



15th Colloquy
15ème Colloque

Council of Europe
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Bundesamt für Justiz
Office fédéral de la justice
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**15th COLLOQUY ON INFORMATION TECHNOLOGY AND LAW IN EUROPE
“E-JUSTICE : INTEROPÉRABILITÉ DES SYSTÈMES”**

Macolin (Switzerland), 3 – 5 April 2002

National Report of Portugal

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Note: This report will mainly focus on matters, which were not mentioned in the answers given on the previously sent Questionnaire concerning the use of electronic documents in the field of justice. In addition, it extends itself beyond the subject of the Colloquy, since the Portuguese delegate took the opportunity to portray a wide-ranging view of the situation of Information and Communication Technology in the field of Justice in Portugal.

Background

The aim of the Portuguese policy for Justice in the last years has been one of keeping on restructuring justice's system according to three essential targets: to make Justice actually work for the purposes of citizenship and development; to improve the means of fighting criminality, prevention of re-offending and social reintegration; and the support of room for liberty, well-being and justice within the European Union.

Establishing the proper conditions for making Justice work for citizenship and development is a task of higher importance to the ITIJ. Thus, it was considered essential to guarantee the access to Justice and provide for a decision in reasonable time without depriving citizens of their rights, in particular, through the creation of an entity, which shall permanently supervise the usage made of new methods in legal proceedings along with other on-going reformation in the field of justice.

An important improvement (along with others such as the making registering and notary public acts simpler, the establishing of the *Julgados de Paz* (the settling of disputes through mediation) and of new circuit courts) was brought into legal proceedings with the creation of an electronic network connecting all courts and all bodies depending on the Ministry of Justice. In January 2002 the Communication's Network of the Ministry of Justice was formally open. In addition, it was also introduced a new means of watching over defendants, namely the wearing of electronic wristbands and the opening of an international public competition in order to restructure the Statistics Information System of Justice.

1. Legal Information databases

1.1. Portuguese legislation

All relevant legislation relating to legal information is available on:

<http://www.mct.pt/novo/legislacao/acl99.htm>

Copyright and connected rights

- **Law 1/2000, Official Gazette 64, Series I-B, of 16 March 2000** – Permits the Government to transpose into internal law the Directive 96/9 EC of the European Parliament and of the Council of 11 March, concerning legal protection of databases
- **DL 122/2000, Official Gazette 152, of 4 July, Series I-A** – Law for the legal protection of databases

Government and information society

- **Resolution of the Cabinet of Ministers 138/2001, OFFICIAL GAZZETE 201, Series I-B, of 30 August 2001** – Establishes measures for the creation of the Government's site and presents the goals and regulations for its maintenance and upgrading.
- **DL 140/2001, OFFICIAL GAZETTE 96, Series I-A, of 24 April 2001** – Establishes the Statute of basic Competence on Information Technology
- **Resolution of the Cabinet of Ministers 32/2001, OFFICIAL GAZETTE 52, II Series, of 2 March 2001**- Public Administration and electronic trade.

- **Resolution of the Cabinet of Ministers 22/2001, OFFICIAL GAZETTE 49, Series I-B, of 27 February 2001-** Foresees the assessment of websites pertaining to bodies within the direct and indirect State administration
- **Resolution of the Cabinet of Ministers 110/2000, OFFICIAL GAZETTE 193, Series I-B, of 22 August 2000** - Resolution of the Cabinet of Ministers concerning initiative on the Internet.
- **Resolution of the Cabinet of Ministers 14/2000, OFFICIAL GAZETTE 190, Series II, of 18 August 2000** – Establishes the institutional framework for governmental activities as far as Information Society is concerned
- **Resolution of the Cabinet of Ministers 97/99, OFFICIAL GAZETTE 199, I Series B, of 26 August 1999** - Sets out regulations for accessibility of contents of on-line public bodies for disabled people
- **Resolution of the Cabinet of Ministers 96/99, OFFICIAL GAZETTE 199, I Series B, of 26 August 1999** – Domestic level initiative aiming disabled people in Information Society– Steering document.
- **Law 74/98, ON 261, of 11 November 1998, Series I-A** – Publication, identification and structure of the Statutes (On-line Official Gazette)
- **Resolution of Cabinet of Ministers 95/99, 198 OFFICIAL GAZETTE, I Series B, of 25 August 1999** – Public Administration and Internet.
- **Resolution of Cabinet of Ministers 60/98, OFFICIAL GAZETTE 104, I Series B, of 6 May 1998** – Electronic address in Public Administration.
- **Dispatch 3705/98, OFFICIAL GAZETTE 53, of 4 March 1998, II Series** - elaboration of a white paper on science and space technology for Portugal.

Protection of personal data

- **Law 69/98, ON 249, of 28 October 1998, Series I-A** – Governs the processing of personal data and the protection of privacy in the field of telecommunications (transposes Dir. 97/66).
- **Law 67/98, ON 247, of 26 October 1998, Series I-A** – Law for protection of personal data (transposes Dir. 95/46).

Electronic commerce and signature

- **Administrative rule 1178-E/2000, OFFICIAL GAZETTE nº288, from 15 December 2000, Series I-B** – Documents sent to court in digital support.
- **Regulatory Decree 16/2000, OFFICIAL GAZETTE 228, from 2 October 2000, Series I-B** – Provision implementing DL 375/99.
- **DL 234/2000, OFFICIAL GAZETTE 222, of 25 September 2000, Series I** – Electronic signature certification services regulation.
- **Administrative rule 1370/2000, OFFICIAL GAZETTE 211, of 12 September 2000, Series II** – Mandatory Civil Responsibility Insurance Contract mentioned in d of DL 290-D/99.
- **Port. 1370/2000, OFFICIAL GAZETTE 211, of 12 September 2000, Series II** – Defines the characteristics of the Mandatory Civil Responsibility Insurance Contract mentioned in d of DL 290-D/99.

- **Resolution of the Cabinet of Ministers 94/99, 198 OFFICIAL GAZETTE, of 25 August 1999, Series I-B** – Steering Document on the National Initiative program for the Electronic Trade.
- **DL 290-D/99, OFFICIAL GAZETTE 178-Addendum of 2 August 1999, Series I It** - Approves the legal framework of electronic documents and digital signature.
- **Resolution of the Cabinet of Ministers 115/98, OFFICIAL GAZETTE 201, Series I-B, of 1 September 1998** - National Initiative program for the Electronic Trade
- **DL 375/99, 219 OFFICIAL GAZETTE 219, of 18 September 1999** - Equalization between an invoice emitted in paper and in electronic form.
- **Several articles of the Civil and the Penal Code**

Information Society Services

- **DL 58/2000, OFFICIAL GAZETTE 92, de 18 de April de 2000, Series I-A** – Establishes the administrative proceedings, which govern the exchange of information regarding norms and technical regulations, as well as rules regarding information society services. Transposes the Directive 98/34 amended by the Directive 98/48.

1.2. In Portugal, legal information is ordered according to its nature. Therefore, the so-called information for citizenship is of free access. The Public Administration is in charge of making all its useful and necessary information available on-line and the Official Printing House grants free access to the Official Gazette for 45 days. However, when the sought information pertains to valuable databases, the access to it is paid flexibly according to the type of research pretended so that the conformity and comprehensiveness of such databases can be guaranteed.

1.3. In addition to the addresses referred to in V. of this report, there are other private and public addresses containing relevant legal information, namely on the sites of all ministries. Especially relevant is the information on www.dgsi.pt of ITIJ (Institute for Information Technologies in the field of Justice). This body of the Ministry of Justice is in charged of researching, planning, monitoring, executing and assessing plans for the implementation and the upgrading of new technologies in the bodies and in the departments associated with Justice. Pursuant to articles 11 and 40 of DL 290-D/99, of 2 August, it is left to the ITIJ to authenticate digital signatures.

2. Administrative systems

2.1. Communications network of the Portuguese Ministry of Justice

Facing the increasing need of exchanging information between all bodies of the Ministry (Register-Keeping Entities, Notary Public Agents, Criminal Investigation Police, Institute for Social Reintegration, Institute for Financial and Wealth Management of Justice, Legislative Policy Cabinet, General-Directorate of Prison Services, General-Directorate for Registering and Notary Public, Centre of Criminal Investigation Studies, Bureau of European Foreign Affaires and Cooperation, General-Directorate of the Administration of Justice), as well as between Courts and the need of making the acceding to information available to citizens, it was established a communication's network for the Ministry of Justice.

By expanding means of sharing technological innovation, this project provides:

1. The access to information spread on the various bodies of the Ministry.
2. The basic network services to all bodies of the Ministry and Courts (Internet, electronic mail, domain names, WWW services, the Intranet,...);
3. The making use of applications de carácter horizontal with no additional costs.
4. An effective improvement in quality and quantity in exchanging information;
5. Significant reduction of the overall cost of communications.

In practice, this new computerized Justice's administration will both facilitate the procedural management and the complete record of proceedings concerning civil, penal, family and children, trade and work affaires. Thus, any procedure will be onwards controlled and accessed on-line. In addition to Courts, this network comprehends the services provided by the departments of the Public Prosecutor's Office, the *Public Order* Police, the Criminal Investigation Police and other bodies connected to Justice. Everyone will benefit from the free access to the databases and to the statistic data gathered by the Government as well as from the services provided by the Internet and by the e-mail. Next year, the videoconference system, already used in Courts, will be extended to other bodies.

Implementation of new technologies into Courts: Justice working for citizenship purposes

Implementation of new technologies into Courts 1999-2001

- € 31.923.065,41 (6,4 milhões de contos)
- 11.434 km of circuits (2.000 optical fibre)
- 1.274 km Courts' internal network
- 10.103 Personal Computers
- 4.123 Printers
- 5.460 e-mail boxes
- 611 Video-conference devices
- 585 Audio recording systems
- 2.712 Criminal and Public Prosecutor's Office's Magistrates
- 9.600 Legal public agents
- 362 Courts in 284 towns

3. Computerised registers

The mentioned communication's network of the Ministry of Justice will be extended to the registers and to the notary public services during the year of 2002. Nevertheless, many formalities can be already submitted on-line, namely through the DGRN (General-Directorate of Registers and of Notaries - open electronic services). This body of the Ministry of Justice monitors and coordinates the service provided by the marital status, nationality, identification, land, commercial, vehicle, ship and notary public registers and also the register of legal persons (<http://www.mj.gov.pt/?id=17>). A request for the following certificates can be submitted under the above-mentioned address, which will be mailed to the address given in the request:

- Request for a certificate of the Civil, Land or Commercial Register.

- Request for a certificate of establishment of a corporation or of its name (RNPC). Assessment of the development of the request, new request due to dismissal of the former request, replacement of the papers for the request and extra copy of the certificate.

The following on-line consultation is also available:

- Help to the on-line user on requiring the Certificate of establishment of a Corporation (RNPC)
- Database of the Register-Keeping Entity of legal persons

The Ministry of Justice on <http://www.mj.gov.pt/?id=2> provides a number of other on-line services, namely the submission of complaints, claims or denunciation to the General-Inspectorate of the Services of Justice, body which shall assess the citizens' needs supply provided by the services of the Minister of Justice.

See also the Portuguese Public Administration's site (<http://www.infocid.pt/>). This site also provides information about taxes, housing, Welfare and many other areas.