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## FIRST IMPLEMENTATION PAPER FOR CCBE E-JUSTICE STRATEGY

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**Conseil des barreaux européens – Council of Bars and Law Societies of Europe**

*association internationale sans but lucratif*

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### I. Introduction:

At first, the initiative of a European e-Justice strategy was mainly driven by the Ministries of the EU Member States. The European Commission has in the meanwhile taken a stance as well, and on 30 May 2008 issued a Communication, entitled "Towards a European e-Justice Strategy", COM(2008)329final<sup>1</sup>

The core of this e-Justice Strategy is the creation of an **e-justice portal** (please see graph in the Annex of this paper) with a wide range of electronic tools, including e-government structures and judicial procedures:

- electronic procedures (European payment order, small claims procedure);
- interconnection of criminal records throughout Europe;
- access to registers (land register, business, insolvency) at national level throughout Europe with a one-stop shop (for example: a German notary will need to identify him/herself only once to access an Italian land register);
- exchange of judicial networks, e.g. courts, prosecutors, Eurojust, Europol;
- access to data bases containing information for victims of criminal offences, information on criminal proceedings, on the rights of the accused, on civil and commercial judicial systems, on procedures for obtaining legal aid, on the use (obligatory or optional) of lawyers, and potentially also with information on how to find European lawyers;
- other tools, such as alternative dispute resolution, mediation, videoconferencing, electronic small claims procedure, electronic payment procedures, payment of court fees etc.

At the CCBE Standing Committee on 5 September 2008, the Draft CCBE Strategy on e-Justice<sup>2</sup> including the following recommendations (in summary) were adopted:

1. To elaborate a CCBE e-Justice Strategy with the Access to Justice Committee, the Criminal Law Committee and the Free Movement of Lawyers Committee under the lead of the IT Law Committee, and to organise a planning meeting;
2. To encourage CCBE member bars - at national/regional/local level, as appropriate - to start an awareness-raising campaign on e-Justice, informing lawyers about the legal consequences and the political and economic opportunities involved for all European lawyers in promoting a Europe-wide platform for lawyers;
3. To create a special working group within the CCBE consisting of experts from the national bars in order to develop a common structure for a European Lawyers Data Base;
4. To create a special working group to implement a CCBE platform for the validation of electronic signatures;
5. To work closely with the European Institutions, the Council of Europe, national governments (particularly ministries of justice) in order to implement a politically sustainable and financially sound CCBE e-Justice Strategy.

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<sup>1</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0329:FIN:EN:PDF>

<sup>2</sup> <http://www.ccbe.org/index.php?id=42&L=0>

## II. Implementation of recommendations in detail:

### Ad 1.) Elaboration of CCBE e-Justice Strategy through the CCBE Steering Committee on e-Justice

The CCBE Steering committee on e-Justice is made up of the four chairs of the CCBE Criminal Committee, Access to Justice Committee, Free Movement of Lawyers Committee and the IT Law Committee. It will be responsible for jointly elaborating the implementation of the e-Justice Strategy under the lead of the IT Law Committee.

This paper is the result of a consultation having taken place at and after the first planning meeting in Brussels on 24 October 2008. The following terms of reference of the Steering Committee are proposed:

- The committee will be responsible for the overall activities of the CCBE in the field of e-Justice, including good co-operation and liaison with the committees involved
- The steering committee will oversee the work of the special working groups on the European data base for lawyers and on the CCBE platform for the validation of electronic signatures
- The committee will therefore ensure that discussion and content with relevance to e-Justice developed within one of the committees involved or within the special working groups is clearly and timely communicated to the other committees. The presence of the chairs in the meetings of the other committees/special working groups should be considered as necessary.
- The committee will draft papers and present proposals for the CCBE to be submitted to the delegations at Standing Committees and Plenary Sessions which are based on consultation with the other committees/special working groups
- The committee will meet on a regular basis, as deemed necessary.

### Ad 2.), Awareness-raising campaign at national/regional/local level on e-justice

The CCBE proposes to run an awareness-raising campaign at national/regional/local level to inform members about the legal consequences and the political and economic opportunities involved for all European lawyers in promoting a Europe-wide platform for lawyers and a European wide database on lawyers. The first stage in the CCBE's awareness-raising campaign will take place at the European Bar Leaders Forum in Brussels on 28 November, where the topic of e-Justice forms one of the main issues to be discussed.

The European Commission has already undertaken extensive studies on e-government applications and electronic tools in judicial procedures please see: <http://ec.europa.eu/idabc/en/chapter/6000>

It would be advisable for each national bar to inform their membership on the e-Justice structure at European and at national level. The practical applications at national level are very important to create awareness and understanding for the e-Justice strategy, which will have an impact on the day-to-day business of every lawyer in Europe.

The practical applications at national level should provide information like:

- Legal situation/legislation regarding electronic communication in legal relations in general
- Legal implications for lawyers when participating in electronic communications, e.g. regarding deontology, professional liability, rules of evidence
- Practical applications which already exist or are to be introduced: e.g. e-filing, e-service of documents, electronic payment orders, electronic registers, etc.
- Political consequences (role of lawyers in society, access to justice, professional secrecy) and
- Economic consequences (efficient management of law firms, efficient court procedures within Europe as a competitive advantage)

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The CCBE could provide assistance as regards the developments on e-Justice at European level for this awareness-raising campaign. It might be useful to create a handbook for European lawyers on what applications relevant to lawyers already exist at national level in the various EU Member States.

#### Ad 3.) Special working group for a European Lawyers Data Base

As outlined in the CCBE e-Justice Strategy, such a data base would offer a structure through which European lawyers can be found and contacted via the e-Justice portal. Without it, there will be no Europe-wide ability to access a lawyer across borders through electronic means, and lawyers will both lose out on the benefit of the initiative and be seen as not part of the electronic age. It is obvious that the database's structure, despite the divergences of the legal profession's organisation in every EU member state, should be user-friendly. This means that there should be ideally a unique approach to navigate the system without requiring any knowledge of the specific national organisation of the legal profession, on the basis of similar lay-out and information options, and offering also a certain language choice.

It is proposed that national experts from the CCBE membership who are dealing with data bases at national level should be gathered in the special working group. There should also be experts who would be familiar with the technology of such data bases. One of the first exercises of this group could be a survey on the data bases on lawyers and their structure being in place at national/local/regional level. The special working group would be in constant interaction with the CCBE Steering Committee on e-Justice.

#### Ad 4.) Special working group to implement a CCBE platform for the validation of electronic signatures

The idea of a CCBE platform for the validation of electronic signatures is based on the necessity to provide identity management for European lawyers so they are enabled to participate in e-Justice structures. This will be done with the vehicle of an electronic ID card which helps to identify a lawyer and authenticate his/her communications.

The CCBE technical standards already exist; however, this appears to be not enough and it might be useful to create a platform similar to the one the European notaries have already put into place. Each European country has developed its own standards for digital signatures but the platform is designed in such a way that it integrates all present and future standards. The system should not require any change in the legal or technological framework of the participating countries. The state-of-the-art technologies used by the platform would need to provide all the necessary "translations".

The CCBE IT Law committee already has been taking soundings with the European Commission on how the CCBE electronic ID card system and technical standards fit into the EU e-Justice strategy, which has been positive so far; however, further work and consideration needs to be undertaken. The CCBE is also setting up a meeting with the European notarial organisation, CNUE, and its technical experts on their platform for exchange of information.

Last, but not least, the important Pilot project "PenalNet", is already looking into creating a secure platform for criminal lawyers all over Europe. The CCBE will be involved into this project through a person who follows the project process and is in constant interaction with the special working group and the CCBE steering committee on e-Justice in order to evaluate the opportunities of this pilot project for a CCBE platform.

The special working group on the CCBE platform will consist of technical and legal experts from the CCBE membership, and will meet on a regular basis as deemed necessary.

#### Ad 5.) Close work with the European Institutions, the Council of Europe, national governments (particularly ministries of justice)

The CCBE Steering Committee will also be a first point of contact for working relationships with European and national institutions in order to build up a technically, legally and financially sound implementation of the CCBE e-Justice strategy.

To this extent, it is important to be aware of the many institutions involved in e-Justice and to raise awareness of the CCBE as a partner and key player within the judicial system, for example within the Justice Forum, the European Judicial Network, etc. It would be necessary to also alert the respective institutions to the specific conditions lawyers need to exercise their profession, e.g. deontology rules, independence, etc.

The importance of finding opportunities for funding for such a wide ranging strategy should not be underestimated.

The Steering Committee envisages arranging for a meeting with the European Commission to explain the CCBE's goals with regard to e-Justice and to give feed-back on the European Commission's e-Justice strategy.

### **III. Conclusions:**

This paper aims at informing the delegations about potential further steps to implement the CCBE e-Justice strategy which was adopted at the CCBE Standing Committee on 5 September 2008.

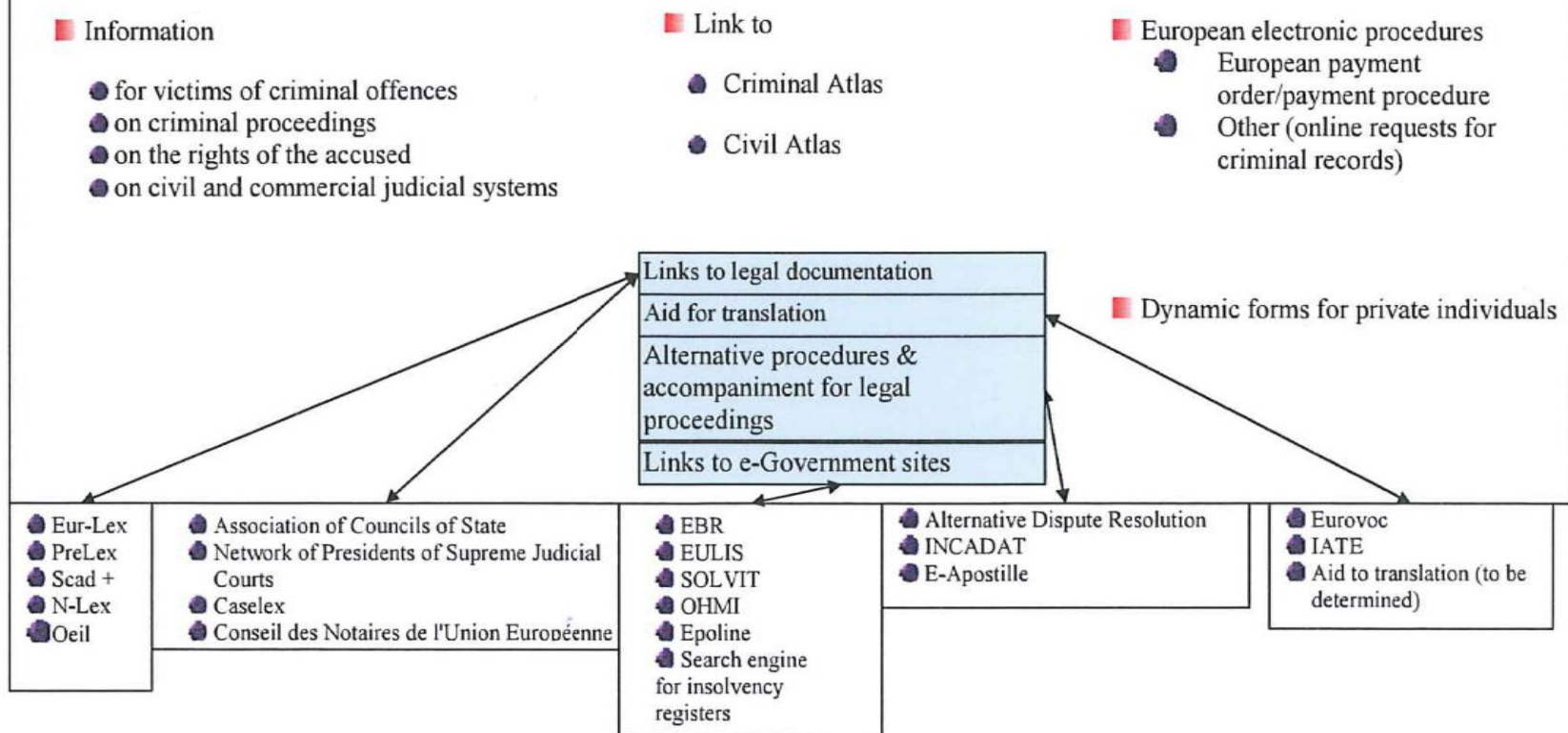
Furthermore, the paper seeks to receive comments and begin a discussion among the delegations with the purpose of adopting this implementation paper.

Last but not least, the paper attempts to raise awareness that e-Justice, due to its decentralised character, has an important impact at national level. CCBE members would need to ensure that their own membership is appropriately alerted and prepared for e-Justice developments to come.

The delegations are asked to approve the continuing approach outlined in this paper.

# e-Justice Portal

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



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