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# Litigation & Arbitration

Digitization of proceedings  
conducted before **EU Courts**

Newsletter

# Andersen Global

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Andersen Global Chairman and Andersen CEO  
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## Core values

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### Best-in-class

We aim to be the benchmark for quality in our industry and the standard by which other firms are measured.



### Stewardship

We hire the best and the brightest and we invest in our people to ensure that legacy.



### Transparency

We value open communication, information sharing and inclusive decision making.



### Seamless

Our firm is constructed as a global firm. We share an interest in providing the highest level of client service regardless of location.



### Independence

Our platform allows us to objectively serve as our client's advocate; the only advice and solutions we offer are those that are in the best interest of our client.

# Introduction

This Newsletter sets out to provide an overview of the status of litigation digitization in Europe. As will be seen from the different contributions, the stage of development of justice digitization varies widely across jurisdictions. Still, it is very encouraging to see that digitization in litigation is becoming a reality in all European jurisdictions. Digitization is essential because it is a powerful instrument that can facilitate the conduct of litigation, whilst also allowing quick access to files and simplifying research. In this sense, the COVID pandemic showed us the need to take litigation digitization seriously to avoid an excessive reliance on paper and attempt to avoid the need to physically attend hearings and other procedural actions intended to be conducted orally.

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# European Union

## Digitization of proceedings conducted before EU Courts



### e-Curia

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European Union courts have been early in recognizing the potential of digital tools in court proceedings. As early as 2018, the European courts launched e-Curia, the electronic tool of the European courts, and made its use in proceedings mandatory.

All procedural documents must now be filed electronically using the e-Curia application.

The physical signing of procedural documents is replaced by the use of a personal username and password for filing documents in the e-Curia application, which is equivalent to a signature. This is intended to guarantee the authenticity of the document. By providing their personal username and password, representatives take responsibility for the content of the documents they submit.

e-Curia also constitutes the sole means of communication between the European courts and the parties. Service of all documents by the European courts is also made through the e-Curia application.

### Attending Hearings by Videoconference

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If a party's lawyer is unable to attend a hearing, he or she may request to appear via videoconference. This request, however, will only be granted if there are serious reasons, including health, safety, or other substantial considerations, preventing a party's lawyer from attending in person. The President of the Chamber shall inform the parties of the Court's decision on the use of videoconferencing.

If the request is approved, technical and interpreting tests will be conducted in advance. Only if these tests are successful may the hearing be conducted by videoconference and the parties will be notified accordingly. If the tests are unsuccessful, a normal hearing will be held.

### Recording the Hearing

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Only upon formal request to the President may a party obtain a recording of the hearing. It is a precondition that the party has taken part in the oral or written stage of the proceedings. The sound of the recording will be in the language used by the speakers at that hearing.

### Conclusion

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The General Court of the European Union has moved rapidly to digitize court proceedings through the mandatory use of e-Curia, a digital platform for all communications to and from the European courts. The European courts also allow videoconferencing for hearings, but this is mainly intended to provide a solution for lawyers who cannot physically attend.



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# | Malta

In recent years, the Maltese justice system has made several attempts to migrate to a digital system. However, the lack of alignment between stakeholders. Against this background, a new digital justice strategy was adopted in 2022 by the Ministry of Justice and Governance with the support of the European Commission. The implementation of the digital justice strategy is now expected to be completed by 2027.

## **The current digital system**

At present, it is not possible to file court applications and other court-related documents digitally. Therefore, court documents still need to be physically filed. However, a digital platform providing court-related services is currently available. The platform provides a register of judgments available to the public as well as several other services, especially in civil matters, accessible to legal professionals.

The service of judicial proceedings is currently also performed physically. During the Covid 19 pandemic, some hearings were conducted remotely. However, after the pandemic, remote hearings have been phased out and all court hearings are held in court, with parties and legal professionals expected to appear physically. On the other hand, the minutes of the court hearings and the witness testimonies given during the court hearings in civil cases are available to the legal professionals on the court's digital platform.



Notably, efforts have been made to digitize the judicial system. However, it is evident that while improvements and changes have been made in civil proceedings, there are almost no services available digitally in criminal proceedings, except for the judgement issued after criminal proceedings have been concluded.

## **The planned digital system**

With the Digital Justice Strategy, the Ministry of Justice and Governance plans to improve the quality and efficiency of justice through a better digital platform. Improvements to be implemented under the strategy include the digitization of criminal records and criminal courts, and the digitization of the register for legal professionals. The strategy also seeks to provide legal professionals with full access to case files, which is currently only available for certain court cases.

The Ministry's aim is to have a digital-by-default principle, which means that all court-related services will be available digitally, thus supporting the digital platform over the physical system. The digital-by-default principle includes, among other things, better

recognition of digitally signed electronic documents and a gradual introduction of a paperless system.

The key objectives of the Digital Justice Strategy are the electronic filing of court related documents, the provision of electronic certificates, electronic signatures and time stamps, an electronic payment gateway and digital access to case files.

Through the implementation of the digital justice strategy, Malta is undergoing a step-by-step transition from a predominantly physical registry system to an electronic environment. The overarching goals of this transformation include speedier access to information and improved accessibility for both the general public and legal practitioners.



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