Guidelines on electronic court filing (e-filing) and digitalisation of courts

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Purpose and scope (1)

Key measures for design and implementation of a framework enabling a party to:

- start a judicial proceeding by issuing and receiving e-documents

- exchange procedural documents with other parties and judges/prosecutors

- send/receive e-notifications and e-summons

- pay court fees online

- access a secure repository of all procedural documents

- provide an efficient and effective treatment of data for all users involved.

Purpose and scope (2)

⚠ Possible different requirements for civil, administrative, and criminal proceedings from one jurisdiction to another

⚠ Unique institutional, legal, and technological context at national level to be embedded in planning, designing and implementing an e-filing system

<u>Out of scope</u>:

- supporting activities and infrastructure facilities

- interoperability between courts and court users' systems

Guiding principles (1)

Fundamental legal principles:

A. Rule of Law

B. Independence of the judiciary

C. Guarantees to a fair trial

D. Non-discriminatory and free from biases that reinforce inequalities

E. Effective judicial remedy in case any user's basic rights are negatively impacted or harmed by the use of the technology

F. Data protection principles ensured

Guiding principles (2)

Essential elements of any e-governance strategy:

G. Digital by default

H. Inclusiveness and accessibility

I. Openness and transparency = better accountability and trust building

J. Performance, security, and integrity of information – data protection by design and by default

K. Data management and preservation of information

L. Interoperability

M. Efficiency and effectiveness assessment tools

Key concepts - *An e-filing system should …*

- Facilitate access to judicial information and provide for accountability, while balancing between access and protection of personal data

- Be fully compliant with existing laws and international standard

- Be deployed in an efficient, effective, and timely manner

- Be designed with high degree of transparency and accountability on its performance, procedure flows and decision-supporting processes

- Be developed to endure institutional changes and be constantly updated

- Embed the unique state's institutional, legal, and technological frameworks

- Be a result of a reform incorporating both technical and legal requirements and strong institutional commitments

- Be based on a clear and well-defined legal framework

- Meet the preconditions towards successfully deploying: reliable and secure network, sufficient IT skills and competences, open infrastructure and operational coordination with other national/cross-border systems

Part I – Governance and Strategic Matters

All-round Strategy and Vision

- Result of a systemic and comprehensive reform

- Part of a complete ecosystem of services

- Clear overarching all-round strategy

- Encompassing strategic, organisational, and technical measures

- Integrating aspects of simplification, service improvement and user-centricity

- Aligned or integrated with national and EU strategies

Legislation

- Balancing between technical specifications and flexibility

- Facilitating various exceptions and specific use cases

- Coherent stand-alone regulation aligned with e-government acts

- New legislation to legitimise technological advancement – with caution

- Novel regulatory practices – with caution and careful long-term monitoring

Part I – Governance and Strategic Matters

Governance

- Strong political will, management approach, broad stakeholder involvement
- Adequate means of planning, clear roadmap, details on changes and expected impacts
- Medium- and long-term objectives
- Reasonable and measurable key performance indicators
- Continuous adjustments to reflect the needs of various stakeholders

Stakeholder Involvement

- Engaging users, allowing them to submit feedback at any time
- User-friendly and responsive system design
- Active community; respecting a "time-box" approach
- Experimental laboratories
- The "ambassador approach"

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Part I – Governance and Strategic Matters

Commitment

- "Digital by default" principle for strategy and legislation

- Strict obligations to be (self-)regulated by levels of readiness, transition periods and successive measures

- Obligatory measures only if relevant supporting measures and infrastructure facilities are already in place

- Digital services as a preferred option, where other channels remain open for those who are disconnected by choice or necessity

- Exchange data with external e-government systems

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Part II – Organisational Aspects

Resource Allocation

- Adequate IT, human and financial resources

- Funding secured independently, underpinning the no-savings concept

- Proofs of concept, prototypes, MVPs

- Long-term involvement of judicial experts and legal practitioners

- Monitoring of key-performance indicators and assessments

Project Management

- Prioritization based on impact; expected-impact, value-for-money, and limited-risk measures

- Agile approach for both organisational and development levels

- Adequate resources on project management

- Experimental culture to facilitate acceptance of tools

- Organisational transformation of back-offices

Part II – Organisational Aspects

Complexity of Proceedings

- Reconfiguration or redesign of core judicial processes

- Automated operations and features minimizing workload

- Mobile-first approach

- Avoiding any further organisational/technical involution

User Centricity

- User first and at the core of the business process

- Inclusive services: understanding user-diversity

- Satisfying experience: ease of use, intuitiveness, functioning and reliability

- One-stop-shop principle: single platform for e-services

- For internal users: flexibility to both facilitate the creating and reading of e-documents and limit their administrative burdens

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Part II – Organisational Aspects

Communications

- Communication strategy and applicable advocacy measures

- Communicating benefits of using applications and the possibilities for automating burdensome tasks

- Inclusiveness, cooperation, and engagement

- Simplified communications to citizens and business

Support and Training

- Adequate level of users' digital skills as a starting point

- No assistance to the end user to be needed regarding the usage of the functionalities

- Multi-level support, training, and technical assistance

- Digital guidance and training, together with shoulder-by-shoulder guidance provided by peers

Part III – Technical aspects

e-Documents and e-Filing

*   All documents converted or created solely in electronic form
*   In open formats
*   With links, using standards (ECLI and ELI)
*   Signed with qualified (possibly remote) e-signature
*   Contain (or be accompanied with) metadata to avoid data re-entry
*   Quality and completeness of metadata to be verified automatically
*   Multimedia and large files
*   Correct handling and exchanging of e-evidences
*   Channels open for those who are disconnected by choice or necessity
*   Personalized templates for internal users

Payments

*   On-line payment of court fees, properly integrated with the e-filing system
*   To ensure the security of money transfer
*   Automatic calculation of the amount to be paid, with publicly available calculating features

Part III – Technical aspects

Data and Document Management

- Unique data and document repository
- To preserve (and being able to prove) their integrity in the whole lifecycle
- Provide APIs to enable automation and exchange between authorities

Access to Information

- Court statistics are collected and elaborated automatically
- Business intelligence approach for structured and unstructured data
- Procedures for correcting mistakes made by registrars
- Streaming solutions for video evidences

Court Decisions

- Publicly available
- Automatic or semi-automatic anonymization solutions
- Uniquely identified

Part III – Technical aspects

System Requirements

- Remote access and usage from any device (no additional software required)
- Able to manage temporary interruptions
- Allow internal users to work off-line (for studying and drafting documents)
- Easy and fast access to real-time information
- "Zero downtime" as an objective during updates
- Business continuity plan → short periods of unavailability + minimum or zero loss of data

Security Requirements

- E-identification with at least 2-factor authentication
- Manage internal users with identity and access management system
- Protected from cyberattacks, especially for parts exposed on the internet
- Encrypt data and documents containing sensitive information
- Database and system administrators cannot read or update data

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Part III – Technical aspects

Interoperability

- Maximum compatibility on a national level to exchange data effectively and efficiently with other authorities

- Ensure security, personal data protection and confidentiality

- Reuse of government-facilitated building blocks

- European Union's regulations and available tools should be considered by non-EU states

Checklist for Developing an e-Filing System

- Outline for the planning of an e-filing system → policy makers, representatives of judicial bodies, project managers, IT managers, etc.

- It can be adapted depending on the state's status quo in e-filing and/or the respective stage of implementation

Measure¤	Requirement¤	E-filing·system·compliance¤	Legislative·measure¤	Governance-related·or·organisational·measure¤	IT·measure·or·system·requirement¤	Key·guidelines·reference¤	Related·guidelines·references¤
		Assessment¤	Mapping·of·required·hands-on·measures¤				
Part·I·—·Governance·and·Strategic·Matters¤							
Is·there·an·overarching·strategy·on·judicial·transformation·and/or·e-justice·and/or·digitalisation·of·judicial·procedures·that·includes·considerations·on·e-filing?¤	should·have¤	☐¤	-¤	Yes¤	-¤	I.2¤	I.1¶ I.3¶ I.11-13¶ I.21¤
If·such·exist,·is·it·developed·in·compliance·with·existing·national·and/or·Europe-wide·digitalisation·strategies?¤	must·have¤	☐¤	-¤	Yes¤	-¤	I.5¤	I.1-3¶ I.7¤
Do·political·guidelines·on·judicial·transformation·and/or·e-justice·and/or·digitalisation·of·judicial·procedures·encompass·strategic,·organisational·and·technical·measures,·including·on·e-filing?¤	should·have¤	☐¤	Yes¤	Yes¤	-¤	I.3¤	I.1-2¶ I.11-13¤
Is·your·e-filing·system·envisioned·as·part·of·a·larger·ecosystem·of·judicial·services?¤	must·have¤	☐¤	-¤	Yes¤	Yes¤	I.1¤	I.2-3¶ I.11-13¶ I.25¶ II.19¤

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Thank you for your attention!

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