



Digitalisation of cross-border judicial procedures

DIGITAL CROSS-BORDER COOPERATION IN CRIMINAL JUSTICE

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I. Why digitalisation?

The context

- **The need for secure electronic communication in the justice field is one of the identified political priorities in the area of justice**
- **Part of the Council e-Justice Strategy and Action Plan 2019-2023**
- **Strong link to e-Government activities and the Digital Single Market**
- **The Tallinn ministerial declaration: signed on 6 October 2017 by all EU and EFTA countries – demonstrates a univocal political commitment**

The Tallinn ministerial declaration

*For the principles of **digital-by-default, inclusiveness and accessibility, we will:***

- ensure that European citizens and businesses may interact digitally with public administration, if they choose to do so and whenever feasible and appropriate from a cost benefit and user-centricity perspective;*
- work to ensure the consistent quality of user experience in digital public services...;*
- work to increase the readiness of European citizens and businesses to interact digitally with the public administrations.*

Secure electronic communication – why does it matter?

- **The overall objective of digitalising the workflows in the judicial field is to increase efficiency, reduce costs and facilitate access to justice**
- **Complexity is one of the barriers to the functioning of many cross-border instruments**
- **Digital services are nowadays ubiquitous**
- **Almost any paper-based workflow, regardless of the legal instrument, can be digitalised**

Secure electronic communication – considerations

- **Diverse national e-Justice solutions - subsidiarity**
- **Need for technical (and legal/semantic) interoperability**
- **Interoperable electronic trust services – e-Signatures, e-Identity – mutual legal recognition**
- **Identification of practical barriers – e.g. competence, recipient, statutory fees...**
- **Engagement of all relevant actors – citizens, authorities, private sector actors**
- **Legal certainty**
- **Security**
- **Data protection**

Secure electronic communication – key ingredients

- Legal admissibility of electronic exchanges
- **Well-defined workflows and requirements**
- **Structured data on the basis of business information – schemas definition**
- **Secure and interoperable cross-border digital infrastructure (gateways and business connectors)**
- National back-end IT solutions (e.g. CMS)
- Legal requirements with respect to electronic signatures, identity, proof of delivery, timestamping, archiving...
- Determination of competence, recipient and routing
- Semantic interoperability (as applicable)
- Determination and payment of fees (as applicable)

e-CODEX

- **A Large Scale Pilot project co-funded by the EU**
- **Already piloting by several MS - electronic exchanges of several instruments in the area of civil law – EPO and ESCP**
- **The Commission will soon launch an access point on the European e-Justice Portal**
- **Other initiatives such as BRIS, e-Evidence (MLA/EIO exchanges) use e-CODEX technology**
- **Aim: to become the *de facto* platform for future cross-border electronic communication**
- **Need to ensure e-CODEX's long-term sustainability**

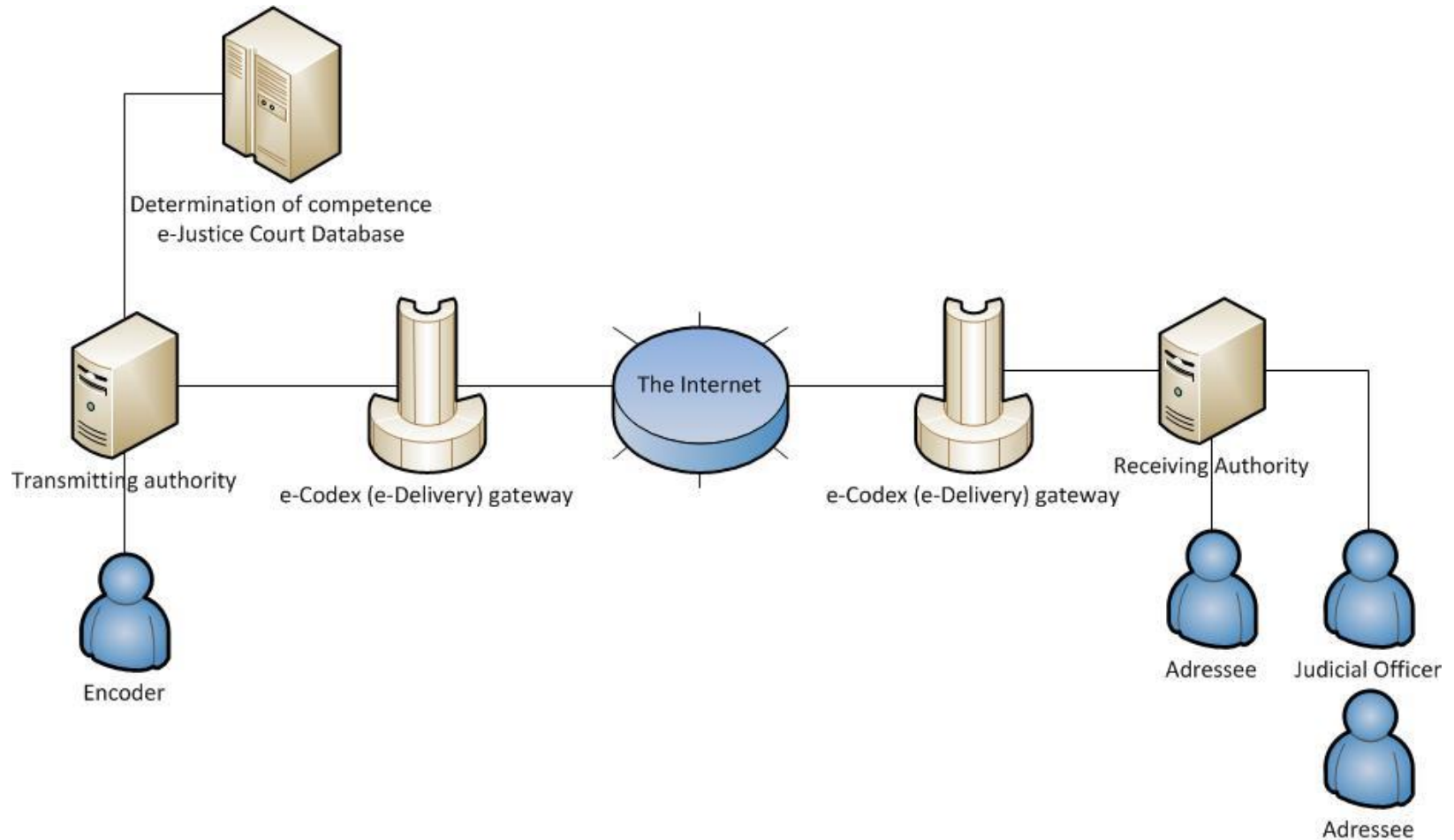
e-CODEX (cont'ed)

- **Provides:**
 - **Secure content-agnostic infrastructure (“Gateways”/“Access Points”)**
 - **Develops the domain-specific connector software – provides horizontal bespoke services**
 - **Definition of the security policy at the gateway 2 gateway level**
 - **Elaborates the digital workflows per case**
 - **Defines the common XML schemas necessary for technical interoperability**
 - **Support**



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Sample workflow



e-IDAS

- **Regulation (EU) 910/2014 of 23 July 2014, aka the “e-IDAS Regulation”**
- **Defines the concept of trust services and regulates cross-border recognition aspects**
- **Coverage:**
 - **Electronic Identification**
 - **Qualified Trust Services**
 - **e-Signatures / e-Seals**
 - **Electronic Time Stamps**
 - **Electronic registered delivery services**
 - **Website authentication**
 - **Electronic Documents**
- **Makes clear distinction between electronic signatures and electronic seals**

e-IDAS (cont'ed)

- **e-IDAS is an important milestone which lays down a much needed legal framework for cross-border electronic services and provides legal certainty regarding mutual recognition**
- **However, e-IDAS does not:**
 - **Define which trust services should be used in what sector or context**
 - **Answer the question – what level of assurance is required for electronic signatures in a particular sector or use case. E.g. “Shall we require Advanced vs Qualified electronic signatures for the Service of documents Regulation?”**

II.A The e-CODEX Access Point on the European e-Justice Portal

- **E-CODEX is a decentralised system, interconnecting national solutions. However, an European Access Point is being developed on the e-Justice Portal as well**
- **Support for the European Payment Order and the European Small Claims procedure (voluntary basis):**
 - **European Small Claims: AT, CZ, MT, PL, PT and EL**
 - **Payment Order: DE, AT, IT, EL, MT, EE, CZ, PL and PT**
- **A mailbox-like experience – users can initiate, receive court replies and track correspondence on the basis of the standard forms of the Regulations**
- **A technical tool (the DSS applet) has been developed to facilitate the technical use of electronic signatures**
- **Go live in planned for 2020**



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FORM STEPS

Step 1

Step 2

Step 3

Step 4

Step 5

Step 6

Step 7

Step 8

Step 9

Step 10

Step 11

Step 12

Step 13

Sign using a card

Which certificate do you want to use for signing?

Certificate(s) on this computer:

Bogdan Dumitriu (Authentication)

Foreigner CA, <http://repository.eid.belgium.be/> (BE)

An electronic signature produced with this certificate may not meet the minimal criteria required by the court [Why not?](#)

Bogdan Dumitriu (Signature)

Foreigner CA, <http://repository.eid.belgium.be/> (BE)

An electronic signature produced with this certificate may not meet the minimal criteria required by the court [Why not?](#)




Step 1 Step 2 Step 3 Step 4 Step 5 Step 6 Step 7 Step 8 Step 9 Step 10 Step 11 Step 12  Step 13 

You can save a form you are working on as a draft.
Load a saved form later to complete it.



How do you want to sign your document?

Please select one of the following options.

- Sign using a card 
- Sign using a third party application or service 
- Sign using an online service 

Sign using your mobile phone (only for holders of an Austrian Bürgerkarte)

Choose this option if you have an Austrian Bürgerkarte and you want to use your mobile phone to sign the document. You will be redirected to the A-Trust website for signing.





Advanced options

- Sign using a certificate stored in the Windows operating system
Use this option to sign your document with a certificate stored in the Windows operating system certificate store.
You must have Java installed to use this option
- Sign using a certificate file (.p12)
Use this option if your certificate is stored in a .p12 file located on your hard drive or on a USB key.
You must have Java installed to use this option


My submissions


This page shows all the claims you submitted, their status and, where available, the replies you received from the court(s).

All messages (99) Filter ▼

 EPO Form A to CTP, 25/11/2019, testing release Bogdan-003 European Payment Order Case Number: 345/2019 25/11/2019 10:43 Received from court: Form C
 EPO Form A to CTP, 25/10/2019, testing Bogdan's build European Payment Order Case Number: D/2019 18/11/2019 19:00 Received from court: Form D
 SC Form A to CTP, 13/11/2019, testing encoding of field 7.5 European Small Claims Case Number: B/2019 18/11/2019 18:54 Received from court: Form B
 EPO Form A to CTP, 12/11/2019, attempt 1 European Payment Order Case Number: FFL/2019 18/11/2019 18:50

EPO Form A to CTP, 25/11/2019, testing release Bogdan-003 Case Number: 345/2019


 Load received Form C to accept or refuse the court's proposal

 Send a letter to the court  Withdraw case

25/11/2019 10:43

The court replied to your claim.

- **If you received Form B from the court**, you are asked to resubmit Form A corrected according to the court's instructions. A convenient way to do this is to use the [Prepare a new submission based on this one](#) link available next to your original submission and ensure to add the case number allocated by the court (you can normally find this in the Form B you received).
- **If you received Form C from the court**, as the European e-Justice Portal does not yet support electronic submission of Form C, you need to continue the procedure by post.
- **If you received Form D from the court**, your application for an European Order for Payment was rejected.
- **If you received Form G from the court**, the European Order for Payment issued based on your claim was declared enforceable.


 The court sent you a "Form C - European Payment Order"
25/11/2019 10:43 [Received from court](#)

 You sent a "Form A - European Payment Order" to the court
25/11/2019 10:32 [Delivered to court](#)

[Details](#)



 The court sent you a "Form C - European Payment Order"

25/11/2019 10:43 [Received from court](#)

 [Form C](#) - Download raw data: [XML](#)


 [Report on the court's e-Signature](#) - Download raw data: [XML](#)

 [Save all files as a ZIP archive](#)

 You sent a "Form A - European Payment Order" to the court 

25/11/2019 10:32 [Delivered to court](#)


- [The gateway of the European Commission accepted the submission 25/11/2019 10:33](#)
- [The gateway of the Member State accepted the submission 25/11/2019 10:34](#)
- [The submission was delivered to the Member State's case management system 25/11/2019 10:35](#)
- [The court staff in the Member State retrieved the submission 25/11/2019 10:35](#)

 [Form A](#) - Download raw data: [XML](#)

Files attached to your claim:

 [Adobe XML Forms Samples.pdf](#)

 [sample1.pdf](#)

 [Save all files as a ZIP archive](#)

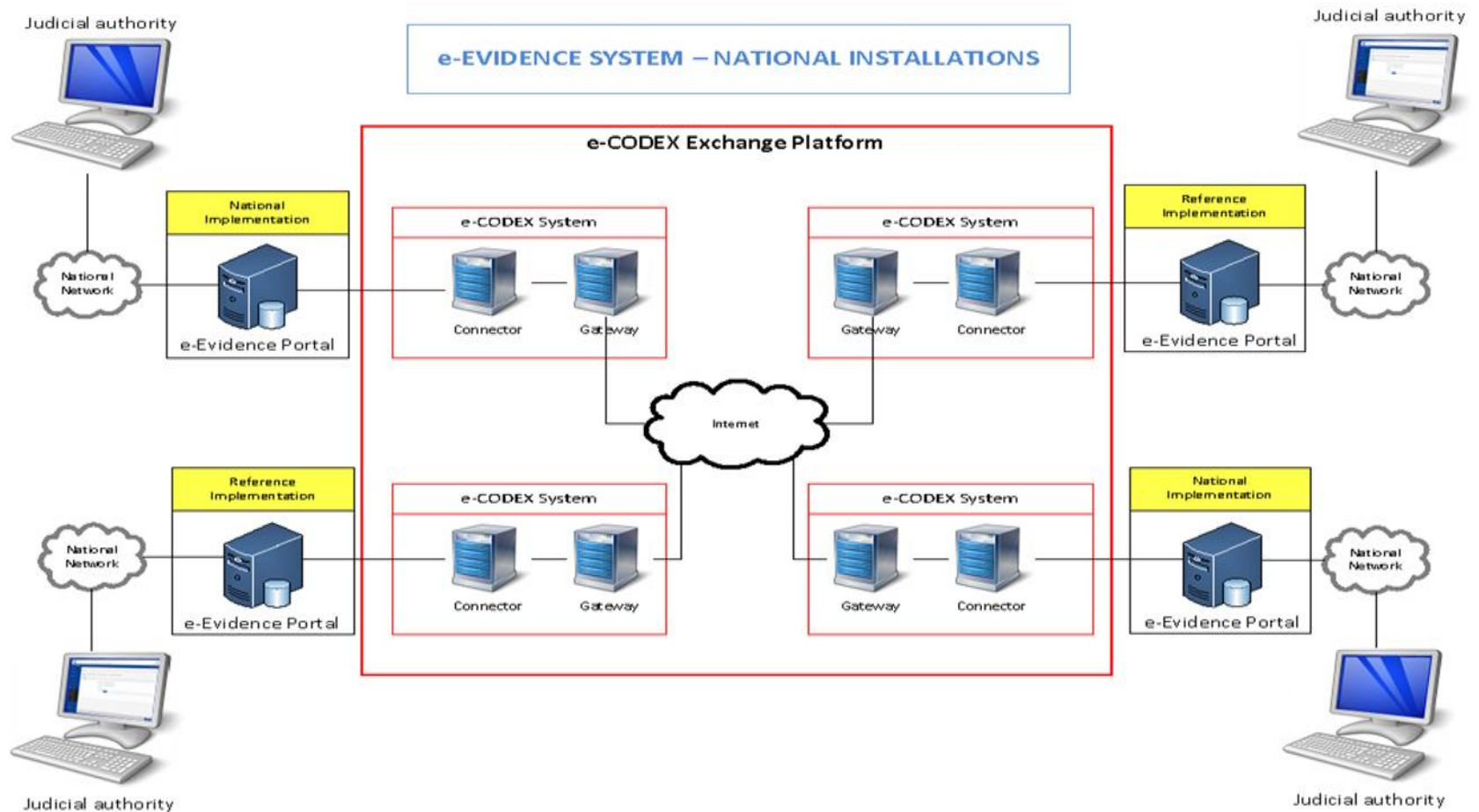
II.B e-Evidence Digital Exchange System

- [Council Conclusion June 9, 2016;](#)
- *EIO Directive 2014/41/EU:*
 - En: European Investigation Order in Criminal Matters
 - De: Europäische Ermittlungsanordnung in Strafsachen
 - Ro: Ordinul european de anchetă în materie penală
- MLA instruments;
- Secure online portal for electronic requests and responses concerning e-evidence.



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e-EDES - Architecture



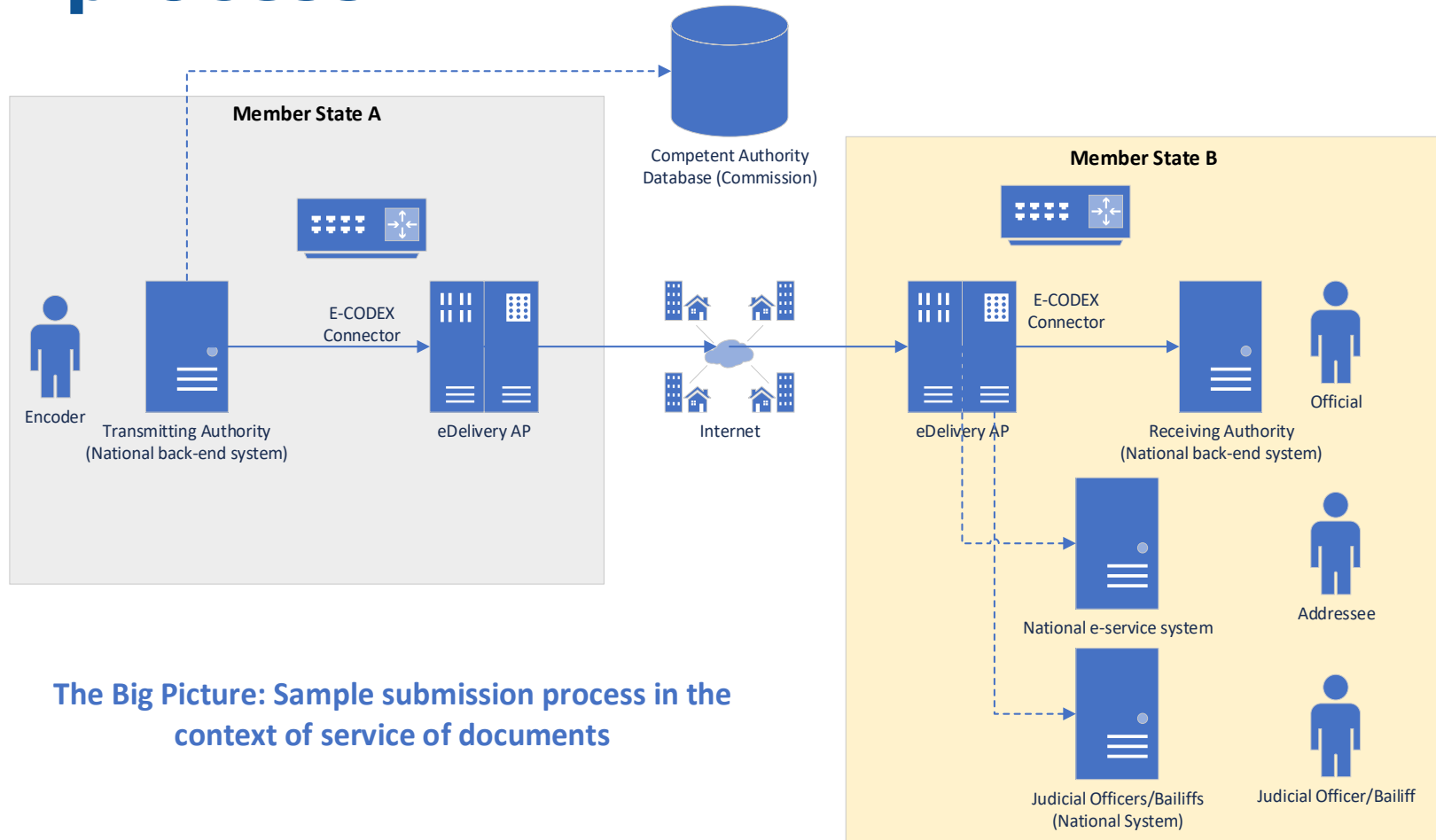
II.C Service of Documents / Taking of Evidence

- *General approach adopted at JHA Council on 3 December 2019*
- *Article 3a:*
 - *Documents to be served ... between the transmitting agencies and receiving agencies, between those agencies and the central bodies, or between the central bodies of the different Member States **shall be transmitted through a decentralised IT system***
- *Article 18b:*
 - *Implementing acts on "the technical specification defining the methods of communication by electronic means for the purpose of the decentralised IT system"*



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Service of Documents: submission process



The Big Picture: Sample submission process in the context of service of documents

II.D Future procedures

- *European Arrest Warrant*
- *Framework Decision 909 on custodial sentences*
- *European Account Preservation Order*
- *... and others...*

In conclusion

- **Digitalisation in the area of judicial proceedings is a *de facto* imperative in the modern world and in view of the expectations of Europe's citizens**
- **Cross-border electronic communication has inherent benefits (faster, easier, more efficient) and can address some of the practical barriers faced by users today**
- **The right place to start is to consider digital implications during the law making process ("digital-by-default") – a missed opportunity may result in a decade of delays**
- **The technology is already here, but expert work is required to digitalise each procedure**
- **IT solutions take time to implement, especially in a the EU context with 28 Member States**
- **Without prejudice to future Annual Work Programmes, related activities will likely be eligible for EU co-funding**



Thank you for your attention.

European e-Justice Portal

<https://e-justice.europa.eu>

