

# Building Interoperability for European Civil Proceedings Online (BIECPO')

**Research Conference - Bologna, 14-17 June 2012**

Research Institute on Judicial System, Italian National Research Council (IRSIG-CNR)

**in partnership with**

Central European University (CEU), Law Faculty, Budapest

Ministry of Justice, ICT Department, Rome

Universitat Autònoma de Barcelona, Institute of Law and Technology (IDT)

University of Bologna, Dipartimento di Scienza Politica, Centro Studi e Ricerche sull'Ordinamento Giudiziario (Unibo-DSP) and Centro Interdipartimentale Ricerche sul Diritto delle Comunità Europee (Unibo-CIRDCE)

University of Coimbra, School of Economics, Centre for Social Studies (CES)

**and with the financial support of**

European Commission, Directorate General Justice Freedom and Security, Specific Programme Civil Justice, Grant JLS/2009/JCIV/AG/0035

- Justice and Technology in Europe 2001
- Judicial Electronic Data Interchange 2003
- Information and Communication Technology for Public Prosecutors office 2007
- ICT and Innovation in the Public Sector 2009
  
- More failures than successes
  - Projects too complex to be managed
  - Systems too difficult to be developed
  - Applications too unfriendly to be adopted

## To e-government development

Approach to innovation (**service digitalisation**):

- Establish a general legal framework
- Set up a technological system (a tool) to implement the legal framework
- ICT development based on traditional structured approaches such as BPR
- Once the technology is in place ...
  - ... potential users will start to play with it

- Difficult mediations between technologies, regulations, institutional frameworks, organisational settings.
  - Identification, signature ...
  - Smart solutions, but also hopeless entanglements
- Each component brings into the system different logics, constraints, opportunities, values
- ICT much more than a “means to an end”
- ICT is “configurative”

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## Cross-border civil litigation for “citizens”

- Use ICT based system to enable
  - “European Small Claims Procedure” ESCP
  - “European Payment Order” EPO

### The EU response:

- A priority in the “civil justice” call for proposal (2009)
- “e-Justice pilot” (ICT PSP) >> e-Codex (development of running pilots)

## **Case studies analysis of e-justice development**

Detailed & comprehensive

In depth case study analysis

- Money Claims On Line – MCOL (Eng & Wales)
- COVL, additional case study, (Slovenia)
- CITIUS (Portugal)
- Trial On Line – TOL (Italy)
- E-Curia (Court of Justice of the EU)
- EAW

- ***Session 3: Searching for maximum feasible simplicity***
- ***Session 4: Pushing at the edge of maximum manageable complexity***
- ***Session 5: Cross-border e-justice in the European Union***
  - EPOC Eurojust
  - e-Codex



## BIECPO starting point (2): Unpacking interoperability

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- 1) Interoperability has not just a **technological** dimension
- 2) Need of some “unpacking”:
  - Legal
  - Semantic
  - Institutional/organisational
  
- Not so different from the European Interoperability Framework

## **Legal expertise**

- Central European University, Law Faculty, Budapest,
- Univ. of Bologna, Interdepartmental Research Center on European Law

## **ICT expertise**

- Italian Ministry of Justice, ICT Department, Rome

## **Semantic expertise**

- Autonomous Univ. of Barcelona, Institute of Law and Technology

## **Organisational and institutional expertise**

- University of Bologna Dept. of Political Science & Center on Judicial Studies
- University of Coimbra, School of Economics, Centre for Social Studies
- IRSIG-CNR

- **From interoperability to infrastructure**
  - How the infrastructures enable interoperability
- When and why e-justice enable or hinder the agency of plaintiffs, defendants and courts
- How the **agency circulate** across media and across jurisdictions
- **Max. manageable complexity**
- **Max. feasible simplicity**
- How to get agency circulating across media and jurisdictions

- ***Session 2: Interoperability and infrastructures***
  - *The conceptual framework*
  
- ***Session 6: Designing architectures for European civil proceedings online***
  - *The design issue*

## **BIECPO' and e-Codex: “Different twins”:**

- same “problem” EU cross-border proceedings
- Different approaches:
  - BIECPO' is a research project
  - e-CODEX is developing running pilot

## **Why a research conference**

- Present findings, useful for understanding and designing
- Get inputs and experiences
- Have a dialogue
- Identify new research steps

***Closing section: Promoting e-justice at national and European levels: research, innovation and training***

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Users' side

- Choosing the appropriate procedure
- Filing the form (old e-Justice Portal)
- Identification of the jurisdiction  
**(simpler for consumer contract)**
- Description of the claim (in a foreign language)
- Calculation of legal interests
- Amount and payment of the court fee

- Everything made more difficult by
  - Wrong info on Atlas (address of the court)
  - Lack of info on the Atlas (availability of means from paying court fees online, possible but not mentioned)
- Borderline with the threshold of maximum manageable complexity
  - Translation: help from a friend ... Babelfish
  - Payment of court fee ... put the money in the envelope? Send without paying? Ask an Italian Friend?
  - Hire a lawyer (actually two)



## Court's side

- Difficulties in choosing the appropriate procedure (local courts may be single shooters)
- **Exceptions to be managed**
  - What to do with the money in the envelope?
  - What to do if the court fee is not paid? >> File a case for court fees recovery!!
- Lack of knowledge about procedural peculiarities of EPO and ESCP
- Procedural errors (they keep the EPO at the court desk while should be delivered to the claimant)
- Procedural oddities: EPO copy must be paid with stamps

The circulation of agency get hindered again:

- the claimant gets the EPO but is not able to get a copy
- Hire a lawyer (in Italy), ask a friend, or give up