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**Poboljšanje sustava ovrhe  
u Republici Hrvatskoj**

**Improvement of the Enforcement system  
in the Republic of Croatia**



Improvement of the Enforcement system in the Republic of Croatia  
 Contract Number: 2010-01-23-010101  
 Twinning Number: HR/10/IB/JH/04



THE EUROPEAN UNION'S 2010 PROGRAMME  
 Twinning Ref. Number HR/10/IB/JH/04  
 Consortium: Spanish Ministry of Justice/Hungarian Ministry of Justice and  
 Law Enforcement/Croatian Ministry of Justice/FIIAPP

## MISSION REPORT

### Activity 2.1.2

#### Conducting comparative analysis of the roles and responsibilities of the enforcement system institutions in two Member States and preparing corresponding report highlighting the best EU practices

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## GLOSSARY<sup>1</sup>

For the purposes of this report, the following terms should be understood as follows:

**AINO@:** is a strategic solution for the management and development of human resources (management, payroll and budgetary control, among other functions)

**AINO@:** strateško rješenje za upravljanje i razvoj ljudskih potencijala (funkcije, među ostalim: upravljanje, plaće i proračunska kontrola)

**Agenda of the Judicial Office:** system that makes it possible to perform coordinated judicial scheduling.

**Dnevni raspored sudačkih dužnosti:** sustav koji omogućava provedbu koordiniranog sudačkog raspoređivanja.

**Control Panels:** Powerful decision-making support tools which provide relevant information on the different aspects of judicial activity to different groups of users. It is an Inspection System composed of specific applications that provide statistical information, reports and indicators.

**Control Panels (Kontrolne ploče):** snažni alati, služe za pružanje pomoći pri donošenju odluka, pružaju relevantne informacije o različitim pravnim aspektima i namijenjeni su različitim skupinama korisnika. To je nadzorni sustav sastavljen od specifičnih aplikacija koje pružaju uvid u statističke podatke, izvješća i pokazatelje.

**Data subject:** an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person.

**Ispitanik (osoba čiji se podaci obrađuju):** fizička osoba koja je identificirana ili fizička osoba koja se može identificirati, izravno ili neizravno, od strane voditelja zbirke osobnih podataka ili druge fizičke ili pravne osobe, posebno po osnovi identifikacijskog broja, podataka o mjestu, *on-line* identifikatora ili jednog ili više obilježja specifičnih za njezin fizički, psihološki, genetski, mentalni, gospodarski, kulturni ili socijalni identitet.

**Data subject's consent:** freely given specific, informed and explicit indication of his or her wishes by which the data subject, either by statement or by a clear affirmative action, signifies agreement to personal data relating to them being personal data transmitted, stored or otherwise processed basis

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<sup>1</sup>This glossary is for the only purpose of this Project and has been drawn up taking into consideration the glossary attached to the CEPEJ (2009) 11 REV Guidelines for a better implementation of the existing Council of Europe's recommendation on enforcement adopted by the CEPEJ at its 14<sup>th</sup> plenary meeting.



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(source: proposal for a regulation of the European parliament and of the council on the protection of individuals with regard to the processing of personal data and on the free movement of such data).

**Suglasnost ispitanika (osobe čiji se podaci obrađuju):** svaka dobrovoljno dana, informirana i posebna izjava volje, kojom osoba čiji se podaci obrađuju, bilo putem izjave ili jasnom afirmativnom aktivnošću, daje svoju suglasnost da se prenesu, pohrane ili na drugi način obrade osobni podaci koji se na nju odnose. (izvor: prijedlog Direktive Europskog Parlamenta i Vijeća o zaštiti pojedinaca u vezi s obradom osobnih podataka i o slobodnom protoku takvih podataka).

**E-Apostille:** The Spanish system of electronic Apostille is constituted as a Web application architecture that resides on centralized servers to issue and record e-Apostille. It is an electronic document electronically signed. It is embedded in the document the signature of which legalizes. The connection between the two documents is guaranteed by electronic signature. Its use can be divided into two subsystems: private and public.

**E-Apostille:** španjolski sustav elektroničke potvrde „Apostille“ je konstruiran kao web aplikacija koja je smještena na središnje servere koji izdaju i evidentiraju e-Apostille. To je elektronički dokument s elektroničkim potpisom. Ugrađen je u dokument u kojem je potrebno legalizirati potpis. Veza između dva dokumenta je zajamčena elektronskim potpisom. Njegova upotreba se može podijeliti na dva podsustava: privatni i javni.

**EÁR:** Electronic Auction System in Hungary. A non-stop internet-based communication platform operated by MBVK for the publication of auction notices relating to movable and immovable properties by way of electronic means and for making bids also by way of electronic means, through which users are able to access the records of electronic auction notices, the electronic register of bidders and the bidding log.

**EÁR:** elektronički sustav zadražbu u Mađarskoj. Platforma se temeljinastalnoj internetskoj vezi kojom upravlja MBVK (Mađarska komora sudskih odvjetnika) za objavljivanje obavijesti o dražbama pokretne i nepokretne imovine elektroničkim putem, kao i zadavanje ponuda elektroničkim putem, preko kojeg korisnici mogu pristupiti registru obavijesti o elektroničkim dražbama, elektroničkom registru ponuditelja, kao i zapisnikusaponudama.

**E-Codex:** is European project to improve the cross-border access of citizens and businesses to legal means in Europe as well to improve the interoperability between legal authorities within the EU.

**E-Codex:** europski projekt kojim se poboljšava prekogranični pristup pravnim uslugama u Europi za građane i poduzeća te interoperabilnost među pravosudnim tijelima unutar EU-a.

**Electronic Judicial File:** is the system for the electronic processing of information generated during the conduct of judicial files. It replaces the traditional paper dossier by its digital equivalent.

**Sudačka elektronička arhiva:** sustav za elektroničku obradu podataka dobivenih tijekom vođenja sudskih spisa. Tako se tradicionalna dokumentacija „u papiru“ zamjenjuje digitalnom.

**EJE:** A project co-financed by the European Union, aimed at improving the execution of court judgments in Europe by offering European citizens and enforcement agents information regarding the execution of legal decisions in the territory of another Member State as well as providing an electronic directory of European enforcement agents.



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**EJE:** projekt koji sufinancira EU, s ciljem poboljšanja izvršenja sudskih odluka u Europi, nudi građanima i ovršnim agentima informacije koje se odnose na izvršenje sudskih odluka na teritoriju druge države članice i osigurava elektronički katalog europskih ovršnih agenata.

**EJS:** Project co-financed by the European Commission, aimed at creating an electronic platform to secure cross-border exchange of documents in Europe between enforcement agents.

**EJS:** projekt koji sufinancira Europska komisija, s ciljem stvaranja elektroničke platforme koja bi osigurala prekograničnu razmjenu dokumenata između ovršnih agenata u Europi.

**EVÜR:** Unified Enforcement Case Management System in Hungary, a complex surface assisting the daily operation and case management of bailiff officers.

**EVÜR:** Jedinstveni sustav za upravljanje ovršnim predmetima u Mađarskoj, složena podloga koja pruža pomoć u svakodnevnom radu ovršitelja i upravljanju predmetima.

**Filing system:** any structured set of personal data which are accessible according to specific criteria, whether centralized, decentralized or dispersed on a functional or geographical basis (source: proposal for a regulation of the European parliament and of the council on the protection of individuals with regard to the processing of personal data and on the free movement of such data).

**Sustav arhiviranja:** bilo koji strukturirani skup osobnih podataka koji je dostupan prema posebnim mjerilima, bilo da su centralizirani, decentralizirani ili raspršeni na funkcionalnoj ili zemljopisnoj osnovi (izvor: prijedlog Direktive Europskog Parlamenta i Vijeća o zaštiti pojedinaca u vezi s obradom osobnih podataka i o slobodnom protoku takvih podataka).

**JÜB – Data Supplying Network Strengthening the Security of Legal Transactions** is a Hungarian framework providing access to governmental registers for stakeholders of justice administration.

**JÜB:** Mreža za dobavljanje podataka kojom se jača sigurnost pravnih transakcija je mađarski okvir kojim se dionicima pravosudne uprave osigurava pristup državnim registrima.

**Legal Aid:** is a system that allows those who do not have enough financial resources to meet the costs of a Court case or legal representation.

**Pravna pomoć:** sustav koji omogućuje onima koji nemaju dovoljno financijskih sredstava za podmirenje troškova u slučaju sudskog postupka ili pravnog zastupanja.

**LexNET (System for Telematics Notification):** is a secure electronic telematics system that enables bidirectional communication between the Court offices and the different legal operators who, in their daily activities need to exchange legal documents such as notices, letters or demand.

**LexNET (Sustav telematičkog izvještavanja):** siguran elektronički telematički sustav koji omogućuje dvosmjernu komunikaciju između službi u sudu i pravnih subjekata koji u svojim svakodnevnim aktivnostima razmjenjuju pravne dokumente, kao što su obavijesti, pisma ili zahtjevi.

**MBVK –** The self-governing body of court bailiffs is the Hungarian Chamber of Court Bailiffs, the registered address of which is in Budapest. The Chamber is vested with legal personality. Court bailiffs, bailiff assistants and trainees become members of the Chamber when appointed, or when registered in the register of assistants and trainees. The Chamber is a public body; it represents and protects the interest of



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bailiffs, assistants and trainees by exercising the rights and fulfilling the duties defined by statute, it carries out the duties related to bailiff services as defined by law, and cooperates in the preparation of legislation pertaining to enforcement procedures.

**MBVK:** samoupravno (neovisno) tijelo sudskih ovršitelja naziva se Mađarska komora sudskih ovršitelja, sa sjedištem u Budimpešti. Komora ima svojstvo pravne osobe. Sudski ovršitelji, pomoćnici sudskih ovršitelja i vježbenici postaju članovi komore nakon imenovanja ili nakon upisa u evidenciju pomoćnika i vježbenika. Komora je tijelo javne vlasti, predstavlja i štiti interes ovršitelja, pomoćnika i vježbenika u ostvarivanju prava i ispunjavanju dužnosti utvrđenih Statutom, ona obavlja poslove vezane za službu ovršitelja u skladu sa zakonom, te surađuje u pripremi propisa koji se odnose na ovršni postupak.

**Personal data:** any information relating to a data subject.

**Osobni podatak:** svaka informacija koja se odnosi na ispitanika (osobu čiji se podaci obrađuju).

**Personal data breach:** a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed.

**Povreda (prava za zaštitu) osobnih podataka:** narušavanje sigurnosti koje vodi do slučajnog ili nezakonitog uništenja, gubitka, izmjene, neovlaštenog otkrivanja ili pristupa osobnim podacima koji se prenose, pohranjuju ili obrađuju na drugi način.

**Portal of the Justice Administration:** is a single, electronic, place to connect both citizens and professionals to the Justice Administration. Court managers will find in the Portal their working desktop with access to their main IT applications and with useful information to support their daily activities.

**Portal pravosudne uprave:** jedinstven, elektronički format, mjesto za povezivanje kako građana, tako i stručnjaka s pravosudnom upravom. "Court managers" na Portalu pronalaze svoju radnu površinu (desktop) i pristup glavnoj IT aplikaciji uz korisne informacije za njihove dnevne aktivnosti.

**Publication of Legal Auctions:** single point of access through the Portal of the Justice Administration, to public auctions information.

**Objavljivanje sudskih dražbi:** jedinstvena točka pristupa putem portal pravosudne uprave, radi objavljivanja informacija o dražbama.

**VIEKR** – System for electronic service of enforcement documents. Hungarian bailiffs use computerized data processing accessible through the Chamber's integrated national computer system made available through the internet to court bailiffs and other parties to the proceedings for the service of documents relating to enforcement procedures and for exercising the right of access to documents.

**VIEKR:** Sustav za elektroničku dostavu ovršnih dokumenata. Mađarski ovršitelji koriste računalnu obradu podataka koja im je dostupna putem integriranog nacionalnog računalnog sustava Komore, kojem sudski ovršitelji i drugi dionici u postupcima pristupaju preko interneta, radi dostave dokumenata koja se odnose na ovršne postupke i radi ostvarivanja prava na pristup dokumentima.



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## ABBREVIATIONS

### → Acronyms & abbreviations

AINO@	Payroll and Management Computer Application
Apostille Convention	Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents
e-CODEX	E- Justice Communication via Online Data Exchange
CEPEJ	European Commission for the efficiency of justice
EÁR	Electronic auction system (HU)
EC	European Commission
ECHR	European Convention of Human Rights
ECTHR	European Court of Human Rights
EJE	Electronic Judicial File
EJNCC	European Judicial Network in Civil and Commercial Matters
FMHTV	Act L of 2009 on payment order procedures (HU)
gkZONY	Register of liens on movable tangible properties (mostly vehicles) that can be identified beyond reasonable doubt (HU)
HBNY	Register of Collateral (HU)
HCCH	Hague Conference on Private International Law
IT	Information Technology
JÜB	Data Supplying Network Strengthening the Security of Legal Transactions (HU)
LexNET	Spanish System for Telematics Notifications
MBVK	Hungarian Chamber of Court Bailiffs
MG	Mission Group of Experts
MS	Member State
MoJ	Ministry of Justice
MOKK	Hungarian Chamber of Civil Law Notaries
NYUFIG	Central Administration of National Pension Insurance (HU)
OEP	National Health Insurance Fund (HU)
PAJ	Portal of the Justice Administration (SP)
PNJ	Spanish Neutral Judicial Point
TAKARNET	National electronic real estate register (HU)
VHT	Act LIII of 1994 on judicial enforcement (HU)
VIEKR	System for electronic service of enforcement documents (HU)
ZONY	National Register of Liens (HU)





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## 1. EXECUTIVE SUMMARY

DEBRIEFING REPORT EXECUTIVE SUMMARY	
<b>Experts<sup>2</sup></b>	Ms Maria Nieves Uranga Mutuberría Ms Maria Vanessa Untiedt Lecuona Mr Zoltán Várady Mr Attila Vincze
<b>Mission</b>	<b>Activity 2.1.2.</b> <i>“Conducting comparative analysis of the roles and responsibilities of the enforcement system institutions in Spain and Hungary”.</i>
<b>Dates</b>	September 15 – 19, 2014
<b>Places</b>	Zagreb
<b>Objectives</b>	<p>In the framework of this project on “Improvement of the Enforcement system in the Republic of Croatia”, the main objective of this mission is to carry out a comparative analysis of the roles and responsibilities (business processes and information flow among the parties) of the enforcement system institutions of Spain and Hungary, and prepare corresponding report highlighting the best EU practices on business processes and information flow.</p> <p>As specific objectives this activity pursues:</p> <ol style="list-style-type: none"> <li>1. To make a comparative analysis of the roles and responsibilities of enforcement entities in Spain and Hungary.</li> <li>2. To analyze the legal framework on data protection</li> <li>3. To identify IT solutions and facilities of Spain and Hungary within the European Judicial Area</li> <li>4. To give a presentation before the Croatian project team and experts.</li> <li>5. To draft a final Report including recommendations.</li> </ol>
<b>Methodology</b>	<p>The Group of experts has performed these steps:</p> <ol style="list-style-type: none"> <li>i. Collection, study and processing of information;</li> <li>ii. Analyze IT applications used in Spain and Hungary;</li> <li>iii. Analyze legislation on data protection;</li> <li>iv. To draft a report with recommendations on how to adapt the best EU practices to the Croatian enforcement system</li> </ol>

<sup>2</sup>Ms. Judit Szabados-Dotsch has collaborated with the Hungarian team



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	<p>The Mission Group of experts (MG) has followed the following methodology:</p> <ul style="list-style-type: none"> <li>■ Comparative analysis of the roles and responsibilities of the enforcement entities in Spain and Hungary;</li> <li>■ Analysis of the legal framework on data protection ;</li> <li>■ Analysis of IT solutions and facilities of Spain and Hungary.</li> </ul>
<p><b>Outcomes</b></p>	<p>The MG has accomplished all of the results required by the ToRs:</p> <ol style="list-style-type: none"> <li>1. Comparative analysis of the roles and responsibilities of the enforcement system institutions in Spain and Hungary.</li> <li>2. Legal analysis taking into account: data protection legislation, best EU practices, recommendations from CEPEJ and other relevant international institutions.</li> <li>3. Study, from the technical point of view, Hungarian and Spanish IT applications.</li> <li>4. Recommendations on how to adapt these best practices to the Croatian system.</li> <li>5. A presentation of the technical assistance to Croatian experts has been implemented on September, 19.</li> <li>6. It has been attached as annex two power point showing different IT applications from Spain and Hungary.</li> </ol>
<p><b>Conclusions</b></p>	<ul style="list-style-type: none"> <li>✚ Although judges (or civil law notaries) are in charge of ordering enforcement, it is enforcement agents (i.e. Court managers or Court bailiffs) who conduct enforcement procedures. As a result, court procedures and enforcement procedures are clearly separated stages within justice administration.</li> <li>✚ Data protection rules and secure IT solutions (e.g. the use of Public Key Infrastructure) ensure the smooth implementation of enforcement procedures.</li> <li>✚ Hungarian and Spanish IT systems, applications and solutions applied throughout the enforcement procedure show close similarities.</li> <li>✚ In both countries evidence has shown that the introduction of IT solutions has contributed to the boost of efficiency in enforcement procedures.</li> </ul>



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<p><b>Recommendations</b></p>	<ul style="list-style-type: none"> <li>✚ Using Public Key Infrastructure and scheme-driven documents like XML offer a reasonably wider possibility for the IT systems to</li> <li>✓ Easily standardize and process documents even in a multilingual environment</li> <li>✓ Handle signatures in a standardized way</li> <li>✓ Prove the identity of court bailiffs and stakeholders of the procedure</li> <li>✓ Secure and approve the delivery of documents in an encrypted format</li> <li>✓ Ensure the interoperability of IT systems with projects of the European Union, including e-CODEX, EJE, EJS</li>   <li>✚ Enforcement agents shall have a joint IT application surface where information about the debtor's identity and attachable assets can be gathered.</li>   <li>✚ The use of IT applications is necessary for facilitating and ensuring time and cost effective procedures, increasing security and confidence in justice administration.</li> </ul>
<p><b>Annexes</b></p>	<p>PowerPoint Executive Presentation of the Technical Report.</p>



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## 2. COMPARATIVE ANALYSIS OF THE ROLES AND RESPONSIBILITIES OF THE ENFORCEMENT ENTITIES IN SPAIN AND HUNGARY

### 2.1. INSTITUTIONS INVOLVED IN THE ENFORCEMENT SYSTEM IN SPAIN

In the Spanish system there are no enforcement agents<sup>3</sup> for the enforcement of court decisions. Judges themselves and Court managers are responsible for enforcement. In Spain, the Spanish Constitution lays a duty on judges to ensure that judgements are enforced<sup>4</sup>.

The General Council of the Judiciary is the constitutional body that governs all the Judiciary of Spain such as courts and judges as it is established by the Spanish Constitution of 1978. This constitutional body, although not a court in itself, is responsible for overseeing the work of all courts and tribunals of Spain.

The Ministry of Justice of Spain is one of the ministries in the government of Spain. Is the Judiciary Organ in charge of the preparation, management and execution of the Government's policies.

Court managers are public servants, judicial authorities at the service of the Justice Administration, dependent of the Ministry of Justice. They must have the Spanish nationality and they must hold a law degree as well. They perform their duties as procedural and technical managers of the Court office and have relevant functions in documentation and recording of legal actions under the principles of legality, impartiality, unity of action and hierarchical dependence.

Court managers, as the director of the staff members at the Court, are responsible for the supervision and monitoring of the activities in the enforcement procedure making the Court office to work under the criteria of effectiveness, efficiency, celerity, in coordination and cooperation with other relevant institutions with competence in the field of justice administration.

Their primary task is to enforce and ensure the execution of all the decisions made by Judges and Courts in their scope of action. Court managers issue decrees to end the proceedings assigned to their exclusive competence, especially in enforcement procedures. They are responsible for monitoring the Integrated Case Management System.

Among other functions, Court managers promote the use of IT systems and are responsible for the management of court records and files. All daily activities are supported by IT Systems that make their work more efficient, secure and manageable. The computerisation of the working documents of judges,

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<sup>3</sup>Source of verification: CEPEJ. "Enforcement of court decisions in Europe". Recommendation Rec(2003) 17 of the Committee of Ministers to member states on enforcement defines the enforcement agent as "a person authorised by the state to carry out the enforcement process"

<sup>4</sup>Article 117, para. 3 of the Spanish Constitution of 1978: "The exercise of judicial authority in any kind of action, both in ruling and having judgements executed, is vested exclusively in the courts and tribunals laid down by the law, in accordance with the rules of jurisdiction and procedure which may be established therein"



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court managers and staff members of the Court Offices facilitates the transfer of files and information during the enforcement phase.

The Court manager, as responsible of the Judicial Office, is the person who runs the enforcement procedure. Spanish legislation has been equipped with different IT resources. One of the most important IT solutions is the Spanish Neutral Judicial Point that provides information on the following:

- ✚ Cadaster – Ownership of property, Certifications
- ✚ Spanish Council of the Judiciary.- Consulting
- ✚ Tax Agency
- ✚ Business Registers
- ✚ Land Registers – Land register reports
- ✚ Traffic Department – Drivers and vehicles
- ✚ Attorneys. Prosecutor and Public Prosecutor
- ✚ National Employment Agency
- ✚ Register of representation rights and powers of attorneys
- ✚ Police ID records
- ✚ Registers of wills
- ✚ Register of unemployment benefits.

## 2.2. INSTITUTIONS INVOLVED IN THE ENFORCEMENT SYSTEM IN HUNGARY

Authorities ordering enforcement: in Hungary, 95 per cent of enforcement orders are issued by civil law Notaries, predominantly by issuing payment orders for the collection of pecuniary claims, as well as appending clauses to notarial deeds. Civil law Notaries have been granted this authority since 2010 in order to eliminate nearly 5-year-long court backlogs of non-adversarial payment order procedures. However, enforcement procedures resulting from adversarial procedures continue to be ordered by courts.

Hungarian enforcement agents are primarily Court bailiffs, who, besides being obliged to implement judicial enforcement cases within their territorial jurisdiction, shall or may also adopt enforcement measures in tax or administrative cases prescribed or authorized by statute.

In the framework of enforcement procedures, Court bailiffs may contact a wide range of authorities enlisted below, with whom possibilities and different forms of electronic communication have evolved gradually.



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#### Transparency of debtor's assets

In accordance with Section 41 of the CEPEJ Guidelines for a Better Implementation of the Existing Council of Europe's Recommendation on Enforcement, Hungarian court bailiffs are granted direct access to information on the defendant's identity and assets. The following registries and databases are contacted in order to identify the defendants and their whereabouts, to assess the validity of their official documents, as well as to map their enforceable assets including their earnings and other emoluments, accounts administered by financial institutions, movable and immovable properties, valuable rights and interests.

- ❖ Central Office for Administrative and Electronic Public Services
  - Registry of Personal Data and Address
  - Registry of ID Cards
  - Registry of Passports
  - Registry of Address Certificates
  - Registry of Driving Licences
  - Registry of Vehicles
  - Watercraft and Aircraft Registration
- ❖ Office of Immigration and Nationality
  - Registry of Personal Data and Address for Immigration Control
  - Registry of Lost Passports of Citizens and Relatives belonging to the EEA, as well as Citizens of a Third Country
- ❖ Land registration offices and the National Electronic Real Estate Register (TakarNet)
- ❖ Company registration courts
- ❖ Financial institutions
  - bank accounts, bank deposits, securities, safe deposit boxes
- ❖ Registers of liens maintained by the Hungarian Chamber of Civil Law Notaries (MOKK)
  - National Register of Liens (ZONY)
  - Register of liens on movable tangible properties (mostly vehicles) that can be identified beyond reasonable doubt (gkZONY)
  - Register of Collaterals (HBNY)
- ❖ National Health Insurance Fund (OEP)
- ❖ Central Administration of National Pension Insurance (NYUFIG)

#### Authorities contacted for the proper implementation of the enforcement procedure

- Police may or shall assist the procedure with armed forces in the event of resistance, eviction, crimes related to the enforcement procedure.
- Guardianship authorities protect the rights of minors, wards or legally incapable persons at surrender of a child or child custody procedures.
- Local governments issue official tax and value certificates so as to establish the property's appraised value as well as publish auction notices at their bulletin boards.



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## 2.3. COMPARATIVE ANALYSIS

Spanish enforcement system is close to Hungarian system. In both countries, Judges order the enforcement, although in Hungary the Notaries can order the enforcement for uncontested payment orders.

In Spain, after the order of enforcement is the Court manager the one that monitors the procedure while in Hungary are the Bailiffs.

The main difference between Hungary and Spain is that in Spain there is a public system and in Hungary there is a mixed system, public and private. There are public Bailiffs but just in the case when the creditor is the State; but if there are private people as bank of companies, private Bailiffs monitor the enforcement.

Irrespective of the legal status of Court Managers or court Bailiffs, in both countries enforcement is supervised by the Ministry of Justice.

## 3. ANALYSIS OF THE LEGAL FRAMEWORK ON DATA PROTECTION

### 3.1. INTRODUCTION

The automatic processing of personal data is growing at an incredible pace and is starting to become an integral part of economic, administrative and social processes in Europe and throughout the world.

Personal data should not be processed at all, except when certain conditions are met. These conditions fall into three categories: transparency, legitimate purpose, and proportionality.

1. Transparency. The data subject has the right to be informed when his personal data is being processed. The controller must provide his name and address, the purpose of processing, the recipients of the data and all other information required to ensure the processing is fair.
2. Legitimate purpose. Personal data can only be processed for specified explicit and legitimate purposes and may not be processed further in a way incompatible with those purposes.
3. Proportionality. Personal data may be processed only insofar as it is adequate, relevant and not excessive in relation to the purpose for which they are collected. The data must be accurate and, where necessary kept up to date; every reasonable step must be taken to ensure that data which are inaccurate or incomplete, having regard to the purposes for which they were collected or for which they are further processed, are erased or rectified.

The data shouldn't be kept in a form which permits identification of data subjects for longer than is necessary for the purposes for which the data were collected or for which they are further processed.



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### 3.2. DATA PROTECTION LEGAL FRAMEWORK IN SPAIN

Legal background:

- LO 15/1999, 13 December<sup>5</sup>, regulate most of the IT solutions applied to the enforcement system in Spain referred into paragraph 4.2, of this report.
- Law 18/2011, 25 July<sup>6</sup>, is the law which regulates the use of information technology by citizens and professionals in their relations with the Administration of Justice and the relationship of the Administration of Justice and other government public bodies.
- Law 59/2003, 19 December, of electronic signature<sup>7</sup>. An electronic signature, or e-signature, is any electronic means that indicates either that a person adopts the contents of an [electronic message](#), or more broadly that the person who claims to have written a message is the one who wrote it (and that the message received is the one that was sent by this person). Article 17 of this law is related to data protection and sets that the processing of personal data must be carried out with the consent of the data subject

In Spain there is also the Spanish Data Protection Agency which is the public law authority overseeing compliance with the legal provisions on the protection of personal data, enjoying as such an absolute independence from the Public Administration.

### 3.3. DATA PROTECTION LEGAL FRAMEWORK IN HUNGARY

Legal background:

- ✓ Act No. CXII of 2011 on the right to informational self-determination and on the freedom of information (DPA)<sup>8</sup>
- ✓ Act LXIII 1992 on the Protection of Personal Data and the Publicity of Data of Public Interest
- ✓ Act LIII of 1994 on judicial enforcement (Vht.)<sup>9</sup>

Based on the authorization provided by Vht, a wide range of information is handled during enforcement procedures, including the search in a number of databases and the transmission of acquired data. Handing these data shall comply with the relevant legal regulations, with respect to the purpose of the enforcement procedure. DPA applies to all data control and data processing operations carried out in the

<sup>5</sup> [Ley Orgánica 15/1999, 13 December](#)

<sup>6</sup> [Ley 18/2011, de 5 de julio, reguladora del uso de las tecnologías de la información y la comunicación en la Administración de Justicia.](#)

<sup>7</sup> [Ley 53/2003, 19 de diciembre de firma electrónica](#)

<sup>8</sup> [http://net.jogtar.hu/jr/gen/hjegy\\_doc.cgi?docid=A1100112.TV](http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100112.TV)

<sup>9</sup> [http://net.jogtar.hu/jr/gen/hjegy\\_doc.cgi?docid=99400053.TV](http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99400053.TV)





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territory of Hungary that pertain to the data of natural persons or to public information or information of public interest

Court bailiffs are not permitted to process special data, including:

- a) personal data revealing racial origin or nationality, political opinions and any affiliation with political parties, religious or philosophical beliefs or trade-union membership, and personal data concerning sex life,
- b) personal data concerning health, pathological addictions, or criminal record;

According to Vht, court bailiffs shall safeguard all data and information obtained in their official capacity from any unauthorized access, from publication, and from any illegal use or use for the purpose of any criminal act. The circumstance when such data and information can be contained in any executor documents or can be disclosed to third parties, are governed by law.

The national regulatory organ is the National Data Protection and Freedom of Information Authority.

### 3.4. CROATIAN LEGAL FRAMEWORK IN DATA PROTECTION

The Croatian Act on Personal Data Protection (Official Gazette No. 103/03, 118/06, 41/08, 130/11 and 106/12) has been promulgated on the grounds of the Constitutional provision related to personal data protection.

This Act regulates personal data protection of natural persons and supervision over collecting, processing and use of personal data in the Republic of Croatia

There are also two more regulations:

- ✚ the Regulation on the method of maintaining records on personal data filing system and the form of such records (Official Gazette, No. 105/04)
- ✚ the Regulation on the manner of storing and special measures of technical protection of the special categories of personal data (Official Gazette, No. 139/04)

The Article 37 of the Constitution of the Republic of Croatia also regulates personal data protection<sup>10</sup>

The Act on Personal Data Protection has been harmonized in all important questions with the Directive 95/46/EC on the Protection of individuals with regard to the processing of personal data and on the free movement of such data.

<sup>10</sup> Everyone shall be guaranteed the safety and secrecy of personal data. Without consent from the person concerned, personal data may be collected, processed and used only under conditions specified by law.  
Protection of data and supervision of the work of information systems in the Republic shall be regulated by law.  
The use of personal data contrary to the purpose of their collection shall be prohibited.



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### 3.5. DATA PROTECTION AND IT SOLUTIONS WITH THE LEGAL SYSTEM

According to European standards<sup>11</sup>, an analysis of the most relevant aspect that should be taken into account when using IT applications and personal data at Court has been carried out.

Due to the different data that IT solutions provides, enforcement agents that have access to this personal data must bear a responsibility for maintaining confidentiality when secret, or sensitive information come to their attention in the course of enforcement proceedings. In case of a breach of this duty, measures of disciplinary liability should be applicable, along with civil and criminal sanctions<sup>12</sup>.

These are some rules to take into consideration when working at Court with computers and when obtaining some relevant personal data information from citizens:

The technical services of the Courts are entitled to monitor the hardware and software equipment in order to perform task of maintenance to keep an accurate performance, use and planning for future needs. The access to the information contained in such systems should be traceable and timely communicated to those concerned users. The supervision will always be carried out by the technical services specifically designated for that purpose, after fulfilling the requirements established by the Law.

The files and documents contained in the data storage systems must be used with a professional purpose, without being suitable, therefore, for personal or private use.

The software installed on computer equipment is owned by the Administration of Justice. The use, copying or reproduction thereof for purposes other than work is excluded, unless expressly authorized. The installation of software must always conform to the software licenses belonging to the justice Administration. The installation of all types of programs without the intervention of the competent technical service shall be prohibited.

The access, by any means, to the computer of a Court staff member with other user's login and password, is expressly forbidden, unless specifically authorized by the provisions of Law or under the decision of competent authority.

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<sup>11</sup> Mainly the following:

- Directive 95/46/EC of the European Parliament and the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and of the free movement of such data. This Directive is aimed at reconciling the protection on personal data with the free flow of data within the internal market.
- Directive 2006/123/EC of the European Parliament and of the council of 12 December 2006 on services in the internal market in accordance with the directives 2002/21/EC, 2002/22/EC and 2002/58/EC on electronic networks and personal data protection.
- Instruction n° 21, of 24 September 2012 "On determining the rules for safeguarding the personal data processed by Large Entities".
- Instruction n° 22, of 2 September 2012 "on determining the rules for safeguarding the personal data processed by Small Entities".

<sup>12</sup> CEPEJ "Guidelines for a better implementation of the existing council of Europe's recommendation on enforcement" adopted by the CEPEJ at its 14<sup>th</sup> plenary meeting, December 2009.



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## 4. IT SOLUTIONS AND FACILITIES OF SPAIN AND HUNGARY WITHIN THE EUROPEAN JUDICIAL AREA

### 4.1. INTRODUCTION

The principle of effective judicial protection allows citizens to have a direct relation with the Administration of Justice. The protection of this principle has been made possible to a large extent, by the incorporation of new technologies in the Judicial Office.

IT applications have helped to improve management, increasing efficiency level and allow an efficient information exchange between judicial and other government bodies. Moreover, their implementation has contributed to a faster completion of the proceedings and consequently, a significant cost reduction.

The Spanish Congress approved on 22 April 2002, a non-legislative proposal on the Charter of Citizens' Rights before the Administration of Justice<sup>13</sup>. Under Paragraph 21 of the Charter, citizens have the right "to communicate with the Administration of Justice through email, video conference and other electronic means in accordance with the provisions of procedural laws."

### 4.2. IT SOLUTIONS APPLIED TO THE ENFORCEMENT SYSTEM IN SPAIN

Spain has made a great effort to implement an e-Government. Under the directives of the European Union, the Spanish government has approved a legislative package, which comprises the Law 11/2007 on electronic access of citizens to public services<sup>14</sup>, the Law on Electronic Signature<sup>15</sup> and the Decree on the National identity Document<sup>16</sup>. These rulings have enabled the establishment of instruments capable of verifying the identity of the agents involved in electronic communications. In addition, they ensure the validity and integrity of the messages exchanged. Today more than 24 million Spanish citizens have an electronic ID. Thus, citizens can safely perform multiple actions through electronic means that guarantees their identity in communications. 90% of the procedures and 90% of the transactions with the Central Government can be performed electronically.

In order to analyze the IT resources in the Spanish Judiciary we will start by describing the transition from a paper based system to a computerized system which started with the introduction of procedural computer management systems in the judicial office.

<sup>13</sup>[Carta de Derechos de los Ciudadanos ante la Justicia.](#)

<sup>14</sup>[Ley 11/2007, de acceso electrónico de los ciudadanos a los Servicios Públicos](#)

<sup>15</sup>[Ley de Firma Electrónica](#)

<sup>16</sup>[RD sobre el Documento Nacional de Identidad electrónico](#)



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#### 4.2.1. CASE MANAGEMENT SYSTEM



There are computer programs that enable judicial offices in Spain to carry out procedures online. The documents such as complaints, claims or demands that give rise to the procedure are managed online through all the judicial process, from its initial stage to the corresponding judgement and eventually to its execution through compulsory payments or actions.

In Spain, there is a territorial division in Autonomous Communities. Each Autonomous Community has the right to implement different computer system for the file management in the judicial office. These computerized judicial systems were implemented in 1990 in some Autonomous Community Administrations (in Catalonia and the Basque Country). In 1995 these systems were fully established throughout the national territory. The computer applications are different in some Autonomous Communities. These differences have made it necessary to establish cooperation agreements between different institutions (Ministry of Justice, Prosecutor, and General Council of the Judiciary) and the Autonomous Communities to enable the secure exchange of data.

To address this need, a Compatibility Test has been implemented. This test is aimed at establishing standards in communication between different computer systems:

<b>Cataluña</b>	Themis lle.justicia.cat
<b>Valencia</b>	Cicerone
<b>Canarias</b>	Atlante
<b>Andalucía</b>	Adriano
<b>Ministry of Justice</b>	Minerva
<b>Basque Country</b>	Justicia BAT
<b>Madrid</b>	Libra
<b>Navarra</b>	Avantius

#### 4.2.2. COMPABILITY TEST AND INTEROPERABILITY



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Under the cooperation agreement between the Ministry of Justice, the Attorney General Prosecutor and the Spanish Council of Judiciary for the establishment of a Judicial and Security Interoperability Framework (EJIS) provides a number of tools to help the management and adaptation of new developments in applications and systems.



The Compatibility Test is not a new tool, but the evolution of the first versions agreed in 1999, includes a set of market standards and is has been developed to facilitate compatibility and interoperability of the various positions available to the Administration of Justice technological systems. Thanks to this set of standards any administration can develop applications compatible with the rest and share information not only in the field of administration of justice but also outside it.

The objectives of the current review of Test, approved by the Plenary of the General Council of the Judiciary as of April 12, 2007, are as follows:

- The implemented Systems Management Procedure and the futures must use legal concepts expressed in code tables, according to Annex II of Test: "General Criteria Code Tables."
- Homogeneous registration of files in Case Management System.
- Exchange of information between applications:
  - ✓ Execution of letters rogatory.
  - ✓ Resources and communication issues.
  - ✓ Sending resolutions Judicial Documentation Center (CENDOJ).
  - ✓ Sending Data to Central Registers.
- Security and auditing.
- Management knowledge. Definition and establishment of important milestones in the legal proceedings of the records.
- The final obligatory report made before a Judge moves from one Court to another
- To establish the minimum features that Case Management System shall contain.

#### 4.2.3. NEUTRAL JUDICIAL NETWORK (PNJ)



The PNJ is one of the most useful IT application used in Spanish Courts. It provides the ability to query and interconnect Judicial Bodies with third parties, (Supreme Court, Court of Appeal, Legal Practitioners, Financial Institutions, Land Registers, and Commercial Registers etc.). Through this application a direct access to information on the debtor assets and personal data such as: working life, address... is permitted.

This application is equipped with important security measures. Data can be consulted through a secured access which is guaranteed by using a digital signature. Every Court staff member has their own user name and password or authentication certificate. The access, by any means, to the PNJ with other user's login and password is expressly forbidden. The data obtained through this IT application must be essential



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for the purpose for which it was requested and pertaining to the pending enforcement procedure. Any inquiry about personal assets must be justified.

The Court manager must supervise the use of the PNJ in order to ensure a consistent level of protection for debtor's data. Access is guaranteed by using a digital signature and each enforcement agent has their own user name and password or authentication certificate.

As the time lines for enforcement procedures should be reasonable, the PNJ is an efficient and effective IT application in order to reduce the length of the enforcement proceeding. Direct access to information must be guaranteed in order to ensure an efficient enforcement proceeding.

The following data can be consulted at the Neutral Judicial Network. Some debtor's assets, like bank accounts and tax offices credits can be seized directly through this IT application:

-  Cadaster – Ownership of property, Certifications
-  General Council of the Judiciary
-  Tax Agency
-  Business Registers
-  Land Registers – Land registry reports
-  Traffic Department – Drivers and vehicles
-  Attorneys. Prosecutor and Public Prosecutor
-  National Employment Agency
-  Register of representation rights and powers of attorneys
-  Police Station ID records.
-  Registers of wills.
-  Register of unemployment benefits.

There is an access to the following applications:

- ***JUDICIAL STATISTICS***
- ***CENTRAL REGISTERS***
- ***GOVERNANCE PROCESS***
- ***ACCOUNTS MANAGEMENT***
- ***EXPEDITIOUS TRIALS***
- ***ENFORCEMENT***
- ***COMMUNICATIONS***
- ***LIBRARY***
- ***COURTS FOR VIOLENCE AGAINST WOMEN***
- ***COURT FEES***
- ***MAINTENANCE MATTERS***



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Finally, the main objectives of the application are:

- Provide support to the management of the courts.
- Provide assistance to the judge.
- Automate the management of government bodies.
- Facilitate the compatibility and interoperability between computer systems at the service of the Administration of Justice

#### 4.2.4. ELECTRONIC DELIVERING OF DOCUMENTS TO THE PARTIES: lexNET



This application is a fast and safe electronic telematics that enables bidirectional communication between the Court offices and de different legal operators who, in their daily activities, need to exchange legal documents such as lawsuits or applications.

The main objectives are:

- Communication is done in a fast and safe manner, using electronic signatures, through a friendly interface.
- Paper free access 24 hours a day seven days a week.
- Avoiding unnecessary travelling, reducing postage cost (an average of 2.03€ per notification) and expenditure of time.

Since its implementation in 2013, the delivery system has saved substantial time and resources on the travelling expenses of legal practitioners, in addition to streamlining the system judicial communications.

The next step, set up in this term, is that the legal practitioners can send to Court their applications electronically. The Ministry encourages the reduction of paper in court:

- Court electronic notifications - 38% increase for 2013.
- Up to 89 million euros was saved on shipping last year.
- Over 44 million notifications in 2013 were made through the LexNET system.
- This platform has 47,000 users and is used in more than 2,500 courts.
- Also it was allowed the exchange of over 100,000,000 messages.

The current users of the system are:

- Courts
- State Bar
- Regional Bars
- Social Security
- State Attorney offices
- Bar association



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- Lawyers
- Social Graduates

LexNET will be connected to the interoperable European e-Justice system e-CODEX widening the communication net from the Spanish courts to the other 14 Member States taking part in the project<sup>17</sup>.

#### 4.2.5. JUSTICE ADMINISTRATION PORTAL AND CONTROL PANELS.



The Justice Administration Portal (PAJ) is a single, electronic, place to connect both citizens and professionals to the Justice Administration.

✚ For Court manager :

- They will find in the Portal their working desktop with access to their main IT applications and with useful information to support their daily activities. It is conceived as a future electronic one stop-shop in the area of justice. They also have other collaborations tools like date base case law, national and international legislation.
- One of the principal functionalities is to be the platform for the management and development of human resources through Aino@.
- Inspection Systems are powerful decision-making support tools which provide relevant information on the different aspects of the judicial activity to different groups of users. Inspection system is composed of specific applications that provide statistical information reports and indicator. The data is mainly extracted from procedural applications and registry management In this way the Ministry of Justice can Know the work Court.

✚ The citizens can find in the portal the following access:

- Going to the Take the court action
- Pay a court fee
- Find a court or your interest.
- Legal Aid. It is a system that allows those who do not have sufficient financial resources to meet the cost of a Court case or legal representation. The system integrates Judicial Offices, Legal Aid Commissions as well as Bar Association.
- Judicial Office
- E-Apostille.

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<sup>17</sup>The information is viable: <http://infolexnet.justicia.es>





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#### 4.2.6. ELECTRONIC HEARINGS DOCUMENTATION (e-FIDELIUS)



The e-Fidelius System is aimed at recording views, storage and management of audio-visual performing copy requests to optical media.

This system comprises several independent systems that interact to achieve a set system.

#### 4.2.7. E-AUCTIONS



A fully operational electronic auction system has been working as a pilot experience in the Enforcement Court of Murcia region since 2007, and it was awarded with the "Crystal Scales of Justice" prize by the European Commission for the Efficiency of Justice of the Council of Europe. This prize highlights innovative and efficient practices used in European Courts.

The electronic Judicial Auctions Portal is a Ministry of Justice portal that offers the following services:

- Public information (date and venue, description, price, photographs, plans, existence of burdens, etc.) on the judicial auctions organised by the Auction Units belonging to this system.
- It enables citizens to follow these auctions on-line in a completely anonymous manner. It enables citizens who sign up as portal users to bid in the auctions on-line.

Information on the Judicial Auctions Portal is posted and managed by Auction Units belonging to the system.

The auctions are held by the courts, pursuant to the enforcement procedure established in Civil Procedural Law 1/2000, of 7 January (*Ley de Enjuiciamiento Civil*). The courts can hold these auctions through a Common Service for Notifications and Enforcements (hereinafter: 'Auction Unit').

These auctions can include different types of assets:

- Real estate: homes, garages, plot, etc.
- Personal property: machinery, furniture, etc.
- Vehicles: tourism, industrial vehicles, other vehicles.

To participate as an internet bidder in an auction, you need to:

- Access the Judicial Auctions Portal as a registered user.



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- Obtain an internet bidder certificate for said auction. You can request this certificate by sending a form if you click on the Become certified for this auction link in the auction summary table.
- Once the auction has commenced and the auction manager has opened it to the participation of internet bidders, you may join the auction by clicking the Participate in this auction link in the auction summary table.
- To obtain an internet bidder certificate, you must have previously made the bank deposit established for said auction. The tab Consignment of the auction details gives precise information on how to make the deposit.
- Consult the Auction Unit responsible for the auction regarding how to take part and bid in person at the Auction Unit offices.

The auction is held in successive rounds in which the bid turns pass from bidder to bidder. You will have a maximum time to make your bid from the moment your turn starts.

The auction manager may finalise the auction providing only one bidder remains, the deadline for certifications has elapsed, and there are no certification requests pending that were received before the expiry of the certification deadline.

At that time, the auction process system will mark the bidder who placed the highest bid as the "winner" of the auction (as long as the bidder had not been expelled from the auction by the auction manager).

The successful bidder must contact the Auction Unit to check his/her bid was the one accepted and, if appropriate, pay the amount of said bid.<sup>18</sup>

#### 4.2.8. ELECTRONIC AGENDA

The agenda of the Judicial Office is a powerful system that makes it possible to perform coordinated judicial scheduling. This application fits the organization and structure of each Court, and takes in to account the specificities of each Court.

It is done in a centralized, coordinated, flexible, transparent and easy to use way.

In some Court this Agenda is been using to connect whit the Judicial Police in order to allow simultaneous communications as conducting the criminal or the date when the trail is going to be celebrated .

#### 4.2.9. COURTROOM SYSTEMS: VIDEO RECORDING AND VIDEOCONFERENCE.

Courtroom systems are geared to support communication between different agencies and professionals using the latest technology.

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<sup>18</sup>[https://subastas.administraciondejusticia.gob.es/subastas/all\\_informacion.do?method=getPreguntasFrecuentes#faqRegistro1](https://subastas.administraciondejusticia.gob.es/subastas/all_informacion.do?method=getPreguntasFrecuentes#faqRegistro1)



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Video recording main goals are the digital recording of the hearings, the introduction of electronic signatures into the recording and the integration with the videoconferencing system.

In this way the Management Court could be non-assist to the courtroom and that makes possible to make more efficiency the work in the Judicial. In add allows to reproduce the all trail in the first instance and in the

Appeal Court.

Videoconferencing systems allow simultaneous bidirectional communication of audio and video to connect speakers at the hearings in locations far apart, using IP technology.

All resources reduces the time cost and material cost due to the parties in the procedures can do many proceedings in telematics ways without present

#### 4.2.10. THE ELECTRONIC JUDICIAL FILE

The Project of the Electronic Judicial File is one of the main axes of the process of modernization of the Administration of Justice. The purposes of its implementation are: to overcome finally the paper file cases, to manage the significant savings in resources and to simplify the management, what will result in faster decision-making and, consequently, a backlog reduction.

Mainly a model has been changed: the record is no longer a set of papers that moves and becomes a set of information in electronic format, accessible to all participants and processes where processing takes a leading role.

This system is much more flexible and allows digital information to add new record, such as the recordings of the courtrooms and the digital information provided by professionals.

The implementation of the new system involves:

- Definition of a documentary map: graphical form of representing the information resources that exist in an organization and the interrelationships between them.
- Creation of a single check for all documentation that is addressed to Court, regardless the format.
- Implementation of an adequate system of operating with the stored documents. That is, a manager with advanced capabilities for structuring, searching and storing documents that have previously been classified and catalogued and have full capacity for growth and evolution.
- The security and control of information. Court records contain sensitive information that must be properly secured. Therefore, the first scanning of documents is done by way of certification, ensuring that the original documentation is reflected faithfully. Digital Signature platform guarantees the authenticity of the documentation and the associated signature, ultimately accelerating dealing with the case.



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The implementation of the electronic model of the judicial file is also accompanied by an appropriate management system and files the original documents, mostly paper. File Centralization enables file management optimization, facilitating the retrieval of documentation and implementation of efficiencies of scale and standardized procedures and unique management.

The ultimate goal is to achieve the electronic processing of the judicial file. To achieve this, the Ministry of Justice is working hard to develop a system in the courts which have already implanted it. Currently it is running in the 12 Central Administrative Courts and Social Court of the "*Spanish National Court*" on June 14, 2011, became the first authority to implement the electronic case file.

#### 4.2.11. AINO@ PAYROLL AND MANEGEMENT COMPUTER APPLICATION

Aino@ was first implemented in 2003, and have had two important improvements: in 2009 and in February 2014.

Aino@ is integrated in the Portal of Justice Administration but it is only accessible by Court staff and employees of the Administration of Justice, with a user name and password.

The following services are available:

- Payroll
- Personal Data Query
- Viewing and updating the personal data.
- Obtain the annual certificate of Income Tax.

### 4.3. IT SOLUTIONS APPLIED TO THE ENFORCEMENT SYSTEM IN HUNGARY

#### 4.3.1. NATIONAL ELECTRONIC REAL ESTATE REGISTER (TAKARNET)

Hungarian real estate registers contain authentic data, which are public and available for everybody. TakarNet provides direct electronic access to these data for certain persons and authorities. Out of stakeholders of justice administration, a special access is granted for court bailiffs acting in the range of an enforcement procedure, enabling them to search for/conduct searches based on a natural person owner's name and personal data, or name and company registry number of a business entity. Access to the register is secured with an authentication certificate.



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#### 4.3.2. DATA SUPPLYING NETWORK STRENGTHENING THE SECURITY OF LEGAL TRANSACTIONS (JÜB)

JÜB is available for stakeholder authorities of justice administration, including courts, lawyers, civil law notaries and court bailiffs. Since 1 January 2008, in compliance with the respective legal regulations on their professional status, these authorities are obliged to apply digital signatures. Court bailiffs can request data from JÜB free of charge, enabling them to check and verify the following range of data:

- personal identification data
- nationality, statelessness, legal status as refugee, immigrant, resident alien or EEA citizen
- address
- portrait
- signature
- number of ID and residence cards and data stored on these documents
- Data included in the register of vehicles.

Search results can be downloaded in PDF format.

#### 4.3.3. ELECTRONIC REGISTRY OF BUSINESS ENTITIES (IN HUNGARIAN: e-CÉGELIJÁRÁS)

With the introduction of electronic company procedures on 30 December 2008 by Act V of 2006 on Public Company Information, Company Registration and Winding-up Proceedings, registration and deregistration of companies are conducted based on digitally signed documents exclusively. As for court bailiffs, electronic attachment of business shares is also implemented through this system, in accordance with Section 101 of Act LIII of 1994 on judicial enforcement (Vht.)<sup>19</sup>

#### 4.3.4. REQUESTING THE NATIONAL HEALTH INSURANCE FUND (OEP)

Based on cooperation agreements concluded individually, court bailiffs can request information on the defendants' employment from the register run by the Hungarian Health Insurance Fund (OEP) as relevant administrative organ. The body of data transmitted and received is automatically electronically processed.

#### 4.3.5. AUTOMATIC DISTRIBUTION OF ENFORCEMENT CASES BASED ON PAYMENT ORDER

Act L of 2009 on payment order procedures (Fmhtv) has abolished the jurisdiction of courts over issuing payment orders and ordering of enforcement procedures based on payment orders, empowering civil law

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<sup>19</sup> (1) In respect of the seizure of the judgment debtor's property or business share (hereinafter referred to as "business share") from the assets of an economic operator, the bailiff shall notify the economic operator in question and the general court acting as the court of registry (hereinafter referred to as "court of registry") by sending a copy of the seizure report.

(2) Seizure of business shares shall be registered in the company records and in the company register by the economic operator affected and by the court of registry, respectively.



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notaries with these activities. This shift of jurisdiction made electronic communication between civil law notaries, court bailiffs and claimants possible. Following the introduction of Fmhtv, MBVK has launched a new system which makes it possible to transmit not only paper based, but also electronic documents to court bailiffs through secured electronic and authentic channels. Transmitted documents include certificates of enforcement and payment orders to be served by court bailiffs.

The system accepts documents arriving from the Hungarian Chamber of Civil Law Notaries (MOKK) in both automatically processable XML and human readable PDF formats. Following the extraction of data from the XML format, if possible, the document is automatically forwarded to the court bailiff in charge. The application is also in conformity with regulations and prescriptions on digital signatures, encryption and authentication, and complies with the expectations and technical abilities of MBVK and MOKK. Large quantities of documents are transmitted in a secure, electronically encrypted and signed file (XAdES-T), and following a decoding by the MBVK e-Gate system, they are forwarded to the court bailiff with jurisdiction by the Chamber's case allocation software.

#### 4.3.6. SYSTEM FOR ELECTRONIC SERVICE OF ENFORCEMENT DOCUMENTS (VIEKR)

The legal basis of VIEKR is Government Ordinance No. 83 of 2012 on Regulated Electronic Case Management Services. The predecessor of VIEKR, the MBVK system for requesting financial institutions, was awarded ICT project of the year 2011, enabling court bailiffs to request account information from banks via digitally signed and encrypted files, and receiving replies in identical format. One package could contain an unlimited number of requests with an unlimited number of addressees.

VIEKR launched in 2012. The system makes it possible to replace paper based communication in the enforcement procedure, to accelerate the procedure and cut back on certain administrative costs. It provides electronic communication, resulting in cost and time effective procedures. The application uses encrypted, secure channels. Time stamped digital signature makes it indisputable. It also offers possibility of automation so as to minimize errors and ease administrative burden.

User groups include the following:

- The Hungarian Chamber of Court Bailiffs
- Court bailiffs
- Parties performing professional attorney services requesting electronic communication
- Other parties requesting electronic communication
- Parties obliged to maintain electronic communication. This user group includes every financial institution with a Hungarian place of business, who by statute are obliged to respond to court bailiff requests within 8 days, providing information on whether the defendant holds any attachable financial assets. In the case of an affirmative response, the court bailiff may submit an official transfer order (a.k.a. direct withdrawal).

Packages are delivered to the addressee through the central server. This is a trusted data transmitting unit, which accepts and stores the packages until delivery (or a defined period of time). Certificates of



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dispatch confirm that the package has been sent and received by the server, whereas their delivery and acceptance by the addressee is proven with return receipt. Electronic return receipts are accepted by law, to which the principle of deemed of service also apply. The delivery status of the package can be checked at any time. Due to the encryption procedure applied, contents of messages sent through the system remain unknown to the server. Parties can verify the authenticity and date of messages by checking the digital signature and time stamp.

#### 4.3.7. ELECTRONIC AUCTION SYSTEM (EÁR)

The necessity of a state of the art electronic auction system was recognized in 2008. Lacking considerable experience or model of European or even international judicial auctions which would be adjustable to the Hungarian enforcement system, and bearing in mind their incompatibility with online voluntary auction websites, the application needed to be experimented and developed from the basics. The Legislature's and the profession's joint initiative was to create a most clear and transparent auction procedure. The beta version proved to be convincing enough for the Legislature to draft an amendment of Vht., introducing electronic auctions in enforcement procedures. In the pilot phase, traditional and electronic auctions were conducted simultaneously, however, since 2013; real estates have been exclusively auctioned online.

The working and detailed procedure of the auction procedures are regulated in the following statutes:

- Act LIII of 1994 on judicial enforcement (Vht.)
- Decree of the Minister of Justice No. 14 of 2001 on the duties and responsibilities of the Hungarian Chamber of Court Bailiffs<sup>20</sup>
- Decree of the Minister of Justice No. 27 of 2008 on the detailed rules governing the IT applications and background of the electronic auction system<sup>21</sup>.

Court bailiffs shall proceed to sell by means of electronic auction:

- any movable property with an estimated value of 100,000 forints or more, if the party seeking enforcement has advanced the costs of transportation and storage;
- any movable property, if safeguarding or storage is provided for;
- business shares;
- Securities, if securities are to be sold by auction in accordance with Vht.
- Unless otherwise provided by law, immovable properties shall - on general principle - be sold by way of electronic auction.

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<sup>20</sup>[http://net.jogtar.hu/jr/gen/hjegy\\_doc.cgi?docid=A0100014.IM](http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0100014.IM)

<sup>21</sup>[http://net.jogtar.hu/jr/gen/hjegy\\_doc.cgi?docid=A0800027.IRM](http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0800027.IRM)



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Electronic auction may not be held for the sale of perishable things, not for the sale of movable properties which are to be sold by consignment in accordance with Vht.

The system architecture needs to serve both bidders and court bailiffs in an efficient and speedy manner. The work of EÁR requires the constant contribution of court bailiffs. In cooperation with MBVK's other IT applications, the Chamber ensures that with the use of proper authentication, court bailiffs can upload new auctions, accept or refuse the bidder's activation requests, close finished auctions and shall record the events of the auction in an auction report, etc.

There are three ways to enter EÁR, as a visitor, as a bidder and as a court bailiff. These categories allow users diverging levels of access to the system.

Use of the system as a visitor: Anyone interested, or those who have been refused to register at the EÁR site as bidders may still access the website as visitors, free of charge. All public data are easily accessible for them, these include:

- The auction notice in portable document format (PDF)
- All relevant information connected to the auction (see below)
- Additional information, e.g. digital photo of the item.

Browsing through the items to be auctioned is eased by simple and advanced search options as well.

The auction notice of movable properties includes the following information:

- a. The names of parties;
- b. The place and date of the auction;
- c. The movable property to be sold at the auction and the appraised value of such, and the amount of bidding threshold;
- d. The place and date where and when the movable property may be inspected prior to the auction.

The auction notice of real estates indicates the following data:

- i. The bailiff's name, office address, telephone number and number of his deposit account;
- ii. The names of the parties, and the legal title and amount of principle claims;
- iii. The data of record from the real estate register [lot registration number, agricultural zoning, location, name of the owner and any encumbrances defined in Vht.], and the legal title and duration of any land use registered in the land use register;
- iv. The appurtenances and special features of the real estate property;
- v. An indication whether the property is sold vacant or occupied;
- vi. The property's reserve price;
- vii. The amount of auction deposit;





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- viii. The minimum purchase price to be offered, and as to whether the municipal government of the community where the residential property is located has any right of pre-auction for the residential property in question;
- ix. The date and time of the opening and closure of the auction, and also when the property can be inspected;
- x. The amount of bidding threshold detailed;
- xi. An indication that information concerning the statutory provisions pertaining to bidders, on the conditions and time limits for submitting bids electronically, on the payment of the purchase price, and on repeated auctions is available in the register of electronic auction notices.

Use of the system as registered bidders: any person or organization may request admission into the electronic register of bidders, subject to their acceptance of the user agreement setting out the conditions for bidders for using the electronic auctions operating system. If the bidder fails to provide the data and information specified in Vht. and the documents to verify such data, or if there is any doubt as to his identify, the court bailiff shall refuse to carry out the registration process. A bidder may also be an entity comprised of several persons or bodies, where the share of each individual must also be indicated in the electronic register of bidders.

In order to be able to use the system as auction buyers, users willing to bid have to

- undergo a security authentication procedure (via JÜB),
- attach necessary documents,
- pay a one-time registration fee and
- register through a certain authority (any court bailiff operating in Hungary, not necessarily the one holding the specific auction),
- enter the EÁR website by using their given user name and password
- at first entry, accept the terms of use.

Registered bidders may modify their password, e-mail address used for notification, the frequency of updating the site and flag auctions for follow-up. They are required to submit a separate activation request for each auction, in which they ask a permission to bid for a certain item, after having made advance payment. Depending on the judicial officer's response to the request, users can start bidding, after having made up for possible deficiencies in the previous request, they can file a new one, or if excluded by legal regulations, users may be prohibited from bidding. Those enjoying a right of pre-auction constitute a special category of bidders (see above).

In order to preserve the identity of bidders, the system generates them a separate alias for each new auction. The EÁR communicates with system messages, to which all legal consequences are attached, however, for bidders' information, all messages are forwarded to their electronic mailbox as well.

Registered court bailiffs may use the EÁR by entering through the Chamber's own website, by using a device creating secure signature (BALE, eg. smart card) storing their digital signature, authentication and encryption certificates.



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Court bailiffs (and those assistants who are permitted by the court bailiff) have authorization to have access to the database of bidders, modify their data, enter a new (group of) bidder(s), enter new auctions, trace and close on going auctions as well as delete closed auctions from the database. Regarding their own auctions, court bailiffs have to check the personal data of those submitting a request to auction, accept or refuse bidders' activation request and exclude users from bidding.

Concise summary of the auction procedure: the bailiff shall make public the auction notice in the register of electronic auction notices. The legal consequences pertinent to making the auction notice available to the public shall apply from the time of the publication of the notice until the closure of the bidding log.

The bidder, following publication of the auction notice in the register of electronic auction notices, may register a bid movable property being auctioned off using his activated user name and password and entering his offer until the closure of the bidding log of the auction in question. The electronic auctions operating system automatically registers the bid, and displays it in the bidding log of the auction. The electronic auctions operating system shall electronically for the not display the bid if it does not exceed the offer previously quoted by at least the amount of the bidding threshold, or if it is below 35 per cent of the appraised value of the movable property or if it is less than 50 per cent of the appraised value of real estate, or 70 per cent of the appraised value of a residential property.

The auction shall end on the thirtieth day (for movables) or sixtieth day (for real estates) following the date of publication of the auction notice, at the hour set by the bailiff between 8:00 hours and 20:00 hours, with the proviso that if a new bid is submitted inside of five minutes before the conclusion of the auction, the duration of the auction shall be automatically extended by five minutes from the time of this bid until the end of the fifth minute following the time of submission of the last bid. At the time of conclusion of the auction the electronic auctions operating system automatically closes the bidding log and displays in it the time of closure, along with the percentage of the duration of publication during which the auction notice was available for the users, and the beginning and the end of the period during which the auction notice was unavailable for the users.

Following conclusion of the auction, the bailiff shall request the auction buyer to appear in the bailiff's office at the time indicated, or at the place of storage of the movable property for the purpose of signature of the auction report and for effecting payment of the purchase price; failure to comply shall constitute buyer's forfeiture of his auction deposit. Following signature of the report and payment of the purchase price the bailiff shall turn the movable property over to the auction buyer. The amount of security deposit of the auction buyer shall comprise part of the purchase price.

In the event that the first auction is declared unsuccessful, the second auction shall be conducted. ) If the movable property is sold at the second auction at a price below the price offered at the first auction by the highest bidder, the difference shall be paid by the bidder who made the previous highest offer and the defaulting bidder within fifteen days of receipt of the bailiff's notice.



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#### 4.3.8. OFFICIAL WEBSITE OF THE HUNGARIAN CHAMBER OF COURT BAILIFFS, [www.mbvk.hu](http://www.mbvk.hu)

Besides providing information for the general public, the MBVK website also offers a wide range of services for court bailiffs and assistant court bailiffs, including:

- access to legal database
- access to the Chamber's e-Gate service
- ability to upload statistics
- viewing enforceable documents
- visiting the court bailiffs' professional forum
- adding or deleting assistants
- modifying basic settings
- reading system messages in order to activate or reject bidders
- uploading auctions
- access to the register of bidders
- access to the register of auctions

#### 4.3.9. UNIFIED ENFORCEMENT CASE MANAGEMENT SYSTEM (EVÜR)

This system integrates all IT applications necessary for the daily management of enforcement procedures and operation of a court bailiff's office. It also provides access to governmental and Chamber applications, automating as many sub processes as possible. As a result, a wide range of enforcement measures, e.g. search for the debtors' real estate or publishing auction notices can be implemented with the push of a single button. Depending on the legal requirements connected to the addressee, the generated documents are automatically posted by traditional or electronic means, reducing postage costs. Certificates of dispatch and return receipts are automatically attached to the relevant files.

#### 4.3.10. ELECTRONIC DOCUMENT MANAGEMENT SYSTEM (e-GATE)

The prerequisite of launching EÁR was to create a purely electronic communication channel for electronic auctions, which makes court bailiffs unambiguously identifiable. Transmitted messages needed to have a legal effect identical with authentic documents, by attaching a digital signature with full probative force (confirming date, authenticity, unreliability and intactness). Encrypted documents can only be decoded by the MBVK system. Digitally signed and encrypted documents, constituting e-files can be uploaded with authentication certificate via SSL connection. The encrypted e-files are decoded by e-Gate, which also inspects the veracity of the e-signature and the appropriateness of the number and type of documents included. The system favours a wide spectrum of files, e.g. payment and enforcement orders issued by civil law notaries and transmitted via MOKK, documents to be uploaded to EÁR by court bailiffs, enforcement statistics by court bailiffs, etc. The response of the system is an XML file containing the confirmation of upload provided in encrypted return receipt, or in case of any technical difficulty it contains the relevant error message.



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#### 4.4. IT SOLUTION IN THE EUROPEAN UNION

##### 4.4.1. INTRODUCTION

On 6 December 2013, the JHA Council adopted the new Strategy on European e-Justice 2014-2018. This Strategy defines the general principles and objectives of European e-Justice and sets out general guidelines for the establishment of a corresponding new multiannual European Action Plan on e-Justice during the first semester of 2014. This Action Plan, as set out in the Annex, contains a list of the projects considered for implementation in the 2014-2018 periods. Some of these projects are going to be analysed in this section in order to focus in the work flow in the enforcement system

##### 4.4.2. THE E-JUSTICE PORTAL

The European e-justice Portal is conceived as a future electronic one stop shop in the area of justice.



As a first step it strives to make life easier by providing information on justice systems and improving access to justice throughout the EU, in 23 languages

##### 4.4.3. E-CODEX

The EU-commission dedicated itself to improving the cross-border exchange of information in legal proceedings - where citizens, businesses and governments are involved - in a safe, accessible and sustainable way.



In pursuing this goal, e-CODEX is to develop building blocks that can be used in- or between Member States to support cross-border operation of processes in the field of justice.

One of the most important requirements for European Large Scale Pilots (LSPs) is cross-border communication. Though in detail the requirements differ, what they all have in common is the need for a secure and reliable "platform" to (electronically) exchange documents and data between citizens, businesses, governments and judicial authorities. The similarity of requirements from the different LSPs encourage the endeavor to combine the solutions into a common standard – all three of them aim at connecting different existing proprietary infrastructures, and have chosen a gateway-based approach to achieve this goal

- Launch: 1/XII/2010
- Ending: 28/XII/2015.
- Budget: 24.000.000.€



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- European Commission subvention: 12.000.000.€
- Participants : Germany, Austria, Belgium, Bulgaria, Cyprus, Denmark, Estonia, Spain, Finland, France, Hungary, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, United Kingdom, Czech Republic, Slovakia, Romania, Sweden, Turkey.

Work Packages – what is being done in the different WP's

#### WP1 – Project Management

#### WP2--Communication and Marketing

To point out the major achievements obtained by the technical Work Packages of e-CODEX in defining the proper solutions for implementing the planned pilots, specific communication and marketing activities are necessary.

Sharing is multiplying, so WP2 defined plans to manage and engage the different stakeholder groups in promoting the upcoming pilots

#### WP3 – Piloting

WP3 has produced a feasibility assessment for the e-CODEX pilots:

- European Small Claims Procedure
- European Payment Order (EPO)
- European Arrest Warrant (ODE)
- Secure Exchange of Data between judges, in particular applied to Freezing and Confiscation of Assets.

Two further pilots have been assessed for the extension phase:

- Mutual Recognition of Financial Penalties
- Synchronous Communication, applied to the interconnection of business registers.

#### WP4 – e-Signature and e-Identity

WP4 deals with e-Identity and e-Signature matters that are arising in e-CODEX. Electronic identities, electronic signatures and electronic mandates all exist in some form in different Member States of the EU. Recognizing these identities and being able to use them, especially in cross-border cases, is a complex and important matter.



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### WP5 – e-Delivery and e-Payment

WP5 has worked to develop the e-CODEX transport solution including the support of e-Payment for the underlying legal procedures.

### WP6 – Documents and Semantics

WP6 has introduced the methodology for semantic interoperability. The methodology involves a use case centric approach, modeling (incl. modeling steps) and XML schema creation. Based on the methodology and choices concerning the short term strategy the XML Schemas for Small Claims and EPO have been developed.

### WP7 – Architecture

WP7 has worked to develop the e-CODEX high level architecture, including high level business, functional and non-functional requirements and high level definitions. This allows coordinating the work of the technical WPs (WP4, WP5 and WP6) and WP3.

#### 4.4.4. ECLI

The ease of access to judgments from other Member States is increasingly important to strengthen the role of national judges in the application and defense of EU law. The search and citation of judicial decisions from other Member States is seriously hampered by differences between national identification systems of jurisprudence, rules and technical citation fields that describe the characteristics of a judicial decision.

To overcome these differences and facilitate access and citation of domestic, foreign and European jurisprudence, the Council of the European Union urged Member States and EU institutions to enter the European Case Law Identifier (ECLI) and a set minimum of uniform metadata for case law. Central system of expert's appointment

#### 4.4.5. ELI

Like ECLI, ELI was born with the aim to build a Legislation Database that involves the Member States legislation. It is an identifier that allows the search to be easy and fast.

#### 4.4.6. EJE PROJECT (EUROPEAN JUDICIAL ENFORCEMENT)

MBVK participated in the European Judicial Enforcement (EJE) project in order to contribute to the smooth functioning of the European judicial area in cross-border enforcement cases. This project, co-financed by the European Union, aimed at improving the execution of court judgments in Europe by offering European citizens and enforcement agents information regarding the execution of legal decisions in the territory of another Member State. A further aim of this project was to improve the mechanisms for



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cooperation and communication among court bailiffs in Europe. These objectives have been achieved by creating the EJE website (<http://europe-eje.eu>), available in seven languages, which offers the following features and services:

- EJE information sheets provide individuals, businesses and legal professionals with information on the legal tools available and the applicable procedures for enforcing a court judgment in another Member State.
- The EJE web site provides European litigants and legal professionals with an e-directory of Judicial Officers in Europe. This directory lists the contact details of enforcement agents who are qualified to operate in the jurisdiction where the order is to be enforced.
- The EJE web site provides information on project developments, European legislation and case law from the Court of Justice of the European Union, as well as national legislation and case law relating to the enforcement of court judgments that could be of interest to judicial officers.
- The EJE web site also provides a range of documentation on topics specifically related to the enforcement of judgments in Europe. This documentation is directed at all legal professionals throughout Europe.

At this point, the project operates with the involvement of nine countries (Belgium, France, Germany, Hungary, Italy, Luxembourg, the Netherlands, Poland, Scotland), however, the structure is open to any Member State of the European Union.

#### 4.4.7. EJS PROJECT (e-SERVICE OF ACTS)

A project co-financed by the European Commission, EJS brings together six members as national representative bodies of enforcement agents, which are France (leader), Belgium, Luxembourg, the Netherlands, Hungary, Estonia and one partner: the French Ministry of Justice.

The project's main objective is to create an electronic platform to secure cross-border exchange of documents in Europe between enforcement agents. It also wishes to develop a better knowledge of the dematerialized processes related to the enforcement agents' practice in various Member States of the European Union.

Within this project, and thanks to the partnership of the Ministry of Justice and the support of the European Commission, the EJE consortium has signed a partnership agreement with the E-codex project in 2013, since those projects co-funded by the European Commission follow the same objective, i.e. to improve the interoperability between national systems of electronic communication, for the development of E-justice in Europe, as well as pursue the need to ensure better coordination and full interoperability of technical solutions proposed by the two European projects.



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#### 4.5. COMPARATIVE ANALYSIS BETWEEN SPANISH AND HUNGARIAN SYSTEMS

There are a lot of similarities between Hungarian and Spanish systems. Both countries have IT application for investigating data on debtors.

There are electronic auction systems in both countries.

IT applications are adequate to the European data protection standards in both countries.

IT application access is guaranteed by using a digital signature and each enforcement agent has its own user name and password or authentication certificate.

In both countries, whenever an IT application is used for searching information about debtors, the number of a concrete case must be identified in order to prevent abuse of these personal data information.

### 5. CONCLUSIONS AND RECOMMENDATIONS

In Spain, enforcement orders are initiated by court decisions. In Hungary, besides the involvement of courts in adversarial procedures, civil law notaries are in charge of issuing payment orders in uncontested claims. As regards the enforcement of court decisions, Spanish Court Managers and Hungarian Court Bailiffs are empowered to execute enforcement measures. In both countries there is a clear separation of powers between the phases of obtaining court decisions and having them enforced.

A wide range of IT applications are available for Spanish Court Managers and Hungarian Court Bailiffs which serve the purpose of facilitating their activities. Besides diverging applications, a number of IT systems serve similar purposes:

Purpose	Spain	Hungary
Inspecting the identity and assets of debtors	PNJ	JUB TAKARNET VIEKR e-Cegeljaras OEP
Notification of stakeholders	lexNET	VIEKR
Case management	ATLANTE/MINERVA/CICERONE ADRIANO/JUSTICIA BAT/LIBRA AVANTIUS	EVUR e-Gate
Access to legal database	JUSTICE ADMINISTRATION PORTAL	MBVK website
Electronic auctions	JUSTICE ADMINISTRATION PORTAL	EAR





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Data protection rules and secure IT solutions (e.g. the use of Public Key Infrastructure) ensure the smooth implementation of enforcement procedures.

Both countries have a long history of applying automated electronic solutions, which replace repetitive, manual chores, e.g. requesting information about the debtor's bank account from financial institutions separately, via post. With the introduction of IT solutions, a number of these activities can be performed with the push of a button. As a consequence, enforcement procedures have become faster, more efficient and economic.

In Croatia, obtaining information about the defendant's identity, whereabouts and assets requires considerable effort from the court, the creditor and the enforcement agent. However, searches often fail to produce the desired result, elongating the enforcement procedure even further. Therefore, it seems reasonable to launch an IT interface which would enable enforcement agents to have access to a wide range of governmental databases, preferably free of charge.

The use of IT applications is necessary for facilitating and ensuring time and cost effective procedures, increasing security and confidence in justice administration.

As a result, in this report on the enforcement system in Spain and Hungary, the following essential good practices highlighting **the best EU practices on business processes and information flow**, must be underlined:

- Speedy and efficient enforcement through IT applications that allow an efficient information exchange between judicial and other government bodies. To launch an IT interface which would enable enforcement agents to have access to a wide range of governmental databases, preferably free of charge. IT application as the preferred mean to obtain information on debtor's property. Regulation of the use of these IT applications as who can obtain the data, under what circumstances, and the establishment of codes of conduct for enforcement agents.
- Information obtained in the course of enforcement proceeding is not revealed to third parties. Full respect of data protection applicable legislation granted by the government in the course of enforcement proceedings. Data protection rules and secure IT solutions ensure the smooth implementation of enforcement procedures. The stakeholders should have access to information on the ongoing procedures and their progress. Protocols and uniform procedures should be drawn up to ensure inter-departmental co-operation, on one hand, and cooperation between these departments and enforcement services, on the other hand (as CEPEJ recommends).
- Rules that enable the establishment of instruments capable of verifying the identity of the agents involved in electronic communications and to ensure the validity and integrity of the messages exchanged.



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- To ensure a unified IT application system for all the country with the same controls and rules for enforcement agents. Enable in all The Republic of Croatia enforcement agents to work with access to functioning modern communication and IT equipment. High quality training of the enforcement agents is important for the service of justice and to increase the trust of users in their justice system.
- E-auction allows increasing bidders in auction and eliminating the difficulties for citizens that do not have to move from other countries when they want to take part in the auction. E-auction regulation for the enforcement must take into account European data protection standards

## ANNEXES

Two power points.

