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Towards more Effective
enFORcemenT of claimS
in civil and commercial
matters within the EU
EFFORTS



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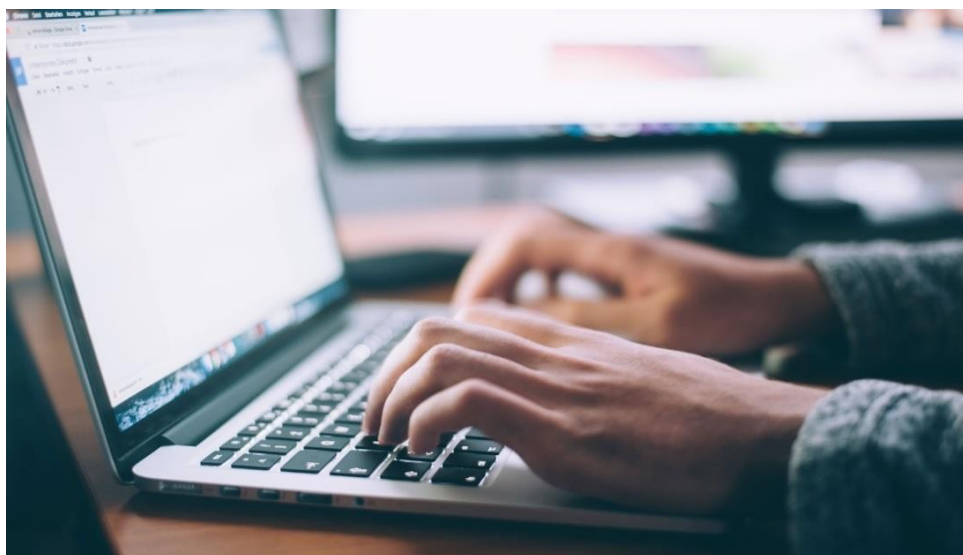
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Deliverable D 3.17

Report on the Digitalization of the Enforcement Procedures and of Cross-border Cooperation

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1. Background to the EFFORTS Project

EFFORTS investigates the interplay of European regulations and national rules of civil procedural law in civil and commercial matters with a view to assessing the interaction of the EU Regulations on the recognition and enforcement of judgments with national legislation.

It is conducted by academic institutions from various EU-Member States and co-funded by the European Commission (<https://efforts.unimi.it>). Through practice driven research, EFFORTS will address the following target groups (i) individuals involved in the application of the relevant Regulations and related MSs implementing rules, i.e. lawyers, judges, enforcement agents, (ii) national and EU policy-makers, who will be able to avail themselves of the policy recommendations drafted within the Project, and (iii) the end-users of said rules, i.e., individuals and undertakings who will benefit from the increased awareness of those rules among the relevant operators, as well as from any improvement in the state of play of national rules.

The Member States targeted by EFFORTS have been chosen by virtue of (i) the intensity of trade and services between said MSs, and (ii) their (differently) consolidated experience in implementation of EU rules. As to (i), according to Eurostat, 2017 Comext table DS-057009, Germany is the largest partner for Italy, Lithuania and Croatia, and it is the 2nd largest for Belgium. The same statistics also show a strong connection among France, Luxembourg, Germany and Belgium. As to (ii), Germany is the MS which most systematically enacts implementing rules for EU Regulations on cross-border matters and consequently the most suitable to be taken as a model for MSs which still lack (or almost lack) specific implementing rules, such as Italy, Belgium, Croatia, France, Lithuania and Luxembourg. Moreover, such MSs differ as for the duration of their EU membership (Croatia joined the EU in 2013 and Lithuania in 2004), in size, population and GDPs (cp Eurostat); therefore, they offer a broad and diverse range of needs and experiences when it comes to applying the relevant Regulations.

The Brussels Ia Regulation (BxI-a), and the Regulations on the European Enforcement Order (EEO), the European Small Claims Procedure (ESCP), the European Payment Order (EPO) and the European Account Preservation Order (EAPO) are directly connected to the free movement of goods, persons, services and capital. By providing uniform rules on the recognition and enforcement of decisions in civil matters, and by introducing EU uniform



procedures leading to decisions enforceable in all Member States (MSs), they aim at facilitating the cross-border enforcement of civil and commercial claims in the EU. The enforcement procedures, however, are still governed by domestic MSs laws. This leads to fragmentation and inconsistency in the law: the different EU-instruments are horizontally coherent as they refer vertically to the different enforcement laws of the (current) 28 MSs.

The Reports of a Consortium of EU Universities led by MPI-Lux and comprising UHeid JUST/2014/RCON/PR/CIVI/0082 (preceded by a Study conducted by UHeid in 2002, JAI/A3/2002/02) has identified several defects and divergences in MSs legislations which impair the effectiveness of the mentioned EU rules. That is further confirmed by the 2014 Report on the enforcement of court decisions in Europe drafted by the European Commission for the Efficiency of Justice. The 2010 Special Eurobarometer 351, Civil Justice Report, had previously showed that

- (i) in cross-border cases 48% of the respondents found that identifying the law enforcement competent authorities was the main difficulty, followed by language comprehension (40%) and proceedings costs (35%),
- (ii) the percentage of awareness of the EU's uniform procedures was limited and their use was very low.

Digitalization

EFFORTS shall draft a Report on the state of the art of the digitalization of enforcement procedures at a national level relating to cross-border enforcement of claims. This report shall envisage possible technical instruments and legislative amendments to implement such digitalization.

For this reason, a questionnaire was developed by VUB University, in cooperation with the University of Milan (Coordinator of the EFFORTS Project) and the Max Planck Institute Luxembourg. The questionnaire is targeting relevant stakeholders in the field of cross-border enforcement of claims with the objective to collect quantitative and qualitative data on the digitalization of cross-border debt collection. This objective is twofold. First, it aims at assessing the state of the art in the digitalization of civil procedures at a national level, evaluating the level of digitalization of the various procedures that are left to the national laws to regulate. Second, it aims at envisaging possible legislative amendments, at a European level, in order to take a step forward towards the digitalization of civil procedures.

Digitalization of civil procedures aims at implementing digital means relating to all procedural activities, from the commencement of civil proceedings to enforcement of claims, replacing the current material activities or enhancing existing digital procedures. At the core of the digitalization process of civil proceedings are: (i) the efficiency of the procedures, regarding both time and costs; (ii) access to justice; (iii) security, reliability and data protection; (iv) resiliency to *force majeure* circumstances (e.g., COVID-19 pandemic).

Important steps of the digitalization process at a European level are the Regulation 2020/1784 on the service of documents, and the Regulation 2020/1783 on taking of evidence, aiming at providing "simpler, streamlined and digitalised procedures" concerning service of judicial and extrajudicial documents and cooperation between the Member State courts in relation to the taking of evidence in civil or commercial matters.



Recently, in the context of cross-border enforcement of claims within the EU, the Commission has put forth the principle of “digital by default” [1] in the Proposal of Regulation on the digitalization of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation [2], relating to cross-border communication and document exchange between courts and competent national authorities. It shall, “improve the efficiency and resilience of communication, reduce costs and administrative burden, by making the digital channel of communication the preferred one to be used” [3]. However, the use of the digital channel for the communication between courts and natural and legal persons shall remain voluntary.

The questionnaire enabled judges, lawyers, legal practitioners, enforcement agents, stakeholders and consumer associations to freely express their concerns and issues regarding the EFFORTS Regulations. Therefore, the EFFORTS project partners will be able to analyse the implementation of these procedural means.

2. EXECUTIVE SUMMARY

In line with the EFFORTS project's objectives in evaluating the implementation of the Regulations and disseminating the knowledge about these procedures among users, the approved questionnaire was carried out by VUB University in cooperation with the University of Milan (Coordinator of the EFFORTS Project) and the Max Planck Institute Luxembourg.

This EFFORTS project's Deliverable provides a report on findings, based on the questionnaire collected from judges, lawyers, scholars, enforcement agents and consumer associations. The aim of this questionnaire was to obtain accurate information on the EFFORTS Regulations implementation in the selected national jurisdictions, as well as disseminating the knowledge about these Procedures among the targeted categories.

For that purpose, the questionnaire was distributed among the potential users. The partners also contacted various stakeholders specifically professionals, who are familiar with the Efforts Regulations and obtained their collaboration in filling the questionnaires out.

This report on the state of the art of the digitalization of enforcement procedures at a national level relating to cross-border enforcement of claims shall envisage possible legislative amendments to implement such digitalization.

The questionnaire is targeting relevant stakeholders in the field of cross-border enforcement of claims with the objective to collect quantitative and qualitative data on the digitalization of

[1] *Communication from the Commission to the European parliament, the Council, the European economic and social committee and the Committee of the regions. Digitalisation of justice in the European Union. A toolbox of opportunities*, 2.12.2020, COM(2020) 710 final.

[2] *Proposal for a Regulation on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation*, 1.12.2021, COM(2021) 759 final (“*Proposal of Regulation on the digitalisation of judicial cooperation*”). See also *Impact assessment report - Proposal for a Regulation on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial, criminal matters*, 1.12.2021, SWD(2021) 392 final.

[3] *Commission Proposal for a Directive of the European parliament and of the Council as regards digitalization of judicial cooperation*, 1.12.2021, COM(2021) 760 final.



cross-border debt collection. This objective is twofold. First, it aims at assessing the state of the art in the digitalization of civil procedures at a national level, evaluating the level of digitalization of the various procedures that are left to the national laws to regulate. Second, it aims at envisaging possible legislative amendments, at a European level, in order to take a step forward towards the digitalization of civil procedures.

The total number of questionnaires returned by legal experts is 54.

3. METHODOLOGY

To develop this Report, in accordance with the EFFORTS project's Grant Agreement, the VUB University prepared, in cooperation with UNIMI and MPI Luxembourg, and distributed among Partners a questionnaire between April and May 2022, to judges, lawyers, stakeholders and consumer associations who dealt with the EFFORTS Procedures.

The questionnaire included essential information regarding compliance with GDPR rules and regulation. Given that, before answering the questions, the addressee was expressly informed about:

- **Consent:** the addressee was expressly asked if s/he is willing to take part in the questionnaire. The purpose of the project was explained, under the section of '*Consent to Personal Data Proceeding*'. Moreover, all the essential information regarding the Contact Person, Data Processor and Data Protection Officer (DPO) was explicitly provided for the addressee in this section of the questionnaire.

- **Confidentiality:** under the section of '*Consent to Personal Data Proceeding*' the addressee was informed about the limited use of his/her data, namely only by the Consortium partners. It was also mentioned that the access to the questionnaires data is only given to the relevant employees of the data processors as well as the EU Commission (for the purposes of implementing, managing and monitoring the EFFORTS Grant Agreement or protecting the financial interests of the EU or Euratom).

Applicable law: The addressee was informed about the specific applicable law to the questionnaire.

Therefore, after the addressee is consented to the above-mentioned elements, s/he may proceed with the rest of the questionnaire.

To provide more information to the digitalization of EFFORTS procedures, it was organized a conference in Brussels from VUB University the 7th and 8th October 2022.

Template



The questionnaire template (as to the EFFORTS Deliverable 3.17) was carefully designed by the drafters to entail all the information for the project, such as the implementation of the EFFORTS Regulations in the Member States, how the information about the Procedure is distributed in the Member State, what are the available means for people to attain information about the EFFORTS Regulations and to what extent the procedure has met the expectations of the addressees etc.

Consequently, all the questions are intended to solicit key information, useful for an efficient implementation of the Brussels Ibis, EEO, EPO, ESCP and EAPO in the Member States and to disseminate knowledge about them among the EU citizens.

The questionnaire was exclusively carried out using the Microsoft forms and in compliance with the Microsoft terms and conditions (which the addressee consented to) and completed as a written questionnaire.

The stakeholders that participated in the questionnaire, are among lawyers, judges and legal experts who deal/dealt with the EFFORTS Procedures at some point within their career.

Regarding the present Report on findings of the data collection and analysis, the Consortium can attain accurate information about the progress in implementing the EFFORTS Regulations in the selected Member States as well as understand the level of knowledge about this Procedure among consumers, stakeholders and consumer associations at different levels.

The results of the finding of the questionnaires now converge into this Deliverable document to contribute towards the development of the EFFORTS project purposes and materials.

4. QUESTIONNAIRE ANSWERS: ANALYSIS

a. EFFORTS Questionnaire for EU experts

Legal experts were asked to answer the following questions regarding the knowledge and implementation of the Efforts Regulations. The collected data resulted from responses to the questions are presented below. Some questions were merged since they are the specification of the previous.

Questions 1-2

Legal experts' awareness of the EFFORTS Procedures

In response to the questions 1-3, targeting the professional experience of the Efforts Procedures, the charts below contain information regarding percentages of responses to awareness about the Brussels Ibis Procedure Regulation (EU) No 1215/2012, the Regulation (EC) No. 805/2004 on the Enforcement of Uncontested Claims (EEO), the European Order for Payment (EOP) Regulation (EC) No. 1896/2006, the European Small Claims (ESCP) Regulation (EC) No. 861/2007 and the European Account Preservation Order (EAPO) Regulation (EU) No. 655/2014. Prior to this information, respondents specified their own professional occupation (questions 1-2).



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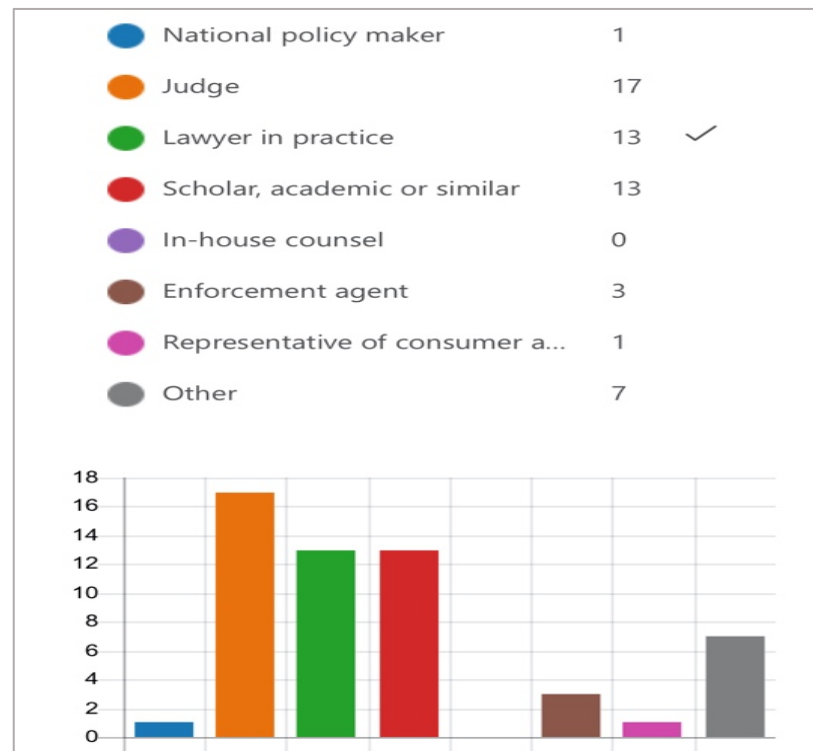


Figure 1.

Question 3

‘Please indicate if you have professional experience in cross-border enforcement of claims’

In assessing the level of legal experts’ knowledge of the EFFORTS Regulation, about 38% of the respondents answered “Brussels Ibis” to this question. About 23% of the legal experts answered “EEO”, about 32% of the legal experts answered “EPO”, only less than 15 percentage of targeted legal experts were aware of the EAPOR, which compared to most respondents who are familiar with the other Procedures, is considerably low.



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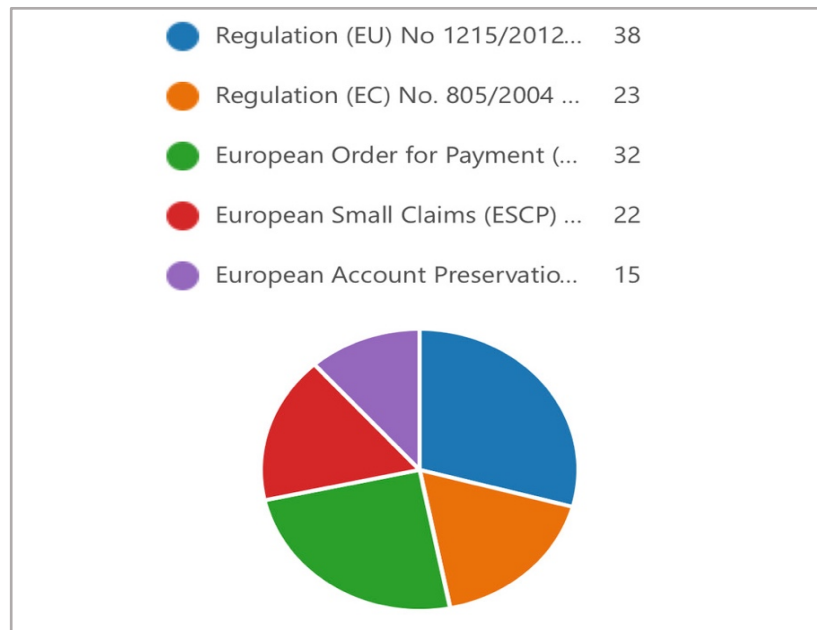


Figure 2.

Questions 4-5

'How do you file a claim?'

According to the pie chart, only 42% of the respondents are familiar with the digitalization of claims, because they have already used this procedure. About 31% have answered their knowledge of the material claim, due to the factor that they only heard about it. The rest of the pie chart, 28%, was not aware of it.

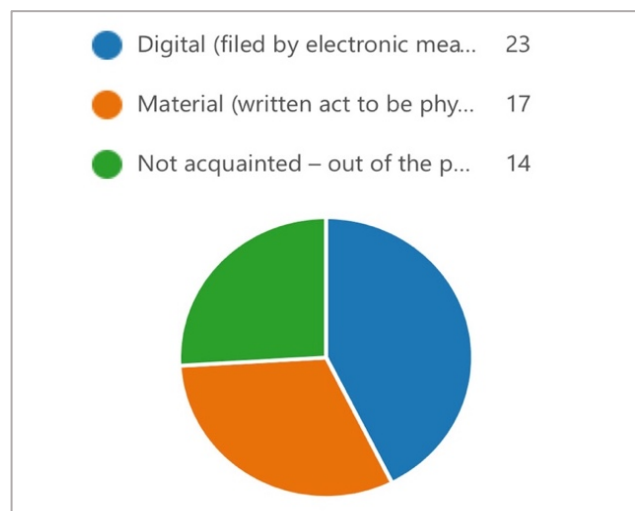


Figure 3.



Questions 6-7

‘How do you file an application for certification or its modification/withdrawal (e.g. certification under Art. 54 Reg. 1215/2012; EEO certificate; certificate under Art. 20(2) Reg. (EC)861/2007; etc.)?’

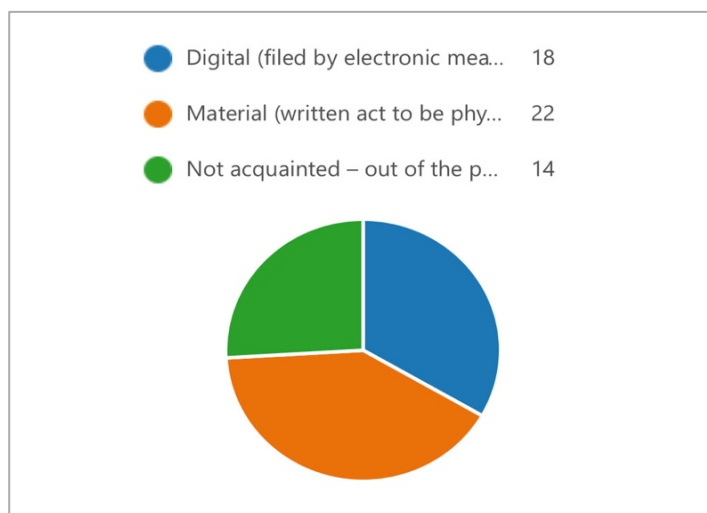


Figure 4.

Almost 33% of the respondents have no information about how to file a certification or its modification/withdrawal, while 44% know how to file a digital claim, in particular for a payment order.

It was also specified that in Belgium, no European claim is filled in digitally. Via e-Deposit, can electronically be filed letters, pleadings, bundles of documents and pleadings in the correct document for the relevant court. Legal experts and translators/interpreters can also use e-Deposit for electronic filing of documents.

In Slovenia, some courts use digital for the orders of payments, but if some courts do not have eJustice system, they are obliged to use the material way.

Questions 8-9

‘Service of documents on natural or legal persons (in case service falls under the scope of national rules)’

Considering the 45 % of the respondents answering ‘material’ to this question and the 33 % answered ‘digital’ and only 22 % know about the service of documents. In enforcement proceedings documents can be served either electronically or in paper form, in litigious and non-litigious proceedings only in paper form.



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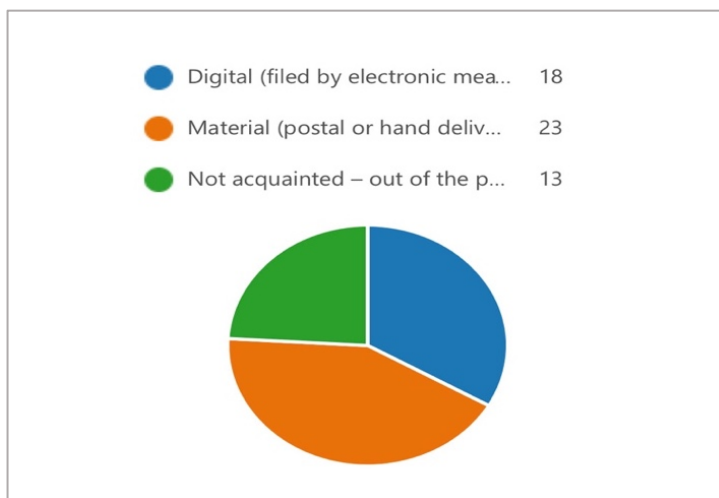


Figure 5.

Questions 10 – 12

‘Hearings’

Some respondents, about 14% of them, replied that digital hearings have been allowed according to the emergency provisions regarding the containment of Covid-19 (extended until the end of 2022). Judges have more and more used possibilities for videoconference hearings already provided for earlier. For ESCP hearings are not often held. They are occasionally held at the request of the parties who motivate the request at times according to Article 6 ECHR. In practice, the Dutch courts seek to keep the procedure in a written format given the aim of the ESCP Regulation. About 66% of the rest of the other respondents confirmed that physical hearings are still the rule.

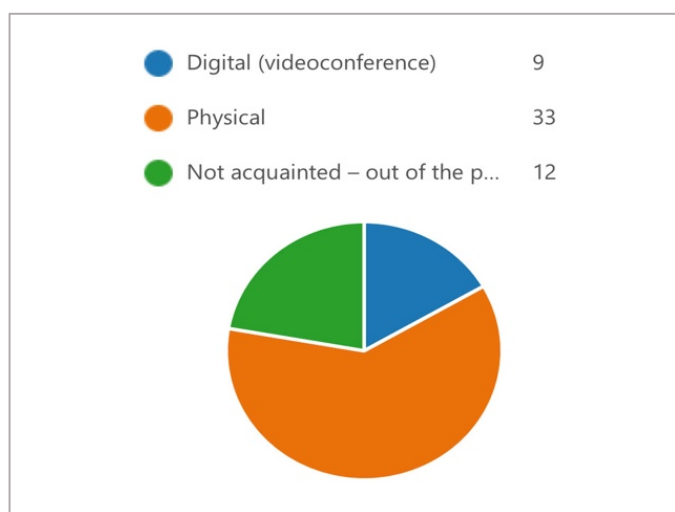


Figure 6.



Questions 13-14

‘Communications between courts or enforcement authorities and parties represented by a lawyer’

Considering the 60% of answers, all claims and objections raised in enforcement proceedings can be lodged either in electronic form. The same applies for service of documents within enforcement proceedings. It was also underlined that sometimes the execution copy of the title is demanded on paper.

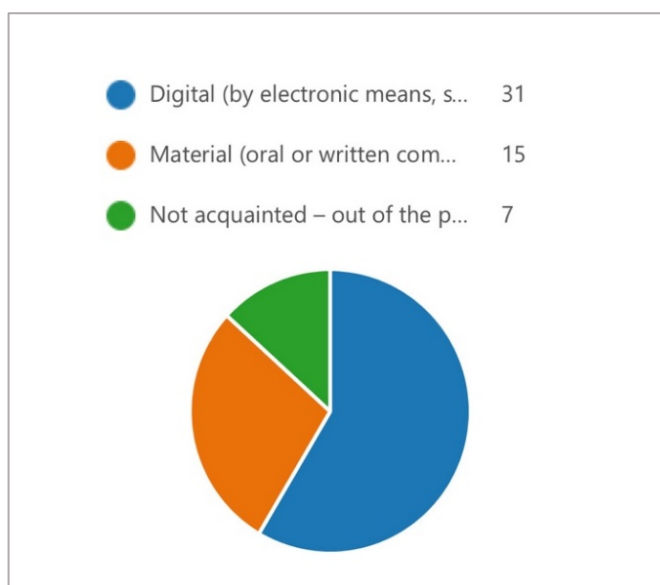


Figure 7.

Question 15-16

‘Communications between enforcement authorities and the parties’

The majority (46%) of the responses mentioned that all the communications between bailiffs are digital.



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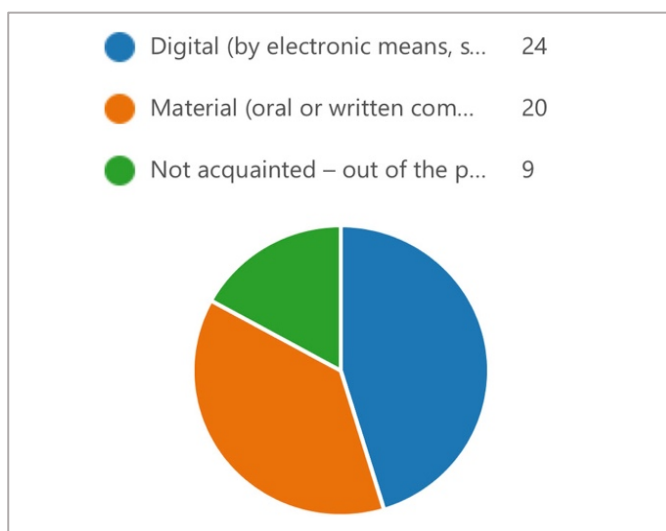


Figure 8.

Questions 17-18

‘How would you evaluate the level of digitalization of civil proceedings relating to cross-border enforcement at national level?’

The 45% of responses indicated that the level of digitalization of civil proceedings relating to cross-border enforcement at national level is poor. Only the 11% answered it is excellent.

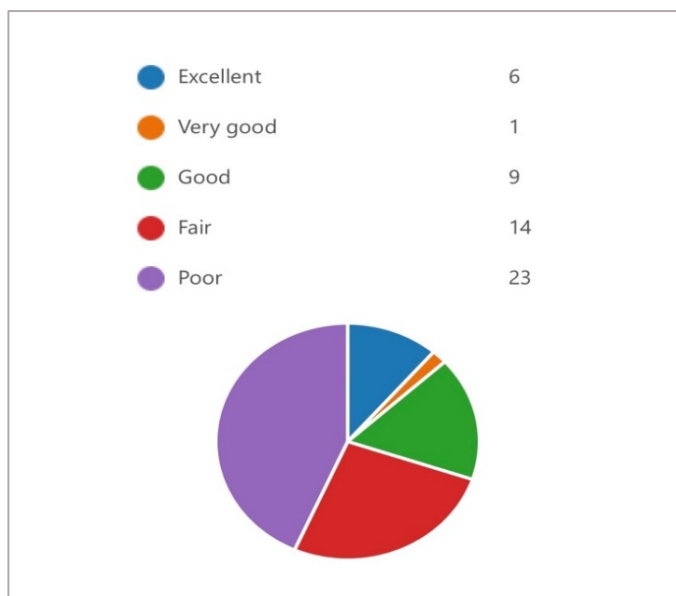


Figure 9.



Questions 19-20

‘Are there any downsides in the process of digitalization of civil proceedings that the national legislator should take into account?’

The legislator should consider the “digital divide”. A consumer organization, who help consumers that do not feel comfortable with the digital world, not only because of their age, but also because of the lack of the awareness.

There are also some difficulties with the languages. If you need to communicate with a bailiff of another country,

“I still need to write in French to a French bailiff in order to have an EPO from Germany enforced in France and I have to consult a website which is only in French in order to find a bailiff admitted in that Department”.

On the other hand, other respondents underlined: “The digitalization could potentially lead to major problems for the digitally disadvantaged. Courts' and Tribunals' websites should be designed to guide the lay visitors. Litigants should receive assistance in accessing the internet through pro-active helpdesks spread over the territory especially when they are entitled to self-representation”.

In Greece, every court decision must be recorded in a document. There are infrastructure and connection problems. In the Court of First Instance of Thessaloniki there are only 4 computers for about 70 judges.

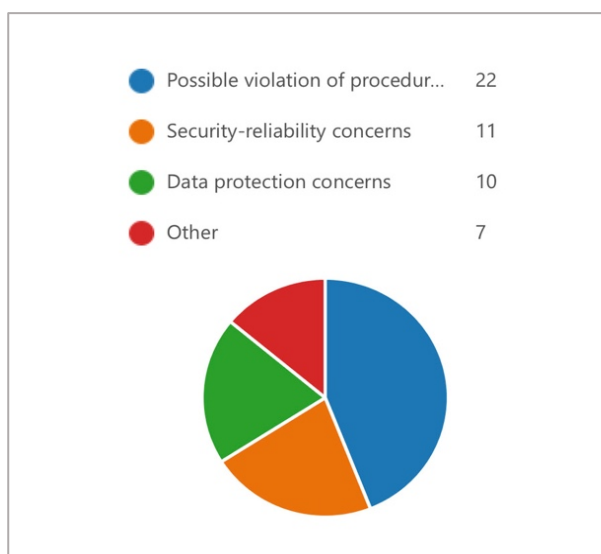


Figure 10.

Questions 21-23

‘Interoperability between different digital systems is the characteristic of an information system, whose interfaces are public and open, to interact automatically with other information systems for the exchange of information and the provision of services. To simplify the future application of e-Codex, how is the current level of interoperability



between data and information communication systems in your country (e.g., civil courts, administrative courts and offices)?'

The bar chart below represents the level of satisfaction of the respondents about the interoperability between digital systems for cross-border claims:

The evaluation scale of the level of satisfaction ranges between poor (as being unsatisfied) and excellent (as the highest level of satisfaction). Given that, most of the responses falls on the rating scores of "poor" by almost 31% and "fair" by 20% of the total answers. Only 10 percentage of answers represents the high satisfaction of the respondents, and the second place belongs to the score "good" by almost 13,5% of the respondents to be satisfied with the interoperability. Finally, the rest of 25,5% of the respondents didn't know how to answer.

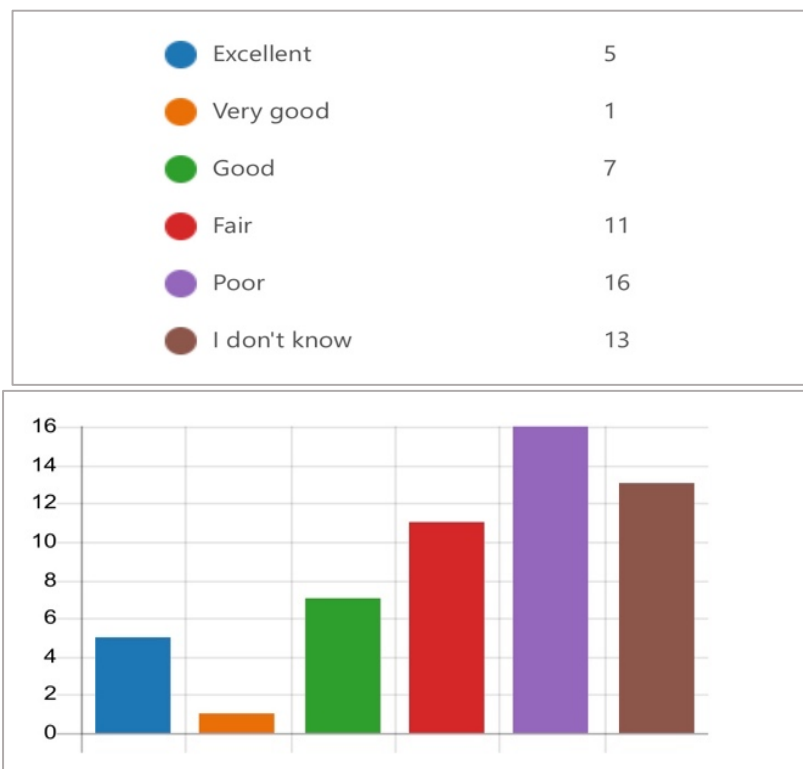


Figure 11.

Questions 24-25

'According to your experience, which of the following activities could benefit from the digitalization of the enforcement procedure at a national level?'

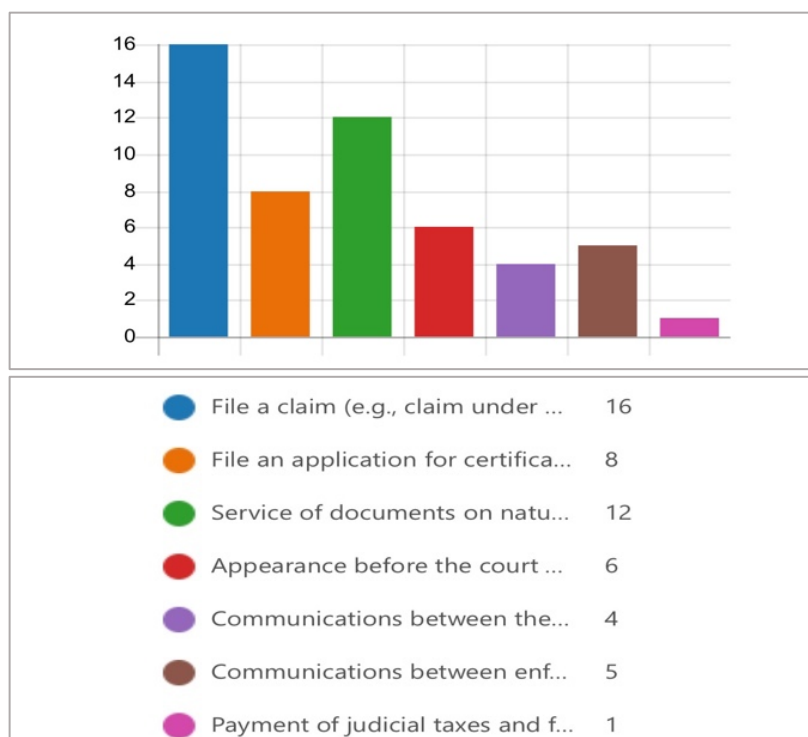


Figure 12.

The answers to this question include suggestions ranging from including all the enforcement procedures in the digital process to expressing the interest in digitalization to only some steps of the procedure. Some respondents have asked for more digitalization to file a claim, or for the service of documents, as seen in the graph. Some respondents specified: “The broadening of the possibility to appear before the court and in hearings via videoconferencing will be an important step. Reflection on applications allowing bidirectional communications between jurisdictions and their registries on the one hand, and parties on the other hand, is also ongoing”.

Questions 26-27

‘In cases of cross-border claim enforcement, do you think that digitalization of one or multiple steps of the procedure improved the efficiency of the procedure?’



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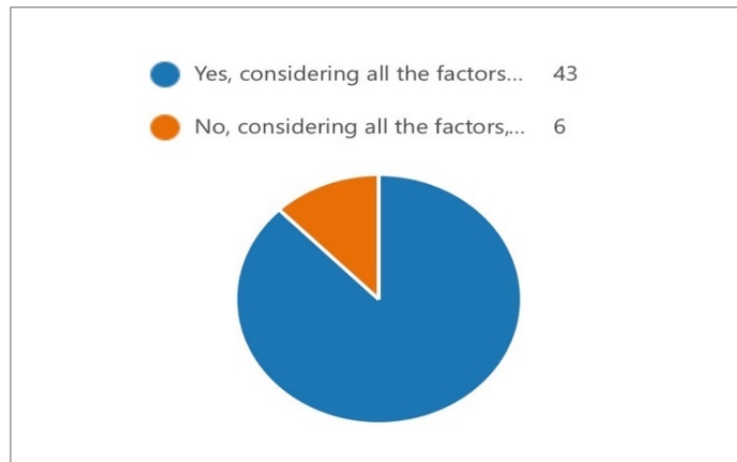


Figure 13.

Questions 28-29

‘Otherwise, did lack of appropriate digitalization play a role as an obstacle to an efficient claim enforcement?’

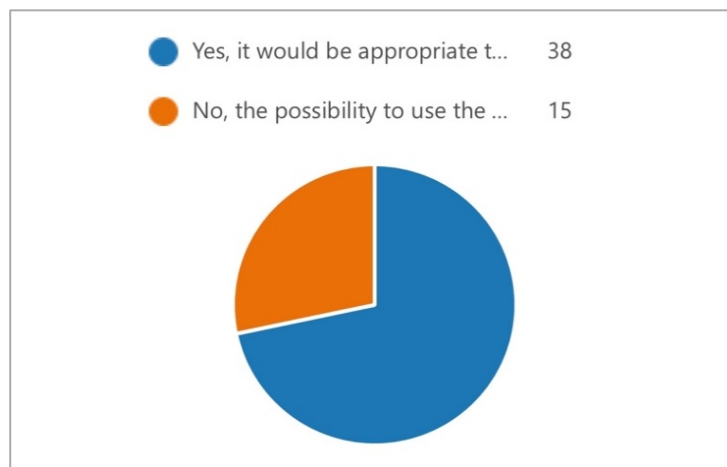


Figure 14.

In answer to this question, some stakeholders suggested that some consumers would be more motivated to start an ESCP if they could do it digitally. Some of them feel that this is easier and quicker.

Questions 30-31

‘Should use of the digital channel between courts and competent national authorities be compulsory as suggested in the Proposal for a Regulation on the digitalization of judicial cooperation [1]’



[1] Proposal for a Regulation on the digitalization of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation, 1.12.2021, COM (2021) 759 final ("Proposal of Regulation on the digitalization of judicial cooperation").

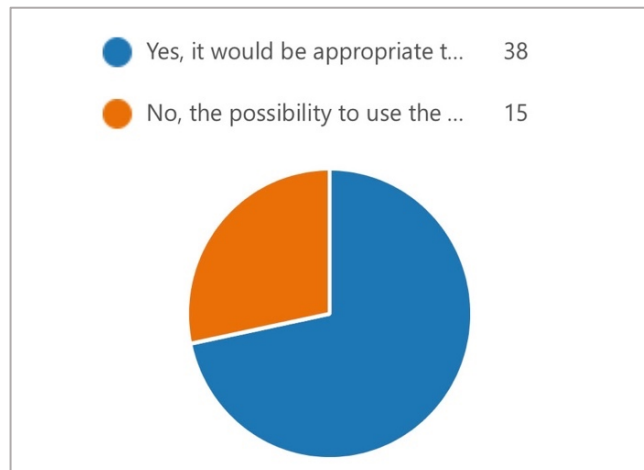


Figure 15.

The following suggestions have been provided by the respondents:

- Better interoperability, easier access to justice
- A well-functioning digitalization is needed. The possibility to use paper can be a solution where the digitalization is not working 100% efficiently yet
- in general, the digital channel is quite a bit faster. However, the necessary safeguards (cyber security) should be in place, and the paper-based channel should remain an option in some exceptional cases (e.g., technical issues that make electronic exchange in due time impossible, or cases where the nature of the pieces exchanged doesn't allow for digital exchange (example, DNA sample))

Questions 32-33

'Should communication between natural or legal persons and competent authorities be digital on voluntary basis, as suggested in the Proposal for Regulation on the digitalization of judicial cooperation?'

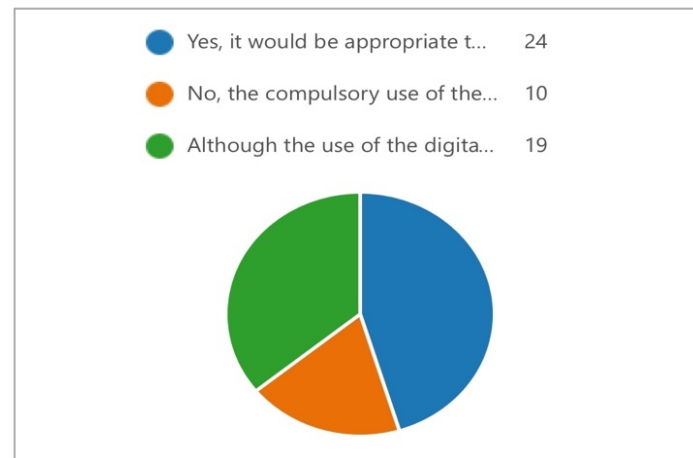


Figure 16.

The following suggestions have been provided by the respondents:

- Effort should be done to promote and facilitate digital communication, but access to technology and digital illiteracy may be issues that hinder such communication; studies showed that digital illiteracy is not always something exclusively seen in disadvantaged or vulnerable groups. In those cases, it is of essence that the communication still reaches its destination, so "paper-based channels" should remain available and a (fallback) option.
- A differentiation should be operated between legal persons (for whom it could be mandatory) and individuals (where it should only be optional)

Question 34

‘Are there any other steps forward the digitalization of enforcement procedure that the European legislator should take into consideration or that the European legislator should regulate differently?’

The respondents provided the following answers:

- Digital channel between courts of different countries
- On cross-border level, digitalization is particularly important to simplify the communications
- To provide electronic forms for instruction of bailiffs and other enforcement authorities, which can be filled out in one language and then converted into his language (like EPO applications)
- The economic situation of those who do not have access to digital means and are not represented by lawyers must be considered

b. Brief Summary and Analysis of the results

The respondents provided in brief the following answers:

- Comparing the answers to question no. 5 and question no. 6, interestingly *claims* are filed digitally while *requests for certification* are filed materially.



- Comparing answers to question no. 13 and question no. 15 it is confirmed that electronic means of communication are available when parties are represented by lawyers, while when they are not means of communication are more material.
- Comparing answers to question no. 23 and question no. 25 digitalization improved the *efficiency* of the procedures, although the current level of *interoperability* between data and information communication systems in national countries is low.
- Comparing answers to question no. 30 and question no. 32, the digital channel between courts and competent national authorities should be compulsory (as suggested in the Proposal for a Regulation on the digitalization of judicial cooperation) as well as communications between natural or legal persons and competent authorities.

5. INSIGHTS OF THE CONFERENCE

The Conference on “Digitalization and Enforcement of Civil Decisions within the EU” took place on 7th of October 2022 at the Belgian Senate and the 8th of October at the University Foundation in Brussels. More than 60 people attended the Conference, only in presence.

After the welcome remarks, it was outlined the scope of the EFFORTS Project and the role of digitalization in this matter.

The presentations of the Conference were divided in two days: the first day, the topic of discussion was the role of digitalization in civil matters, also under the EU Commission's point of view, while the second day, national procedures were highlighted from the speakers to share different national digitalized civil experiences.

The digitalization of justice has been a focal point of the European Commission for over a decade, with the primary aim of improving judicial cooperation between Member States. There are still many differences in national judicial systems. At the EU level, advancing digital judicial cooperation between Member States has been complicated due to these different levels of digitalization. From the outset, a decentralized approach has been taken, and to a large degree, EU digitalization has been based on voluntariness.

The use of different systems in the Member States also raised questions of interoperability. For instance, the Regulations on the European Order for Payment Procedure (EOP) and the European Small Claims Procedure (ESCP) merely enable the use of distance communication for submitting an application or a response to a claim (see e.g., Article 4 ESCP Regulation). It depends on the Member State where the application is submitted, or the claim must be lodged whether this can be done electronically. In the Regulation on the European Small Claims Procedure, as amended effective of 2017 (Regulation 2015/2421), the use of technology and for distance hearings (videoconferencing, teleconferencing) is incorporated as a default (Article 8 ESCP). However, it is still up to the Member States whether they use it. The European Order for Payment Procedure can be handled fully electronically (Article 8 EOP Regulation), but only a few Member States have incorporated it.

The e-Codex project, that was initiated in 2010, has been very meaningful in supporting the



electronic handling of this procedure as well as facilitating electronic communications in the European Small Claims Procedure and Service Regulation. In addition, the e-Justice portal not only serves as collection of information on EU instruments and Member States' laws, but has also increasingly facilitated electronic access to justice, for instance by incorporating dynamic forms for the use of these procedures.

Another important step in increasing access to Alternative Dispute Resolution (hereinafter: ADR) in the EU was taken, when in 2016 the ODR platform was launched resulting from the Online Dispute Resolution (hereinafter: ODR) Regulation. Being a voluntary means to facilitate ADR, the first signs were that it was far from achieving its full potential a year after its inception.

Recently, more forceful steps have been taken in the digitalization of justice in the EU. This is also clear from the EU Justice Scoreboard⁴. Whilst previous editions of the Scoreboard included some information on ICT, the 2022 EU Justice Scoreboard contains more elaborate data referencing digitalization to promote efficient and accessible justice systems.

An important step in the further regulation of digital communication between Member States is the recast of the Service and Evidence Regulation. This was adopted on 25 November 2020 and is applicable from 1 July 2022. This takes the digital communication a step further by obliging the competent authorities of the Member States to communicate with each other – for example regarding the exchange of standard forms – using a decentralized IT system. These should be connected through an interoperable system, such as e-Codex. The latter has firmly established itself after more than a decade and features prominently in the proposals that are on the table now.

In December 2020, the Commission adopted a proposal on the e-Codex system. In December 2021, the Council and the European Parliament reached a provisional agreement on this proposed Regulation. The latest Commission proposal on the digitalization of judicial cooperation builds upon this.

Along with the proposal on the e-Codex system, the Commission put forward its Communication on the digitalization of justice in the EU in December 2020 (JOIN/2020/18 final). This was also included in the Commission work plan for 2021 as a 'digital judicial cooperation' package (COM/2020/690 final). In this Communication the Commission proposed a toolbox approach, which should include a set of measures to bring forward the digitalization of justice at both the EU level and the national level. While previous legislative activities focused on individual instruments or specific areas, the Communication takes a broad approach in addressing the modernization of the legislative framework for EU cross border procedures in civil, commercial, and criminal law.

A key element mentioned in the Communication is the 'digital by default' principle, which 'should be understood as a way to improve the efficiency and resilience of communication, reduce costs and administrative burden, by making the digital channel of communication the preferred one to be used'.

The Commission stresses the need to ensure safeguards, acknowledging the need to avoid social exclusion. In 2021, an extensive impact assessment was made for the further

⁴ https://ec.europa.eu/info/sites/default/files/eu_justice_scoreboard_2022.pdf



digitalization of both civil and criminal justice. A public consultation was launched along with a consultation of a series of stakeholders. A study to support the impact assessment was prepared by a contracted party and involving experts; this entailed an extensive mapping of the existing instruments and the options for further regulation. Following this, the Commission published its proposal (COM (2021 759 final) for a Regulation on the digitalization of judicial cooperation and access to justice on 1 December 2021 and the final text may be published by the end of December 2022.

There are also new instruments related to digitalization and automation of court proceedings, provided by the European Commission for the Efficiency of Justice of the Council of Europe (CEPEJ)⁵:

- Use of Videoconferencing: Guidelines on videoconferencing in judicial proceedings, June 2021
- Digital Transformation: Guidelines on electronic court filing (e-filing) and digitalisation of courts, December 2021
- Artificial Intelligence: Ethical Charter on the use of AI in judicial systems and their environment, December 2018; follow up - designing of the Assessment Tool, development of pilot project/s, composition of AI Advisory Board (AIAB), compilation of AI and Cyberjustice Resource Centre, training and awareness raising activities
- Court Dashboards: Handbook on court dashboards, June 2021
- Covid-19 Lessons: Declaration on lessons learnt and challenges faced by the judiciary during and after the COVID-19 pandemic, June 2020
- Network: European Cyberjustice Network (ECN) launched in November 2021
- 2022 – 2025 CEPEJ Action Plan: “Digitalisation for a better justice”, December 2021

During the conference, the speakers discussed a wide variety of topics relating to the cross-border enforcement of claims in civil and commercial matters within the EU, concerning the EFFORTS Regulations – Regulation (EU) No 1215/2012 (Brussels I bis), Regulation (EC) No 805/2004 on the European Enforcement Order (EEO), Regulation (EC) No 1896/2006 on the European Payment Order (EOP), Regulation (EC) 861/2007 on the European Small Claims Procedure (ESCP), and Regulation (EU) 655/2014 on the European Account Preservation Order (EAPO) – such as: the principles of digital justice, the process of digitalization, artificial intelligence and evidence, consumer rights within E.U. and the use of digital identity in court proceedings.

The discussion benefited from the interaction between judges, lawyers, academics, in-house counsels, and other legal technicians on the analysis of different national digitalized systems from Lithuania, Italy, Croatia, France, and Czech Republic showing the interest of various professionals.

The activities of the conference lasted two half days and included several presentations as well

⁵ CEPEJ cyberjustice and AI instruments publicly available online: <https://www.coe.int/en/web/cepej> and <https://www.coe.int/en/web/cepej/cepej-working-group-cyber-just>.



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as formal and informal discussions and Q&A from the participants, showing that the topics presented at the Conference have captured the attention and the interest of the public.