provision should be made to ensure that documents can be served and communications effected by electronic mail and signatures provided electronically and, where there is a need for oral testimony, the use of video-conferencing should be encouraged.

All future proposals should include a reasoned statement by the Commission that an audit of e-Justice-friendliness has been carried out.

The Commission should carry out an audit of all existing legislation in the field of civil justice and propose amendments where necessary in order to make existing legislation compatible with the requirements of e-Justice. More specifically, the Commission is asked in this context to examine as a priority the European small-claims procedure, the European enforcement order and alternative dispute resolution (ADR) so as to permit citizens and businesses to have direct access to them on line. Similarly, the service of documents regulation and the civil evidence regulation should be revisited. The aim should be to provide a panoply of effective, simple instruments which are useful to and useable by ordinary citizens and small businesses, not a system which only favours commercial litigants processing bulk claims.

*2. Action on civil procedure*

A working group, composed of judges, academics and officials from the national Justice

Ministries, should be set up by the Commission to report to the European Parliament and the Council on the reform and harmonisation of procedural law and the law of evidence in cross-border cases and cases before the Court of Justice, having regard to developments in the field of information technology. The aim should be simpler, cheaper and faster civil proceedings in cross-border cases.

The working group should also examine the question of how to reduce the plethora of legal databases, simplify access thereto and make them more user-friendly. For instance, the website of the Court of Justice is extremely comprehensive, but primitive and lacking intelligent search facilities. The same applies to EurLex. The findings of the working group should be taken into account when designing the European e-Justice portals and subsequently improving them.

## *2. Action on the law of contract and consumer law*

Here the emphasis should be on preventive law by providing for greater clarity and simplicity and avoiding the pitfalls, problems and expense posed in particular by private international law.

In this context, the Commission is asked to get to work on standard terms and conditions for electronic commerce. Ultimately, this would allow electronic traders to offer a "blue button" whereby consumers (or indeed other traders) could accept the application of standard European contract law to their transactions. This could be coupled with an on-line complaints system and access to approved on-line ADR.

## *3. Action on languages, multilingualism and interoperability*

A programme should be launched to examine how best to provide on-line translation facilities for the European e-Justice portals. In parallel, a working group should be set up on simplification and standardisation of terminology. Each Member State should provide a database of legal translators and interpreters.

## *4. Action on European e-Justice portals*

All the above actions should feed into a coordinating and management unit, responsible also for coordinating the contributions of the various Member States and ensuring that they are interoperable.

The coordinating and management unit should also bear responsibility for the design and operation of three European e-Justice portals, which should be separate but may share components and features, and report to the Commissioner for Justice, Freedom and Security, the European Parliament and the Council. Feasibility studies of the use of electronic signatures in a legal setting, the interconnection of national databases (insolvency registers, land registers, commercial registers, etc) and the creation of a secure network should be started as soon as possible (not later than 2009-2010). The feasibility study for a virtual-exchange platform should begin in 2011.

In carrying out these studies, account should be taken of the work already carried out by the

notarial profession in this field (recognition of signatures, e-Notary, register of wills, etc). The aim is to secure user-friendly tools for citizens, business, practitioners, the judiciary and officials responsible for the administration of justice.

*(a) The European e-Justice Portal for Citizens*

This multilingual portal should be designed to afford every assistance to citizens and businesses seeking legal assistance and initial legal advice about cross-border legal problems.

Apart from access to legal databases and electronic remedies (small claims, order for payment) on-line ADR schemes (including SOLVIT) and ombudsmen, it should incorporate intelligent systems designed to assist citizens to find out how to deal with legal problems. Such systems should guide people on how (a) to find a lawyer in another Member State who speaks their language (advocate, notary, solicitor, etc, and explain what their functions are), (b) to ascertain what legal aid, if any, is available and (c) to determine what steps to take in order to carry out certain formalities in the different Member States (e.g. how to set up a company, file accounts, draw up a will, buy/sell a house, etc). They should also be able to give a guide as to what the type of problem is, what procedural steps have to be taken and so on.

Where possible, initial free legal advice by email should be provided through, and under the supervision of, national professional bodies. At the very least, directories of lawyers, notaries, bailiffs and process-servers, auditors, nationally licensed experts and legal translators and interpreters in each Member State should be available, together with links to the competent professional body. Plain guides to the legal system of each Member State should also be to hand.

Rapid access to emergency legal assistance and the police should also be possible.

In addition, the portal should also afford access to various registers and allow the publication of national Official Notices.

*(b) The secure European e-Justice Portal*

This portal should be designed for use as a tool by judges, court officials, officials of the national Ministries of Justice and practising lawyers with security ensured by the provision of different access rights.

Apart from providing access to legal and legislative databases and the fullest possible range of national registers, it should also permit secure communication, video-conferencing and document exchange between courts and between courts and parties to proceedings (dematerialisation of proceedings). To this end, it should also enable verification of electronic signatures and make provision for appropriate verification systems.

The portal should also afford a means of exchanging information about, for instance, persons who are debarred from working with children or acting as company directors.