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DRAFT OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Legal Affairs

with recommendations to the Commission on e-Justice
(2008/2125(INI))

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(Initiative - Rule 39 of the Rules of Procedure)

(*) Associated committees - Rule 47 of the Rules of Procedure

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SUGGESTIONS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

- A. whereas electronic technologies have entered many aspects of our daily life and might be effective in improving the efficiency of domestic and transnational justice, and whereas the European area of justice, freedom and security legal framework should be mirrored in an electronic European virtual dimension where legal texts should be easily understandable, translated and accessible to any interested users, including ordinary citizens, by developing as far as possible on-line interactions,
- B. whereas e-justice has a broad definition including in general the use of electronic technologies applied to justice and whereas this definition covers a number of issues which are not necessarily linked to the concept of e-justice as interpreted by the Commission in its Communication of 30 May 2008 entitled "Towards a European e-Justice Strategy" (COM(2008)0329) and by the Council working group on e-justice,
- C. whereas, as stressed in the CEPEJ (European Commission for the Efficiency of Justice) report on the use of information and communication technologies (ICT) in European judicial systems, the application of electronic technologies to justice does not always have a positive effect and, in order to obtain good results, the action must be carried out in an institutional and strategic way,
- D. whereas the idea of creating an e-justice portal/network is welcome, but care must be taken to ensure that the needs of both EU citizens and EU legal practitioners are addressed and to facilitate access to justice by offering transparent and easy means of accessing information; whereas the relationship between EU citizens and national public authorities should thereby be facilitated, and victims of crimes, suspects and "justice users" in general should be able to benefit from EU-justice tools in their daily lives. At the same time, in order to be really effective, the Portal/network should be inserted as a pilot project in the framework of the Trans-European Networks outlined in Article 154 of the EC Treaty and developed by Interoperability solutions for European public administrations (ISA) (COM(2008)0583),
- E. whereas the objective of creating a European area of justice is to a certain extent slowed down by the small number of judicial authorities who can access EU judicial training, and electronic tools could contribute significantly to disseminating widely a European judicial culture which is the basis of the future European area of justice,
- F. whereas information technology has proved to be an effective tool in tackling transnational crime, as highlighted by the results achieved for instance by the Schengen Information System and its further developments, the use of high technology in preventing and fighting transnational crime should be fully exploited and projects such as the European Criminal Records Information System should receive the widest support, including in financial terms,

- G. whereas the current system of gathering criminal evidence in other Member States is still based on the slow and ineffective instruments offered by mutual assistance in criminal matters, and whereas the use of technological tools such as video-conferencing would be a great step forward in the taking of evidence at distance,
 - H. whereas the creation of a European area of justice does not in principle impinge on the fundamental rights of EU citizens and notably the protection of their personal data, and the implementation of the strategy should be carried out in full compliance with the highest standards of data protection,
 - I. whereas legislative measures aiming at increasing knowledge of the criminal justice systems of the other Member States should go hand in hand with making such knowledge available online,
1. The European Parliament invites the Commission to complement the European area of justice, freedom and security with an area of e-justice by:
 - (a) undertaking concrete action in view of the implementation of the European area of e-justice;
 - (b) clearly identifying matters covered by EU action by, for instance, using a different definition or pre-fixing "e-justice" with "EU": EU e-justice or EU-justice.
 - (c) drafting, together with Parliament, an Action Plan on EU-justice;
 - (d) implementing the e-justice portal/network while addressing the needs of both EU citizens and EU legal practitioners and ensuring that transparent and easy means to access information are available by taking advantage of the Trans-European Networks outlined in Article 154 of the EC Treaty and developed by ISA;
 - (e) making wide use of electronic tools in the development of a European judicial culture;
 - (f) fully exploiting the potential of new technologies for preventing and fighting transnational crime;
 - (g) enhancing, without delay, tools for improving the taking of evidence in other Member States such as video-conferencing;
 - (h) ensuring the full respect of fundamental rights and the highest standards of procedural safeguards in criminal proceedings and data protection while drafting and implementing the Action Plan on EU-justice.

ANNEX TO THE MOTION FOR A RESOLUTION:

DETAILED RECOMMENDATIONS ON THE CONTENT OF THE PROPOSAL REQUESTED

1. (Concrete action for the implementation of the European area of justice) The first step in this direction would of course be providing every judicial authority in the EU with a computer, an email address and an internet connection. It might be obvious but unfortunately it is not: in many cases judicial authorities are not provided with this indispensable supply or, even if they are, they cannot or do not want to use it. This situation must be overcome.
2. (Clearly identifying the scope of e-justice) In order to avoid misunderstandings, it would be appropriate to clearly identify matters covered by EU action by, for instance, using a different definition or adding to the wording e-justice the acronym EU: EU e-justice or EU-justice.
3. (EU-justice Action Plan) In order to avoid fragmentation and to enhance coordination and consistency, the Commission together with the Parliament, should draft a citizens and practitioners-oriented Action Plan on EU-justice proposing a strategy for the best implementation of the European area of justice. From this perspective EU institutions and Member States should loyally cooperate (Article 10 of the EC Treaty) by committing themselves to notifying each other of any relevant information including newly adopted legislation as *mutatis mutandis* happens in the internal market for the exchange of information on national technical regulations. At the same time, notwithstanding that any measure aiming at improving the mutual understanding of the information is welcome, attention must be paid to clearly defining and circumscribing the use of the automatic translation insofar as it might prove to be misleading.
4. (EU-justice portal) The portal should give EU citizens information on the criminal justice system of the Member States, in particular regarding their rights including practical information on what authority to address and how, on how obtain forms, on legal aid, and lists of lawyers able to deal with foreign clients. The portal should also provide legal practitioners with EU legislation and with relevant legislation of the Member States. The websites of the European Judicial Training (EJT), the European Judicial Network (EJN) in civil and commercial matters, the European Judicial Training Network (EJTN) and others already offer much useful information. Nevertheless, this information is fragmentary and not easy to find. Relevant judicial decisions should be made available. All this information should be available online and offline and particular attention must be paid to synchronisation mechanisms offering updated information (RSS-feed).
5. (Judicial training) In order to spread the European judicial culture and in view of reaching as many judicial authorities as possible from the very first moment they join the judiciary, a sort of "survivor kit" in the form of a CD or USB key containing the EU Treaty, the EC Treaty as well as the basic texts on judicial cooperation and information on other Member States' judicial systems should be given to any newly

appointed judicial authority. In addition, electronic training tools offered by the EJTN, which represents judicial training schools all over the EU, should receive adequate attention and support by the Commission and the Council.

6. (Preventing and fighting trans-national crime) So far, the most important application of e-justice in the context of criminal justice is the creation of the European Criminal Records Information System. To be effective, this system needs to be supported by an electronic structure able to inter-connect all national criminal registers¹ which should be put in place without delay. Another relevant application of IT to the area of justice, freedom and security is the Schengen Information System (SIS), a large-scale database enabling the relevant authorities in the Member States to exchange information and cooperate in many ways, including by transmitting, in a secure and extremely fast way, European Arrest Warrants. As reflected in the resolution of the European Parliament of 2 September 2008², Eurojust is a key player in the fight against trans-national crime at EU level. Its coordination action is fundamental to tackling serious crime phenomena which more and more use technological means. Thanks also to its IT innovative data processing system (the E-POC system) the number of cases managed by Eurojust in 2008 reached the threshold of 1000. These examples must be multiplied and funded with EU financial resources.
7. (Videoconferencing) The use of videoconferences in the context of criminal proceedings in certain Member States is quite common. It allows gathering evidence by taking the statements of accused persons, witnesses or experts in their physical absence at the same time allowing providing adequate protection to those needing protection. The 2000 European Convention on Mutual Assistance in Criminal Matters provides for rules on the hearing of witnesses, accused persons and experts by videoconference. It has now been ratified by 24 Member States. The European Parliament calls on Member States to complete the ratification process as soon as possible. No statistics are yet available on the practical application of videoconferences. Still it seems that videoconferencing is not fully exploited, one of the reasons being the lack of the necessary electronic support. This support must be delivered as soon as possible.
8. (Respecting fundamental rights). Any technological progress is welcome insofar as it does not jeopardise fundamental rights. Bearing this in mind, in drafting and implementing the strategy and the Action Plan, strong attention must be devoted to the respect of fundamental rights and notably of procedural safeguards and data protection, giving EU citizens the right to access the information stored and shared by the relevant authorities and informing them on the available remedies.

¹ The LIBE Committee supports this project and hopes it will be put in place taking into account the opinion it delivered on the ECRIS proposal on 15 September 2008

² European Parliament legislative resolution of 2 September 2008 on the initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden with a view to adopting a Council Decision on the strengthening of Eurojust and amending Decision 2002/187/JHA (P6_TA(2008)0384).