

Council of Bars and Law Societies of Europe (CCBE)
" Online Standing Committee"
Digitalisation of justice
26-03-2021

MADAM PRESIDENT MRS. MARGARETE VON GALEN
Dear Members of the Council
And Members of Bars and Law Societies

LADIES AND GENTLEMEN,

I would like to begin by thanking the invitation to participate in this ONLINE STANDING COMMITTEE of CCBE dedicated to a topic that is of special importance to Portugal: **The digitalisation of justice** [and the use of new innovative technologies], which simultaneously encompasses a set of challenges and opportunities for all justice actors [and sectors].

During few minutes, I would like to share with you some reflections about the digital in Justice and the priorities of the Portuguese Presidency in this matter.

(CONTEXT: THE NEED FOR DIGITAL)

In today's world, the digital is key and almost natural in the way that it is integrated in our day-2-day life as individuals and professionals, but perhaps, it was during this pandemic, that in the public sector, the awareness of its importance was really interiorized.

I don't like to do generalizations - a country, a community, a person - all are different, but there are common patterns when facing a crisis: the needs, expectations, the response in stressful situations... This was exactly what happened during this last year.

How should a government react? How should Europe respond as a collective? How should professionals adapt their work? What are the new needs of citizens and SME's? What are the risks for the most vulnerable? Children, old people, people with no qualifications, people that already have no real access to justice? – 5 billion in 2019, according to an estimate of the World Justice Project.

Also, with the pandemic, another challenge raised, concerning data security and the respect for personal privacy.

During this time our world has been upside down, specially last year, it was much more important to have access online to goods and services than to have concerns about data or information security. Fortunately, we are making a full loop now, and those topics are returning into our priorities.

Those were and still ARE the challenges that must be addressed.

Despite the problems and the lack of certainties in some areas, during this pandemic, it was proved that the resilience and the capacity of adaptation wouldn't have been possible, if the **digital** wasn't already a reality in a large majority of countries, especially in Europe.

And in this path, the joint work of all players of justice ecosystem is, as it was and will continue to be, fundamental, as keystones of the democratic system, where **lawyers** have a very important role preserving, promoting and protecting the Rule of Law and Human Rights.

(PORTUGUESE PRESIDENCY PROMOTING CITIZENSHIP)

Portugal, as you know, is now occupying the Presidency of the Council of the European Union. Under the motto "TIME TO DELIVER: A FAIR, GREEN AND DIGITAL RECOVERY", Portugal seeks to promote the European recovery, its cohesion and values, and consolidate the position of European Union as a leader in climate action, in accelerating digital transformation at the

service of citizens and businesses, in valuing and strengthening the European social model and promoting a Europe open to the world.

In the area of Justice, our priorities encompass the concerns, the challenges and opportunities issued by the Digital but in close connection with the necessary promotion of an inclusive, safe and participatory citizenship, based on fundamental rights and freedoms and the protection of citizens.

Accordingly, the priorities of Justice for the Portuguese Presidency are:

- The protection of vulnerable adults;
- The use of new technologies at the Justice service;
- Counterfeiting in its connection with organised crime.

In close connection with other areas of work in justice, like:

- Judicial cooperation in criminal and civil matters;
- Strengthening and protecting fundamental rights and the Rule of Law;
- Prevention and fight against terrorism, organised crime and cybercrime.

(COMMON PURPOSE: CCBE AND PPEU)

And making the bridge with the work of the COUNCIL OF BARS AND LAW SOCIETIES OF EUROPE (CCBE), in many ways, the Justice priorities for the Portuguese presidency reflects the same concerns that CCBE expresses in many *fora*, namely, the right of access to justice, the digitisation of justice processes, the development of the rule of law and, not less important, the need to increase the transparency and accountability to the rule of law.

Concerning ICT, the common interest to assess the state of the art and how emergent technologies like Artificial Intelligence can help to shape the future, that is something of common interest and where Legal Tech is an important players .

It is therefore our intention to continue to encourage digital transformation in the area of justice [in line with the Commission's Communication on the Digitisation of Justice] and in this way, contribute to greater technological cohesion in judicial cooperation between Member States and to promote interoperability between the different national systems.

(PORTUGAL AS A DIGITALIZATION CHAMPION)

Speaking a little about Portugal, the modernisation of Justice [with special focus on using the potential of digitalisation] is a long-standing goal. For this reason, as I said, we have made e-Justice one of the priorities of the Portuguese Presidency.

Allow me to share some examples, of how we are addressing the concern for a digital Closer Justice.

- The first one is the “Justice **Digital Platform**” which has been, especially since the beginning of the pandemic, a fundamental support in the citizen's contact with Justice, as a one-stop-shop of online services. Related to the **activity of the courts**, for example,
- Is now possible for any citizen, duly authenticated, **to consult their court proceedings online**, (in accordance with the legal rules on publicity), regardless of the
- Other emblematic services made available to citizens are the **electronic judicial certificate** and the **online criminal record**, which allow citizens not only to request online certificates of procedural documents or of their criminal record, but also to consult these certificates online using an access code that can be passed on to any entity, public or private, instead of the paper version.

However, the digital transformation of justice did not focus only in the services provided directly to the citizen. We need to find the right the balance between front and backoffice. In this case, **it was necessary to modernise the operation of the services.**

- The first one, was to adopt/implement the "Digital by default" principle. Today, and with the exception, for the time being, of criminal cases in the pre-trial phases, all cases in Portugal are exclusively electronic cases, in all jurisdictions and all instances.
- Secondly, we developed a new concept for Courts attendance, - Court Plus – with simplified procedures and information flows. Is now available in 267 courts all over the Country;
- Thirdly, we wanted to respond to the needs of our internal users, judges, prosecutors, lawyers.
- For them we are developing, a multidimensional digital interface that will help, all of them, in consulting and organising their cases, as well as for practising acts and interacting with the court registry.
- In the near future, it will be added new tools, that will enable the use of artificial intelligence technologies to, for example, present the judge with legislation or case law applicable to each case.

(E-JUSTICE PRIORITY: PEOPLE CENTRED JUSTICE)

Ladies and gentlemen,

As I said, Digital Transformation is now, more than ever before, of maximum priority. The Portuguese Presidency recognises that on the semester program.

That's why digital solutions must be user-friendly, traceable and neutral. This introduces another very important aspect of the e-Justice priorities: the strengthening of a people-centred e-justice framework for justice services.

In this regard, the Portuguese Presidency will promote (virtually) the High-Level conference on e-Justice "For a people-centred e-Justice", a two days conference, held on the 26 and 27 of April.

During those two days, 76 speakers from various countries and European and International organisations, one of which CCBE, will reflect on the transition to digital justice, the opportunities that emerge from the acceleration of the use of technology, and the challenges that are posed to guarantee the fair access of all citizens to Justice, supported by more effective and user-friendly systems. The conclusions will then be debated, in a post-conference, with the intervention of the civil society, law tech businesses, academia and the justice professionals.

I take the opportunity to invite you all to register and be present. As you will be able to see through the agenda, I'm sure, it will be very interesting for you as professionals and also as citizens.

(E-JUSTICE PRIORITY: INTEROPERABILITY AND E-CODEX)

A last word about the topic of digitalization and the use of ICT, to acknowledge the importance of interoperability, both nationally and cross-border.

During the Presidency, we will continue fostering for technological cohesion and reinforcement of the interoperability between national systems, in particular, through the negotiation of the

Regulation that formally establishes the e-CODEX. Whose proposal was presented by the European Commission on the 2nd of December 2020.

And if e-CODEX is not new, as the project began in 2010, (CCBE is one of the “founders”, among others) it is important to emphasize that the participation of 27 partners, between Member States and other Organizations, and the continuity of the project until today, is the proof that we, generically, agree on the need of a common technological framework: secure, transparent, not intrusive; available to provide a solution for transmission of electronic data in cross-border civil and criminal proceedings in the Union.

The negotiation of the role of EU-Lisa and its future governance, will occupy a large part of our Presidency. We hope that the negotiation will end in an agreement of all EU Member States, because it is of ultimate importance, the achievement of common ways that makes possible the exchange of relevant information, electronically in a direct, interoperable, reliable and safe way.

In the end, “the digital transformation is here to stay”, so we have to be quick and pragmatic in the cross-border solutions, but very aware about the “circle of trust” that must be created.

(THE CHALLENGES OF THE PORTUGUESE PRESIDENCY: ENDNOTE)

We are aware that we have an ambitious agenda for the Portuguese Presidency (and after it). That’s why it is so important to prioritize initiatives that contribute for the acceleration of the digital transition, promoting the European leadership in digital innovation and digital economy.

We can’t forget that with new trends, comes new challenges and if we really want to achieve a Justice for All, we need to find the right balance between the “fast and furious” movement of technology and the sometimes, “slow motion” of behaviours, organizational culture and especially, never forget why and for whom we are working for – the Citizens.

We must reflect on the needed symbiosis between technology, innovation, entrepreneurship, social responsibility with the ability to have a vision that acts beyond immediacy (although necessary), helping to guarantee dignity and opportunity for all. Those are the fundamental ingredients of a principle that is very dear to me: **Law for Good**.

Gerd Leonhard reminds us, in his book “Technology versus Humanity”, that “Civilisations are driven by their technology but defined by their humanity”.

That is the challenge, our challenge: Take advantage of the opportunities offered by technology, although conscious that we cannot leave anyone behind.

Thank you very much.