



Intervention of German Federal Minister of Justice and Consumer Protection Christine Lambrecht

CCBE online roundtable on 27 October 2020

The pandemic is thoroughly messing up our plans, and many of our planned events cannot take place. That is why I am especially pleased to be able to welcome you here today.

I would like to extend a special welcome to Justice Commissioner Didier Reynders and the other speakers. And of course welcome to all of you who are joining us online.

We are today addressing an important topic: How can the EU ensure that the digitalisation of justice reinforces, rather than undermines, access to justice? This urgent question will be addressed today in two thematic blocks.

Citizens, lawyers and courts are the relevant actors when it comes to legal proceedings. How can these different actors come into contact with one another and communicate in the age of digitalisation? How can we improve interaction among all participants, and thus access to justice, by taking advantage of the opportunities posed by digitalisation and the chances they offer?

The legal policy agenda of the EU and the Member States accords a high degree of importance to these questions, and they are one focus of the justice programme of the German Council Presidency. The COVID-19 crisis has shown how urgent it is to answer these questions.

Building up and promoting the use of digital technology are not only important conditions which serve to ensure interaction among all participants even in times of crisis. They also enhance the efficiency and the reliability of our justice systems and promote trust in the rule of law. Being able to take care of all kinds of matters digitally has long been an everyday thing for citizens; analogue procedures have increasingly become the exception.

Digital tools have been created in the field of justice as well, and more and more useful instruments and programmes are constantly being developed.

The use of digital tools promises to facilitate work, both for the bar and for the courts. They will be able to devote themselves completely to the needs and concerns of their clients. Today, digital technology is already helping to automate and accelerate the processing of standardised and uniform tasks. Many cost- and personnel-intensive tasks, such as research and analysis work, can be simplified in this way. This, in turn, provides the courts and attorneys with more time for their actual core activities: Conclusive judicial deliberation and advocacy, which no technology can replace.

The interests and needs of the citizens seeking justice should be in the forefront. Offers of simple online legal advice, low-threshold online access to the judicial system for all citizens, or online conflict resolution can open up the legal system for a target group who would otherwise never have turned to a court or to a lawyer. Perhaps because it would have been too expensive or not economical, but perhaps also because it seemed to be too much trouble or bother, for example when the court is in fact not easy to reach. Conversely, digital tools can make attorneys more accessible and make cases attractive which previously would not have seemed very profitable.

And another important thing: In addition to the digital access possibilities, the analogue routes to access to justice must remain intact. For the time being, we are focusing on expanding digital offers rather than on a complete changeover, because we must make sure that nobody is left behind.

At the same time, it is our responsibility to secure the fundamental rule-of-law guarantees in digitalising the justice and legal systems and carefully monitoring their effects. The use of new technologies must always be in compliance with basic rights and fundamental freedoms. The principle of judicial independence must be respected.

When it comes to deciding concrete cases, this puts limits on fully automated decision-making processes. After all, the binding decision resolving a legal dispute must be made by a judge. Individuals make the decisions, not artificial intelligence.

The principle of a fair trial means that those participating in the proceedings must have the opportunity to understand the key steps of the proceeding and its result. That cannot be undermined by the use of algorithmic systems whose judgment parameters are not understandable and not reviewable.

The key is to improve the interplay of all those who participate in the state governed by the rule of law, because this is how the legal system as a whole prospers.

We will be able to successfully meet the challenges of the future if we cooperate well.

We as the German Council Presidency of the European Union have set an ambitious programme and we perceive great agreement with all Member States. We recently adopted common Council Conclusions which address the questions we are discussing today. They are an important step in the development of a common agenda.

We need to focus on shaping the future of the justice system. In what way will it be manifested in the digital space? Will trials also be conducted online, and under what conditions can this occur? Can we structure court proceedings using digital tools in such a way that work is facilitated both for the attorneys and for the courts?

We need to review these aspects carefully and thoroughly. For this, we need all the support we can get. The experiences of the lawyers are indispensable for us, because you are the first contacts for the citizens, you are familiar with their needs and expectations, and you know where solutions are needed most urgently.

So let's join hands and all work together on the road to success.