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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL, THE
EUROPEAN PARLIAMENT AND THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE**

Towards a European e-Justice Strategy

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Towards a European e-Justice Strategy

1. INTRODUCTION

Since the Amsterdam Treaty entered into force, the European area of justice has become a reality. It is founded on a number of legislative instruments designed to guarantee the mutual recognition of judicial decisions, create a culture of cooperation between national legal authorities and accompany the free movement of citizens in a European area without internal frontiers.

At the same time, demands for justice are increasing throughout Europe, adding to the workload of judicial systems and making it necessary to continuously adapt working methods in what are often difficult budgetary contexts.

Placing information and communication technologies (ICT) at the service of judicial systems creates possible solutions by improving their functioning and contributing to a streamlining of procedures and reduction in costs.

"e-Justice" represents an initial response to the threefold need to improve access to justice, cooperation between legal authorities and the effectiveness of the justice system itself. ICT's entry into this world is desirable and inescapable, but at the same time it raises expectations and questions.

This Communication aims to propose an overall strategy that creates synergies between efforts at European and national levels and offers the added value of economies of scale.

For the Commission, efforts related to e-Justice must:

- **give priority to operational projects;**
- **put particular emphasis on decentralised architectures without neglecting the need for coordination at European level;**
- **respect, as far as possible, the existing legal framework by using ICT tools to improve the effectiveness of the legal instruments that have been or will be adopted.**

In response to a request from the European Council¹ and the European Parliament, this Communication proposes an e-Justice Strategy that aims to increase citizens' confidence in the European area of justice, a major source of legitimacy in a Union where the rule of law is one of the defining values.

¹ Conclusions of the European Councils of 21 and 22 June 2007 and 14 December 2007.

2. WHAT IS E-JUSTICE?

The e-Justice approach uses ICT to improve citizens' access to justice and to make legal action more effective, the latter being understood as any type of activity involving the resolution of a dispute or the punishment of criminal behaviour.

If judicial systems are to be modernised, the further development of e-Justice is crucial. The Commission, for its part, has long encouraged the use of ICT to promote judicial cooperation.

Since 2003, the Commission has developed the portal of the European Judicial Network in civil and commercial matters², and supported the creation of legal "atlases" for criminal and civil law, which enable professionals to identify competent legal authorities in the Member States. Similarly, the Commission has always encouraged the use of videoconferencing and the electronic transmission of acts between legal authorities and is actively involved in efforts to interconnect criminal records.

e-Justice is a specific field under the more general umbrella of e-Government. e-Government refers to the application of ICT to all administrative procedures. Existing expertise in secure infrastructure and document authentication projects must be mobilised. The Commission intends to promote a European Interoperability Framework (EIF) within the IDABC programme³. European work on **eSignature** and **e-Identity**⁴ is particularly relevant in the legal field, where the authentication of acts is essential.

e-Justice's potential scope is very wide-ranging and will have to evolve in tandem with the European judicial area and new technologies. Specific projects, however, should be initiated quickly. A perimeter for future action must be defined so that overextension does not handicap the effectiveness and credibility of EU action.

Some projects pertain not to the legal sector but rather to e-Government. And so, certain activities that sometimes involve legal institutions are themselves rather administrative in nature (e.g. land registers or the European Business Register)⁵. Conversely, activities such as arbitration or alternative dispute resolution (ADR) mechanisms could be concerned by e-Justice, even when they are managed by non-legal bodies.

For the Commission, e-Justice's primary objective is to help justice to be administered more effectively throughout Europe, for the benefit of citizens. The first hallmark of priority projects should be that they help legal professionals work more effectively and citizens obtain justice more easily. They must also contribute to the implementation of existing European instruments in the field of justice and, potentially, involve all or a large majority of Member States.

² <http://ec.europa.eu/civiljustice/>

³ <http://ec.europa.eu/idabc/> Preliminary study on mutual recognition of e-Signatures for e-Government applications (2007) and eID Interoperability for PEGS (2007).

⁴ Standardisation aspects of e-Signature –(2007)

http://ec.europa.eu/information_society/eeurope/i2010/docs/esignatures/e_signatures_standardisation.pdf

⁵ COM(2007) 807, section 4.2.; www.ebr.org; www.briteprojet.net

3. PROMOTING NATIONAL AND EUROPEAN SYNERGIES

3.1. Strengthening the exchange of best practices at national level

The development of e-Justice depends primarily on the will of the Member States. A recent study by the German e-Justice academy⁶ showed an increasing use of ICT in the administration of justice within the European Union. A recent report by the European Commission for the Efficiency of Justice (CEPEJ) on this subject⁷ highlighted the same trend.

At national level, numerous projects are helping provide litigants with information more effectively: information on judicial systems, legislation and case law has been placed online; electronic communication systems linking litigants and the courts are developing; in certain cases, fully electronic procedures have been set up. The use of electronic tools to record hearings is increasing.

At European level, several professional organisations are developing noteworthy projects involving information exchange or interconnection. These include the internet site of the Association of Councils of State⁸, the common portal of national case law of the EU Supreme Courts⁹ and the European Network of Registers of Wills¹⁰.

In the Commission's view, these projects should be encouraged and successful experiments publicised and repeated. In this respect, the creation of the Justice Forum¹¹ offers interesting possibilities. An "e-Justice" sub-group will be created within the Forum to serve as a catalyst for the exchange of best practices among national judicial systems and among legal professionals.

3.2. Strengthening European coordination and marshalling e-Justice to help construct the European judicial area

Numerous e-Justice projects are currently under development. In addition to those already mentioned, projects concerning legal documentation have been developed by both the European Union¹² and institutional and private operators¹³.

The Commission supports these projects, but considers that it is important to make EU judicial action more comprehensible, accessible and effective and to emphasise projects that will truly add value to the European judicial area. Although judicial legislation has evolved considerably, its impact often remains limited due to difficulties of transposition (particularly in criminal matters) and because professionals' familiarity with it is lacking. For these reasons, one of the major issues related to Europe's judicial integration today is creating tools to improve the practical effectiveness of the adopted legal instruments. In this regard, e-Justice opens up remarkable opportunities.

⁶ Doc. 9573/07 JURINFO 17.

⁷ "Use of information and communication technology in European States", Working Group on evaluation of judicial systems (CEPEJ) Council of Europe (CEPEJ(2007) 22Prov).

⁸ <http://www.juradmin.eu/>

⁹ <http://www.network-presidents.eu/>

¹⁰ Cf. www.cnue.be

¹¹ COM(2008) 38.

¹² EUR-Lex – <http://eur-lex.europa.eu>; N-Lex – <http://eur-lex.europa.eu/n-lex> – and the JURE database.

¹³ www.caselex.com

This is why the European Commission intends to contribute to the reinforcement and development of e-justice tools at European level, in close coordination with the Member States and other partners, first and foremost Eurojust and the civil and criminal law networks. At the same time as supporting Member States' efforts, the Commission intends to develop a number of computer tools on its own to increase the interoperability of systems¹⁴, facilitate the public's access to justice and communication among judicial authorities and achieve substantial economies of scale at European level.

4. WHAT PRIORITIES FOR ACTION (2008-2013)?

The EU's action in the area of e-Justice should enable citizens, particularly when they have been the victim of a criminal offence, to access information without being hindered by the linguistic, cultural and legal barriers related to the multiplicity of systems. This action should also support mechanisms promoting cooperation between legal authorities.

4.1. A European e-Justice portal facilitating access by citizens and enterprises to justice in Europe

The creation of an e-Justice portal for the public and enterprises should increase the visibility of European action and help improve access to justice in Europe. Ultimately, the portal will serve as the face of the European area of justice vis-à-vis citizens while also being one element of a general policy of communication via the internet¹⁵.

The portal will have at least three functions.

a) Access to information

The portal will have to provide European citizens, in their language, with data on judicial systems and procedures. Ignorance of the rules in force in other Member States is one of the major factors preventing citizens from asserting their rights outside their home country.

¹⁴ The Commission will submit an action plan on the interoperability of eSignature and eIdentity.
¹⁵ SEC(2007) 1742.

In particular, the **portal** will contain:

- **European and national information on victims' rights in criminal cases and their rights to compensation;**
- **the fundamental rights enjoyed by citizens in each Member State (rights of persons charged in criminal proceedings);**
- **fundamental principles relating to citizens' ability to initiate proceedings before a court in another Member State, or to their defence when summoned to appear before such a court.**

The portal will also provide practical information, in particular regarding the competent authorities and how to contact them, the use (obligatory or optional) of lawyers and the procedures for obtaining legal aid.

Some of this information already exists on the site of the judicial network in civil matters. It will be integrated into the portal and added to, as regards criminal law and victims' rights.

b) Referral

The portal must also refer visitors to existing sites (Eur-lex, Pre-lex, SCADPlus, Eurovoc and IATE), to European legal institutions and to the various existing legal networks and their tools.

Moreover, the portal will direct visitors to certain registers interconnected at European level via links to the bodies that manage these projects¹⁶.

c) Direct access to certain European procedures

In the long term, fully electronic European procedures could be created. Legal bases already do exist, such as for example the "small claims" regulation¹⁷ and the "payment procedure" regulation¹⁸.

The possibility of using the portal to pay, for example, court fees should also be studied; as should, for the long term, the possibility for citizens of requesting their criminal record online and in the language of their choice.

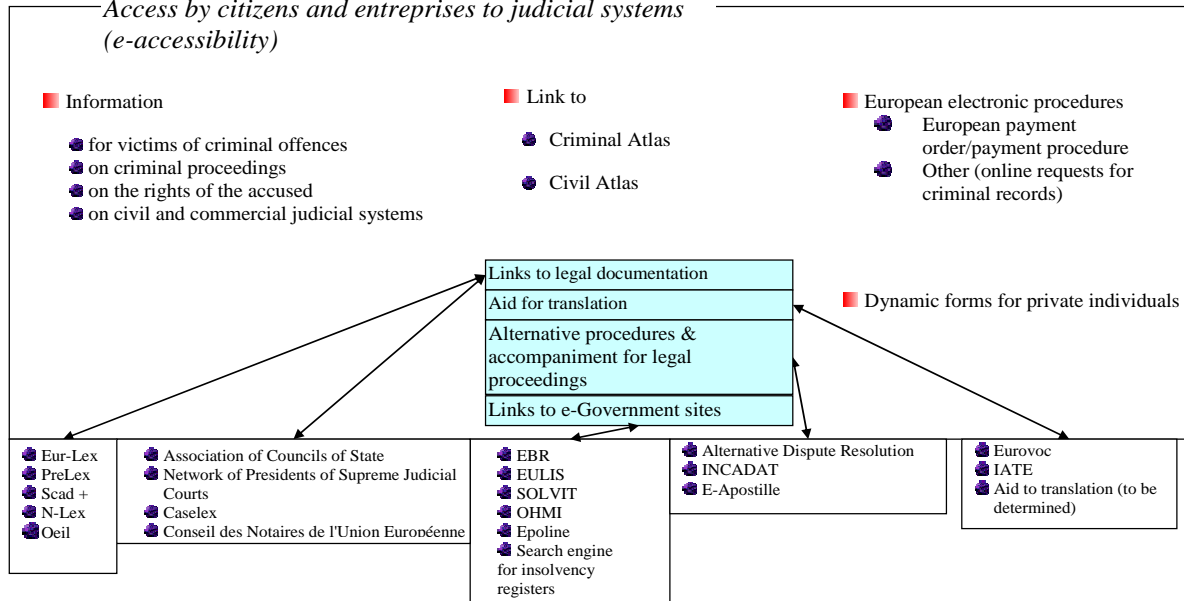
¹⁶ Trade registers – EBR and land registers – EULIS. Depending on the solution selected, the interconnected insolvency registers will be accessible directly via the portal or indirectly.

¹⁷ Regulation (EC) No 861/2007: OJ L 199, 31.7.2007.

¹⁸ Regulation (EC) No 1896/2006: OJ L 399, 30.12.2006.

e-Justice Portal

Access by citizens and enterprises to judicial systems
(e-accessibility)



4.2. e-Justice for more effective judicial cooperation

The creation of electronic tools must accompany the implementation of the EU's judicial cooperation instruments. To develop these tools, the Commission intends to use the two existing legal networks and Eurojust as a basis. At the same time as the tools are set up, appropriate information and training measures will need to be implemented. To this end, the Commission will work more closely with the qualified national and European training structures, in particular the European legal training network, in order to better train legal professionals in the new e-justice tools.

4.2.1. Continuing the interconnection of criminal records

Interconnection of criminal records is the area in which e-Justice efforts have progressed the most, illustrating how a project begun by a small number of Member States can gradually take on a genuine European dimension.

The Commission is working to enable all Member States to be interconnected as quickly as possible. To this end, it has submitted several legislative proposals¹⁹ aiming to clarify the legislative framework and make electronic interconnection possible. As part of preparations for the entry into force of the Framework Decision on the exchange of information extracted from criminal records, the Commission will launch two feasibility studies in order to organise the project as it develops and to extend the exchange of the information to cover third-country nationals convicted of criminal offences.

This project offers two examples of the added value of action at EU level:

¹⁹ Proposal for a Framework Decision on the exchange of information extracted from criminal records, COM(2005) 690 final/2. ECRIS proposal for a decision.

- information can only be exchanged if it is of the same nature and mutually comprehensible: important work to this end has been undertaken as part of the pilot project²⁰ and is described in the recent Commission proposal;
- in 2009, the Commission will provide the Member States with software designed to enable all criminal records to be exchanged within a short timeframe²¹. This reference system, combined with the use of s-TESTA to exchange information, will generate economies of scale because Member States will not have to do their own development work. It will also make it easier to run the project.

For the Commission, this work constitutes the primary priority of e-Justice, because it concerns all the Member States, brings practical improvements to judicial cooperation and strengthens mutual confidence. It will be important, however, for these exchanges of information to go beyond judicial cooperation to incorporate other objectives (access to certain posts for example).

4.2.2. *Creating a network of secure exchanges for sharing information among judicial authorities*

Judicial authorities should be able to exchange confidential data in complete confidence. With regard to criminal matters²², this is provided for in several European instruments. What is important now is to move forward, building on the work already completed, in particular the EPOC III project developed by Eurojust. Such a mechanism could incorporate certain features of the Legal Atlas and the European Compendium²³ in order to give to legal authorities a fully fledged tool for offering mutual aid in judicial matters. Over the long term it could be supplemented by the creation of a virtual exchange platform, integrating automated translation systems, making it possible to share files among national judicial authorities. The project will take account of new technologies that can be used to secure the exchanges and personal data²⁴.

4.2.3. *Facilitating use of videoconferencing*

Several instruments adopted at European level provide for the use of videoconferencing during judicial proceedings²⁵. For cultural, linguistic or technical reasons, however, these possibilities remain underused²⁶. A recent study by the Council²⁷ showed that laws in the majority of the Member States authorise videoconferencing. Even so, it is rare that actors in different countries use it to communicate with one another. The benefits of increased

²⁰ As of April 2008, 13 Member States were participating in the project.

²¹ In an illustration of the practical benefits of interconnection, during the first month of operation of the electronic interconnection, France and Germany exchanged more information than they had during the 10 previous years.

²² Framework decision No 2002/584/JHA of 13 June 2002; Joint Action of 29 June 1998 (OJ L 191, 7.7.1998, p. 4).

²³ The compendium can be used to create letters rogatory using a standardised, uniform procedure.

²⁴ <http://cordis.europa.eu/ist/trust-security/index.html>

²⁵ Convention of 29 May 2000 (Article 10); Framework decision 2001/220/JHA of 15 March 2001; Council Regulation (EC) No 1206/2001 of 28 May 2001 (Articles 10 and 17); Directive 2004/80/EC (Article 9); Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 (Article 9).

²⁶ Doc. 14602/07, JURINFO 60.

²⁷ Doc. 6355/08, JURINFO 11.

videoconferencing are, however, clear: savings of time, money and travel; increased flexibility; etc.

Actions must therefore be undertaken to make judicial authorities aware of the use of these new technologies in civil and criminal crossborder judicial proceedings.

The Commission will support national efforts and ensure that choices made regarding technology permit European interoperability. In cooperation with civil and criminal legal networks, the Commission will place online a user manual containing general and national chapters clarifying the legal and technical conditions of use. The two Legal Atlases will make it possible to identify those courts having the necessary equipment.

4.2.4. *Aid for translation*

Multilingualism represents a major challenge to the development of a genuine European judicial area. Judicial proceedings take place almost exclusively in the national language, and the use of foreign languages is admitted only marginally. The Commission is therefore a proponent of actions targeting translation and interpretation in judicial settings.

- Development of automated translation tools

Automated translation can provide a reader with superficial knowledge of the contents of a document drafted in another language. It certainly has a place in judicial settings. When a file is voluminous, automated translation can make it possible to identify rapidly those elements useful for another case and which should be translated by a professional. It can also rapidly give actors basic information about the contents of a foreign court decision or an important document for proceedings.

Tools of this type already exist and are available, but must be improved and fine tuned for use in the legal field. The cost of such tools and the legal conditions under which they could be provided to legal professionals and the general public should be studied.

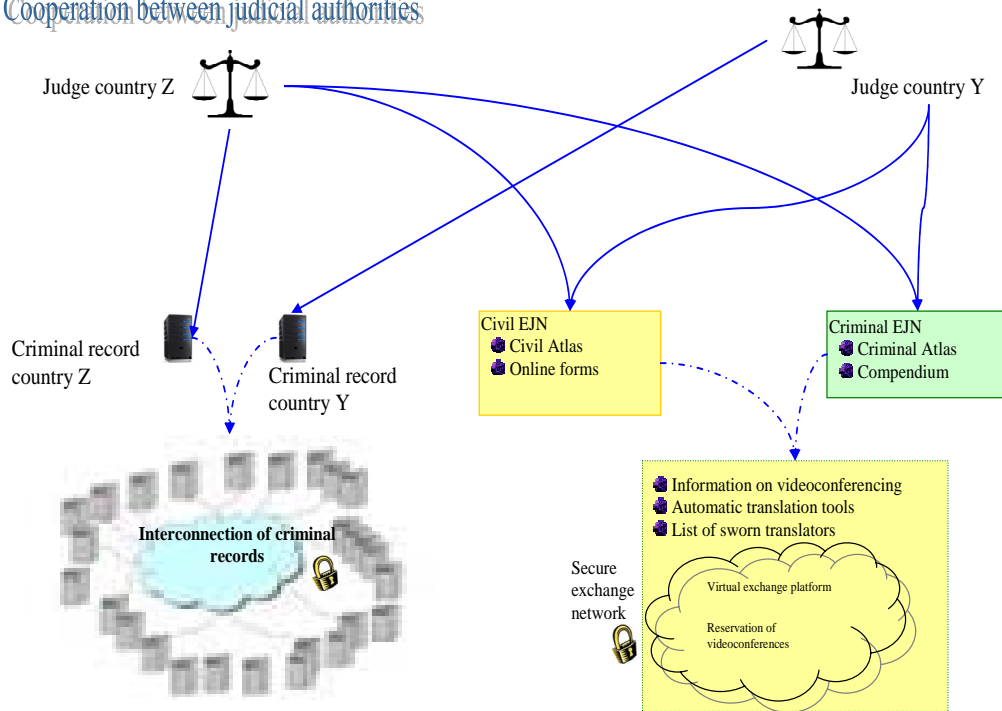
- Database of legal translators and interpreters

It is not always easy for citizens to find a translator or interpreter to assist them in court, particularly when the language involved is not widely spoken. The creation of a European database of legal translators and interpreters could facilitate the identification of existing resources by extending the search to the entire EU. In a global manner, such a database would also improve the quality of legal translation by identifying particularly qualified legal translators/interpreters. Additional studies and, if possible, a pilot programme should be undertaken, including an examination of the possibility of using videoconferencing to have access to legal interpreters located in another Member State.

- Online forms for automated translations

Most EU instruments are accompanied by standardised forms intended to facilitate mutual comprehension. In order to improve the effectiveness of judicial cooperation, it should be possible to produce an automatic translation of not only their template but also their content. The Commission will use the civil and criminal legal networks and Eurojust to standardise the use of dynamic forms with predetermined text and terminology in order to quickly transmit requests and information in all languages of the Union.

Cooperation between judicial authorities



5. TOWARDS A EUROPEAN E-JUSTICE ACTION PLAN

A draft action plan and timetable for the various projects are annexed to the Communication.

To be effective, responsibilities must be clearly allocated among the Commission, the Member States and other actors involved in judicial cooperation. From a financial point of view, e-Justice must develop by mobilising the existing financial programmes: Civil Justice²⁸ and Criminal Justice²⁹.

The Commission will assume a general role of coordination by encouraging the exchange of best practices. In accordance with the applicable procedures, grants could be used to support projects proposed by the Member States or the relevant

²⁸ Decision No 1149/2007/EC (OJ L 257, 3.10.2007).

²⁹ Decision No 126/2007/JHA (OJ L 58, 24.2.2007).

professional bodies. In criminal matters, it is possible to some extent to finance national projects whose aim is to increase the use of ICT. There are two legal bases for the financing of transnational e-justice projects proposed by the Member States or the bodies concerned.

The Commission will design and set up the e-Justice portal, which it will manage in close cooperation with the Member States. The Member States will have to update the information on their judicial systems that appears on the site. The Commission will also coordinate the information on the various existing e-Justice sites and manage the related links. The Commission will develop the computer tools necessary for European online procedures according to the results of the feasibility studies. Financing of the portal should come from the Community budget under existing programmes.

The Commission will continue to work to interconnect criminal records by (1) supporting Member States' modernisation efforts, (2) developing a reference system enabling all parties to exchange information and (3) carrying out the necessary studies, developments and legislative proposals to develop the system and create a register of convicted third-country nationals, something that has been under study for several years³⁰. The Specific Programme 'Criminal Justice' will continue to be mobilised for this purpose³¹.

The Commission will of course continue to assume direct responsibility for the civil legal network and support the criminal legal network. It will work closely with the civil and criminal legal networks and with Eurojust to develop the tools necessary for more effective judicial cooperation, in particular automated translation tools and the secure exchange system.

During the mid-term evaluation of the financial programmes, the development of e-Justice will have to be taken into account and the financing re-evaluated, if necessary³². In the medium term, a single, cross-cutting programme covering civil and criminal matters could be contemplated.

³⁰ COM(2006) 351final.

³¹ In 2008, €15 million will be devoted to criminal-record programmes.

³² Nearly €26 million in appropriations will potentially be available for the two programmes in 2008.

Annexes

Annex 1:

Area	Project	Action needed	period
<i>E-justice portal</i>			
	development of e-Justice pages	<ul style="list-style-type: none"> - feasibility study and development of the portal - implementation of management methods - information online in all EU languages 	2008-2011
<i>interconnection of criminal records</i>			
	interconnection of national criminal records	<ul style="list-style-type: none"> - support for pilot project - development by Commission of reference computer system - feasibility study on technical impact of Framework Decision's implementation - Strengthening of system to ensure quality of exchanged data and achieve exchange of information for administrative purposes 	2008-2011
	creation of a European register of convicted third-country nationals	<ul style="list-style-type: none"> - feasibility study - submission of legislative proposal 	2009-2010
<i>national database interconnection</i>	<i>(projects falling under e-Justice only)</i>		
	interconnection of insolvency registers	monitoring of Member State efforts	2009
<i>Electronic exchanges between legal authorities</i>			
	electronic signature	<ul style="list-style-type: none"> - assessment of current situation - study into use of electronic signatures in legal setting 	2009-2011
	secure network	feasibility study	2010-2012
	virtual-exchange platform	feasibility study	2012-2013
<i>Aid for translation</i>			

	Gradual compilation of comparative multilingual legal vocabulary	- pilot project	2009-2013
	financing for legal translation tools in all European language pairs	- assessment of existing tools - technical and legal feasibility study - pilot project	2009-2013
	creation of database of legal translators & interpreters	feasibility study pilot project dissemination on sites of European Judicial Network	2009
<i>Creation of dynamic forms to accompany European legislative texts</i>		- feasibility studies - development of online forms	2008-2011
	Forms for criminal EJM – translation and conversion into dynamic forms	publication on e-Justice portal or network sites	2009-2011
	creation of dynamic forms for civil proceedings		2010-2012
	including for online payment (European payment procedure)	feasibility study on security of platform and payment management	2010
<i>videoconferencing</i>			
	compilation of practical information and instruction manuals	- drawing up of user manuals by Member States and Commission with support from networks - publication on network sites	2008-2009
	professional training in technology and use within organisations	no	2008-2010
<i>exchange of best practices</i>	as part of e-Justice forum	annual meetings on e-Justice themes	2008-2013
<i>training of legal professionals in judicial cooperation</i>	* using videoconferencing * translation and interpretation issues, including training in legal terminology	work with European legal training network and Member States	2008-2013