

Strasbourg, 5 October 2021

CEPEJ-GT-CYBERJUST(2021)8

EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE

(CEPEJ)

WORKING GROUP ON CYBERJUSTICE AND ARTIFICIAL INTELLIGENCE

(CEPEJ-GT-CYBERJUST)

4th meeting

Strasbourg – videoconference

23 - 24 September 2021

MEETING REPORT

Report prepared by the Secretariat

Directorate General I - Human Rights and the Rule of Law

1. INTRODUCTION

1. The Working Group on Cyberjustice and Artificial Intelligence (CEPEJ-GT-CYBERJUST) of the European Commission for the Efficiency of Justice (CEPEJ) held its 4th meeting on 23 and 24 September 2021. Considering the sanitary situation, the meeting took place via videoconference.
2. The Secretariat presented the Working Group's newly appointed Secretary Daniel SCHMIDT and Co-Secretary Paul MEYER.
3. The agenda and the list of participants are attached, as appendices I and II respectively, to this report.

2. ELECTRONIC COURT FILING (E-FILING)

4. Alexandra TSVETKOVA (Bulgaria) and Giulio BORSARI (Italy) presented the draft Guidelines on electronic court filing (e-filing)¹. The document aims at providing member States with a step-by-step roadmap towards e-filing and digitalisation of judicial procedures. It is based on a Report released on 31 March 2021 by the same team of experts, including Harold EPINEUSE (France), entitled "*Analytical Overview of the State of Play in Electronic Court Filing (e-filing) in selected member States of the Council of Europe*"². The Guidelines are structured in three parts: (i) strategic aspects, (ii) organisational aspects, and (iii) technical aspects, complemented by an appendix entitled "*Checklist for Developing an E-Filing System*".
5. The CEPEJ-GT-CYBERJUST considered that the Guidelines and the Checklist constitute an excellent roadmap and tool for member States willing to implement an e-filing system. It underlined the importance of combining strategic and technical approaches to yield good and sustainable results. Members of the working group were invited to send written comments to the secretariat on which basis the experts would prepare the final documents to be submitted to the next CEPEJ plenary meeting (8-9 December 2021) with a view to their adoption.

3. INCREASING THE KNOWLEDGE BASE

6. Alexandra TSVETKOVA and Giulio BORSARI, were also requested to develop a concept to strengthen the role of the CEPEJ-GT-CYBERJUST in its aim to contribute to an empirical knowledge base including related data collection methods, a focus on qualitative indicators to explain a specific status of judicial digitalisation, a collection of good practices and a strengthened community of practitioners. The group concluded that its elements could be realised concretely through the "Resource Center on Cyberjustice and AI," the European Cyberjustice Network and a further development of the ICT-Index.

4. ICT – INDEX

7. Based on the need to constantly improve the collection of statistics, the Secretariat of the CEPEJ-GT-EVAL was invited to present the potential development of the current CEPEJ Evaluation concerning information and communication technologies (ICT) forming the "ICT-Index". Both groups saw the added value of bringing in CEPEJ-GT-CYBERJUST expertise to improve the current ICT-Index by reviewing the respective section of the questionnaire, the index calculation, and potentially complementing the Index in the long run.

¹ CEPEJ-GT-CYBERJUST(2021)7.

² CEPEJ-GT-CYBERJUST(2021)4.

8. It was decided to form a small working group composed of Alexandra TSVETKOVA, Giulio BORSARI and Adis HODZIC (Bosnia and Herzegovina) to start working on the ICT-Index.

5. ON-LINE ENFORCEMENT OF JUDICIAL DECISIONS (E-ENFORCEMENT)

9. Jos UITDEHAAG (the Netherlands) presented the revised report on e-enforcement³. The report outlines the state of play of current national situations, good practices and encountered challenges as to the e-enforcement of court decisions. The Working Group decided to submit this document to the CEPEJ with a view to its adoption during its next plenary meeting in December.

10. Based on the report the working group proposed to develop detailed guidelines on “e-auctions”, which could be added, if appropriate, in the next CEPEJ-GT-CYBERJUST terms of reference (2022-2024) to be adopted by the CEPEJ at its plenary meeting in December.

6. ON-LINE ALTERNATIVE DISPUTE RESOLUTION (On-line ADR)

11. Ruslan MIRZAYEV (Azerbaijan) presented the revised Report “*Analytical Overview of the State of Play in Online Alternative Dispute Resolution*”⁴ and the related draft guidelines, both developed jointly with Harold EPINEUSE (France).

12. The Group acknowledged the good standard of the report and reiterated the need for a dedicated, tool to support member states and online ADR providers concretely and practically in the implementation of efficient systems respectful of Human Rights and in line with European standards.

13. The Group also confirmed the focus of the tool on particularities of online procedures in the alternative dispute resolution process. The group further recommended that the tool should remain horizontal without going specifically into criminal procedure, restorative justice, or family matters, due to limits in its actual application. However, stronger focus should be given to safeguards for vulnerable groups.

The guidelines under preparation will usefully complement the recent “Guidelines of the Committee of Ministers of the Council of Europe on online dispute resolution mechanisms in civil and administrative court proceedings”⁵, prepared by the European Committee on judicial cooperation (CDCJ) as regards the specific aspects of alternative ODR.

14. The Group entrusted the experts to develop the document explaining the difference of alternative dispute resolution and its application online and clearly focusing the guidelines on the online aspects and resulting particularities. Furthermore, the parts on operational requirements and techniques ensuring quality should be well detailed to ensure a practical application. After its finalisation by the end of 2021 the document could be submitted to the CEPEJ Plenary in June 2022 for potential adoption.

7. VIDEOCONFERENCING IN JUDICIAL PROCEEDINGS

15. Marek ŚWIERCZYŃSKI (Poland) presented the first draft of good practices illustrating the “*Guidelines on videoconferencing in judicial proceedings*”⁶, prepared with Alexandre PALANCO (France). The good practices could be appended to the guidelines, which were conceived as a living instrument, open for successive revisions.

³ CEPEJ-GT-CYBERJUST(2021)5.

⁴ CEPEJ-GT-CYBERJUST(2021)3.

⁵ CM(2021)36add4-final.

⁶ CEPEJ-GT-CYBERJUST(2021)1.

16. The practices are presented in relation to the guidelines in the document. The quality of the document was highly appreciated by the working group. It was decided that:

- relevant examples from non-member States could be included,
- sources of the practices should be given and where possible and relevant quantitative information given (e.g. number of hearings actually conducted by a specific court in a specific period and in comparison to non-covid times etc.),
- additional practices should be collected to cover a wide range of the guidelines.

17. The group recommended that the further development of good practices should be supported by the “European Cyberjustice Network” and potentially the “Pilot Courts Network”. Contacts to the network members could be supported by the secretariat. The good practices collection should be finalised by the end of the year.

8. EUROPEAN CYBERJUSTICE NETWORK

18. The CEPEJ-GT-CYBERJUST discussed the draft terms of reference and agenda for the inaugural meeting on 16 November 2021 of the newly created “European Cyberjustice network (ECN)”. It would enable to reach a community of practitioners on issues of Cyberjustice, to disseminate CEPEJ tools, to collect relevant information on developments and actual needs of the sector, as well as to constitute an important information on developments and actual needs of the sector. It would be an important forum to exchange good practices and to initiate targeted bilateral cooperation.

19. The ECN has already experts, from 30 countries and the secretariat was entrusted with the task to increase the number of appointed members and to invite NGOs and universities to participate. The working group members were invited to propose relevant organisations or individuals for consideration to the secretariat.

20. During the inaugural meeting on 16 November a keynote speech will be delivered by Prof Richard Susskind (UK) on the future of online courts. Furthermore, the recently adopted guidelines on videoconferencing in judicial proceedings will be discussed.

9. RESOURCE CENTER ON CYBERJUSTICE AND ARTIFICIAL INTELLIGENCE

21. The CEPEJ-GT-CYBERJUST was also entrusted to set up a resource center on cyberjustice which could be an important tool for the CEPEJ member states and interested practitioners. It could contain relevant national and European legislation, existing pilot projects, software, national action plans etc. in a constantly increasing database hosted by the CEPEJ. Information for the database could be generated in particular by the ECN. The Secretariat presented a draft list of categories and metadata under which the good practices could be sorted.

22. The Group entrusted the secretariat to implement a technical solution and to present it, if possible at the next ECN meeting on 16 November.

10. HELP CURRICULUM ON EFFICIENCY OF JUSTICE/CEPEJ

23. The working group considered to make use of online training courses to better disseminate practical tools developed by the GT-CYBERJUST. For this the HELP programme (Human Rights Education for Legal Professionals) from the Council of Europe was presented and discussed. The programme, which is covering a wide range of topics and is constantly evolving saw a steady increase of users over the last years, particularly during the Covid-19 pandemic. It would be possible to develop a specific Cyberjustice relevant module in the framework of a more comprehensive course on efficiency and quality of justice presenting the work of the CEPEJ.

24. The group acknowledged the good outreach of the HELP programme and recommended developing a module or course since using the HELP program has great potential. The module should give (a) an introduction to the work of the group and (b) on the application of the video conferencing guidelines. The work would be supported by a specific task-force composed of Maria Giuliana CIVININI (Italy), Rimantas SIMAITIS (Lithuania), and Jos UITDEHAAG (the Netherlands).

25. In addition the working group proposed to develop cyberjustice specific curriculum for judges, prosecutors, and lawyers, outlining digital and technical skills needed in today's judicial environment. Both activities could be included in the two-year program for the CYBERJUST 2022-2023 if appropriate

11. NEXT TWO-YEAR WORK PROGRAMME

26. With a view of the preparation by the CEPEJ of the future terms of reference of the CEPEJ-GT CYBERJUST for 2022-2024 the group exchanged ideas and potential topics. Remaining within the mandate of the CEPEJ and the working group, the following topics were proposed:

1. Guidelines on e-auctions
2. A further development of the Cyberjustice knowledge hub (statistics, resource center, community of practitioners)
3. A training curriculum on tech-skills
4. Guidelines on public jurisprudence databases (use of metadata and anonymisation)
5. Guidelines on the particularities and practical use of e-evidence
6. Guidelines on Governance and management in a digital judiciary

27. The secretariat should further elaborate this list and circulate it amongst the working group for final comments.

12. ANY OTHER BUSINESS

28. The next meeting of the next CEPEJ-GT-CYBERJUST would be decided by the CEPEJ in December.

APPENDIX 1 - AGENDA

1.	Opening of the meeting
2.	Electronic filing of court documents (e-filing)
3.	Increasing the knowledge base
4.	ICT-Index
5.	On-line enforcement procedures
6.	On-line alternative dispute resolution
7.	Videoconferencing in judicial proceedings
8.	European Cyberjustice Network
9.	Resource Center on Cyberjustice and Artificial Intelligence
10.	HELP Curriculum on Efficiency of Justice/CEPEJ
11.	Next two-year work programme
12.	Any other business

APPENDIX 2 – PARTICIPANTS LIST

MEMBERS / MEMBRES

Pedro ALMEIDA, Legal Adviser, European Affairs Coordination Unit, Directorate-General for Justice Policy, Ministry of Justice, Lisbon, PORTUGAL

Maria Giuliana CIVININI, Judge, member of the Italian Judiciary, President of the Tribunal of Pisa, Pisa, ITALY

Adis HODZIC, Senior Advisor for Statistics, Secretariat of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, Sarajevo, BOSNIA AND HERZGOVINA

Martin SCHNEIDER, Counsellor, Federal Ministry of Justice, Vienna, AUSTRIA, **Apologised / Excusé**

Rimantas SIMAITIS, Associate Professor at Vilnius University, Partner at Cobalt law firm, Attorney-at-Law, Arbitrator, Mediator, Vilnius, LITHUANIA

Gregor STROJIN, Advisor to the President, Supreme Court of the Republic of Slovenia, Ljubljana, SLOVENIA

SCIENTIFIC EXPERTS / EXPERTS SCIENTIFIQUES

Martin HACKL, Chief Digital Officer at the Austrian Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice, AUSTRIA

Ruslan MIRZAYEV (on Mediation and ADR), Mediator at the Office of Compliance Advisor Ombudsman of the World Bank Group and Partner, Adrem Attorneys Law Firm, AZERBAIJAN

INVITED DELEGATIONS / DELEGATIONS INVTEES

EGYPT / EGYPTE

Mohamed Mahmoud RASLAN, Vice President of the Egyptian Council of State, CAIRO

OBSERVERS / OBSERVATEURS

Jacques BUHLER, Secrétaire général suppléant du Tribunal fédéral suisse, Chef des services scientifiques : informatique, bibliothèque et documentation juridique, Chef de projet pour l'introduction du dossier judiciaire électronique et de la communication électronique en Suisse, Lausanne, SUISSE

COUNCIL OF BARS AND LAW SOCIETIES OF EUROPE / CONSEIL DES BARREAUX EUROPÉENS(CCBE)

Martin SACLEUX, Legal Advisor

INTERNATIONAL UNION OF JUDICIAL OFFICERS / UNION INTERNATIONALE DES HUISSIERS DE JUSTICE ET OFFICIERS JUDICIAIRES (UIHJ)

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