**Recommendation**[**Rec(2001)3**](https://search.coe.int/cm/Pages/result_details.aspx?Reference=Rec(2001)3)

**of the Committee of Ministers to member states**

**on the delivery of court and other legal services to the citizen**

**through the use of new technologies**

*(adopted by the Committee of Ministers*

*on 28 February 2001*

*at the 743rd meeting of the Ministers’ Deputies)*

The Committee of Ministers, under the terms of Article 15.*b* of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity among its members;

Considering that modern information technology has become an indispensable tool for the efficient administration of the European states, and in particular in the administration of justice, thus contributing to a well-functioning administration that is necessary for a well-functioning democracy;

Considering that access of the citizens of Europe to laws, regulations and case-law of their own and other European states and to administrative and judicial information should be facilitated through the use of modern information technology in the interest of democratic participation;

Considering that participation of citizens in the life of their state at national, regional and local levels can be improved by communication with administrative services, and in particular the administration of justice through the use of new information technologies, such as the Internet, thus giving everybody the same opportunity to pursue their interests;

Considering that delivery of court services through the use of modern information technologies will facilitate the access to law as required by the Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to Recommendation N° R (95) 11 on the selection, processing, presentation and archiving of court decisions in legal information retrieval systems, adopted by the Committee of Ministers of the Council of Europe on 11 September 1995,

Recommends to member states:

*a.* to bring the principles and guidelines set out in the attached appendix to the attention of the persons and services responsible for the administration of justice in their country;

*b.* to take appropriate steps to ensure that these principles are applied in their territory.

**Appendix to Recommendation**[**Rec(2001)3**](https://search.coe.int/cm/Pages/result_details.aspx?Reference=Rec(2001)3)

1.         *Making legal information available in electronic form*

The state should provide the text of the law both as enacted and as consolidated in electronic form readily available to the public; ideally it should also be possible to retrieve the state of the law for a given date in the past.

Simple text access in the law database should be free of charge for the individual.

The appropriate state authorities should make available the legislative texts in electronic form to the private sector with the aim of facilitating value added services.

The private sector should be encouraged, in using the law texts obtained in this way, to indicate the source and guarantee that the republished text remains unchanged.

A unique user interface for searches in different state servers should be provided.

States are encouraged to apply these principles to all law-making bodies – national, regional, local etc.

*2.         Access to public electronic registers in the legal field*

A directory of existing electronic registers in the legal field should be established in the Internet.

Network access to national public registers in the legal field should be made available to appropriate organisations and individuals in accordance with the necessary security and privacy requirements.

*3.         Interaction of court services with the public*

It should be as easy as possible to communicate with the courts and other legal organisations (registries, etc.) by means of new technologies.

This implies, provided that the necessary security and privacy requirements are met:

–          the possibility of initiating proceedings by electronic means;

–          the possibility of taking further action in the proceedings within an electronic work-flow environment;

–          the possibility of obtaining information about the state of the proceedings by having access to a court information system;

–          the possibility of obtaining the results of the proceedings in electronic form;

–          the possibility of having access to any information pertinent to the effective pursuance of the proceedings (statute law, case-law and court procedures).

Electronic information about the court procedures should be available to the public.

The information should be disseminated using the most widely available technologies (currently the Internet).

The state should, whenever possible, guarantee the authenticity and integrity of the information disseminated by it to the public or to private sector suppliers.

*4.         Realising the principles – policy issues*

The table hereafter identifies the main policy issues to be addressed for each of the three sectors.

The term “legal information” includes all official texts of laws, regulations and relevant international agreements binding on the State, together with important court decisions.

The term “public registers” covers those registers maintained by the courts and/or state bodies to which the public, either directly or indirectly, are entitled to access to the information either generally or on specific elements.

The term “court proceedings” includes information on court procedures and internal rules, case information and communications with the courts.

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| **Issue** | **Legal information** | **Public registers** | **Court proceedings** |
| Availability | States should make the official texts of laws, regulations, relevant international agreements binding on them and important court decisions available to the public in readily accessible form electronically. The information should, ideally, be available at all times. | Those that have access to registers have expectations that the service will be available at all times. State authorities will need to consider whether this is technically or financially viable. | Those that have access to court systems have expectations that the service will be available outside of normal court hours. State authorities will need to consider whether this is technically or financially viable. |
| Accessibility | All legislation, including regulations, case-law and parliamentary materials should be accessible to all. | Where possible, wide access should be considered, taking into account the nature of the data. It is recognised that in certain circumstances authorised access will need to be granted by the responsible authority to interested parties. | To the parties to the case and other persons concerned.Controlled access either through lawyers or court terminals. |
| Timeliness | To be effective, public legal information systems should be kept up to date and published quickly. Immediacy is vital for important court judgements, particularly for lawyers and the judiciary.  | As for legal information systems. | As for legal information systems. |

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| **Issue** | **Legal information** | **Public registers** | **Court proceedings** |
| Accuracy | Rigorous quality supervision procedures should be put in place to ensure that texts published in electronic form are identical to the enacted texts or published judgements. | *Idem.* | *Idem.* |
| Authenticity | Authenticity of electronic texts should be guaranteed by appropriate means such as electronic/ digital signature.   | *Idem.* | Decision is *idem*, but not process. |
| Copyright (text and data) | Whilst in most states there is no copyright on legal texts, there remains an obligation on the state to ensure that the texts remain correct. Where the official text is reproduced by private sector publishers, the source should be indicated, and the obligation for accuracy will rest with those private sector publishers. | Not applicable. | Not applicable. |
| Responsibility | Responsibility for the accuracy of electronic information should rest with the public publisher. | Where electronic registers are the only version,  responsibility should apply as in the case of paper-based registers. | Normal administrative responsibility continues to apply. |

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| **Issue** | **Legal information** | **Public registers** | **Court proceedings** |
| Charging | Access to legal database information should, in principle, be free of charge for all original legal texts. Where overriding economic circumstances require charging, this should be limited to cost recovery. Where the presentation of the published texts has been improved, thereby adding value, charging may be appropriate. The same charging regime for original legal texts should equally apply to private sector publishers and distributors. | The provision of information from electronic public registers is a service to the public, commercial enterprises, etc. As such, these services may be provided on a fee basis. | Court proceedings are normally fee based, and this may continue to apply with electronic services, although the fee rate may be different. |
| Privacy | The application of privacy laws in court judgements varies between states. The standards of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data should be taken into account. The issue of anonymity for parties in court case judgements varies from one country to another and there may be a need to review the issue in a European context. | The appropriate measures should be taken to protect confidential data and to ensure that the European and national rules on the protection of privacy are respected. | Access should be restricted to the parties involved. The normal privacy rules should apply. |

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| **Issue** | **Legal information** | **Public registers** | **Court proceedings** |
| Transparency | To enable the easy use of the systems for the citizen, and to make the law readily understandable, the information systems should provide consolidated texts. States need to consider how these consolidated texts are accorded authoritative status. | To enable users to be able to rely on the information in registers, they should be informed of the degree of  completeness and status of the last update.  The structure should be well documented and understandable for the user. | The sequence of the processes should be readily understandable by the user. Where possible the user should be prompted through the process either automatically by the system, or otherwise by assistance from court staff.  |

*Note*: The above table does not address the issues related to court decisions, other than those that qualify as case-law. These other court decisions, where they are recorded electronically, should be made available to the public for general electronic access, provided that privacy and data protection regulations are observed. Where the database is available, it should not be withheld.

In formulating policies it is essential that the results are cohesive. This will require co-operation between the national organisations, taking into account the wider European and global environment. The strategy for implementing policies should ensure synergy across the systems and provide the public with a recognised and understandable means of access using *de facto* standards, such as the World Wide Web. Consideration should be given to the provision of one common gateway at national level, which should also permit the user to access legal information sources from other countries and other European and international organisations.

*5.         Management*

A specific management competence and responsibility should be institutionalised in the bodies working with the information.

Business processes should be re-engineered to ensure efficient work-flow management.

*6.         The user environment*

The state has a responsibility to encourage and educate people in the use of the new information technologies. This includes the necessity to provide basic orientation about the legal system.

The state should provide the necessary training and support services for the judiciary and staff involved in operating and using court and legal information systems.

All legal information systems should be constructed in a user-friendly manner including effective assistance components in order to allow even the occasional user to achieve sufficient retrieval results.

The user is entitled to expect that officially printed legal materials are also available in an electronic form.

*7.         Education and training*

Educational programmes should be developed with the aim of providing people with the necessary competence to handle the new technologies. These programmes should start early in school and should be continued as a process of life-long learning.

*8.         Technical questions*

Techniques should be developed and agreed upon concerning:

–          electronic payments;

–          electronic signatures;

–          system security;

–          standards.