InterPARES Trust
EU16 Final Report

Title:		EU16 Model for a trustful hybrid records management of the statement of offence: the case of the Belgian Federal Public Service of Employment
Status:		Final (restricted)
Version:		03
Date submitted:		
Last reviewed:		
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Research domain:		Control
URL:		

Document Control

Version history			
Version	Date	By	Version notes
01	11/01/2016	Aranguren Celorrio, Fiona	Draft
02	29/01/2016	Odile Vanreck and Bénédicte Losdyck	Draft
03	29/01/2016	Aranguren Celorrio, Fiona; de Terwangne, Cécile ; Losdyck, Bénédicte; Soyez, Sébastien; Vanreck, Odile	Final

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Aim of the study

This project-proposal is part of a wider research project called HECTOR (Hybrid Electronic Curation, Transformation & Organization of Records) which aims at developing a model for the transformation, organization and curation of hybrid records in Belgian federal administrations. The HECTOR project is funded by the Belgian Federal Science Policy Office through the Belgian Research Action through Interdisciplinary Networks program[1].

In the frame on this project, the research team has analyzed the case of the Belgian Federal Public Service of Employment to settle a model for a trustful hybrid records management of the statement of offence.

The Belgian criminal law[2] defines the statement of offence as the official document issued by an officer or agent of the legal police who possesses this competence according to the law. This official document not only contains a chronological, precise and objective report of the officer's first-hand observations and researches, but also other information and testimonies he or she has gathered in the course of the investigation of an offence.

Regarding the Ministry[3] of Employment, Labor and Social Dialogue, the social inspectors are in charge of creating this official statement and once signed, send it through the labor auditor (auditeur du travail), eventually the crown prosecutor (procureur du Roi) or the examining magistrate, and other concerned legal stakeholders, until it reaches the judge in charge of criminal law cases.

Traditionally, this statement of offence is drafted and eventually signed in a paper-based form during a poorly automated workflow. However, since 1999 the Belgian Ministry of Employment has developed a project which aims at automating this workflow and creating an electronic and unique version of the statement of offence which is now validated with an electronic signature.

One of the main points of interest of this case lays upon the mentioned validation tool of the record: the electronic signature generated by the Belgian electronic identity card that each Belgian citizen holds since 2009.

Although this Ministry has managed to create a legally valid electronic statement of offence since April 2012[4], the Belgian courts are not yet able to handle this electronic record and still request the paper-based version. This very fact is another point of interest, as it requires an intermediate

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[1] The HECTOR project is a Belgian research project, under the coordination of the University of Namur, with the collaboration of three other partners: the State Archives of Belgium, the Université Libre de Bruxelles and the University of Montreal (www.belspo.be/belspo/brain-be/index_en.stm).

[2] M. Bockstaele : « Processen-verbaal en verhoren in de Wet Franchimont », Panopticon, 1999, p. 341.

[3] In the Belgian admnistration, a Ministry is called a Federal Public Service (FPS).

[4] Belgian Social Criminal Code: Title 5, Chapter 5 « *Réglementation de certains aspects de l'échange électronique d'information entre les acteurs de la lutte contre le travail illégal et la fraude sociale* ».

management and legal framework between both institutions. Thus, the concept of trust here is not only the legal issue of the choice between an electronic or a paper-based format, but the transitional legal situation of the coexistence of both formats and the resulting hybrid records management.

The goal of the proposed project is to provide a theoretical framework and a model for a trustful, secure and efficient management of electronic information. Management firstly in the sense of "creation" of the statement of offence by the Ministry of Employment (internal workflow = e-statement of offence) and secondly in the sense of "transmission" of the said record to a Court of Justice (external workflow = paper-based version of the statement of offence + possibly access to the database of e-statement of offence).

Research questions

1. How is the coexistence of electronic and paper-based statement of offence managed?
2. How does the Ministry of Employment generate and manage a legally valid electronic statement of offence?

Toolkit for interviews

The research team has elaborated two multidisciplinary questionnaires (see annexed documents) which are available in the project's website (www.hector-project.be) and in the restricted menu on the Interpares Trust website. Due to the big amount of questions, we decided to create a first group of general questions and a second group of more detailed questions. Therefore, the first questionnaire would aim at understanding the institutional context of each case study, while the second one would contain more precise questions in order to broaden our knowledge about specific procedures mentioned during the first meeting.

The case study and the analysis of the data

This report is based on an article which has been submitted to the Records Management Journal in November 2015 and which is presently under review.

1. Methodology
The research will be based on an interdisciplinary approach, crossing law & archival sciences. Following a bottom-up approach, the project will proceed to field analysis (through case studies) in order to identify the functions of a specific record: the statement of offence. This procedure will enable us to identify the needs, opportunities, risks, constraints and barriers for hybrid management and for full electronic records management, including their access and transmission through internal and external networks, in order to ensure an appropriate level of trust.

Data will be collected through interviews on the field and documents provided by the Ministry of Employment. The analysis of the data will be supplemented by a literature review and an analysis of the legal and normative framework. The research team will elaborate a trust model focusing on the above mentioned issues, which could ideally apply in other administrations.

The research team will work in close collaboration with the University of Montreal (NA Team) in order to compare the data collected and the respective legal frameworks. The same methodology will be used by both teams and they will work jointly on the modelling phase, in order to elaborate a model as transverse as possible.

For the case study of FPS Employment, researchers have first met the project manager and the legal experts that have participated in the development of the project in order to obtain general information about the organization, its mission, structure, workflows, and so on. Secondly, researchers have met some social inspectors who deal with the e-PV application on a daily basis so that authors can take into account their impressions and comments. Information obtained from interviews has been combined with information gathered from a mere observation of the field. Finally, researchers have met the project manager and an IT architect from Smals[5] in order to gather technical information.

2.Introducing the FPS and the e-PV project
Under the auspices of the Ministry of Employment, Economic and Consumers affairs6, the FPS Employment - in charge of every issue regarding social affairs - guarantees that social law is implemented in each and every institution - small or big, public or private - in Belgium. Every litigious situation requires an investigation, based on a complaint or a statement registered by the Police services or a social inspector (see below), and implies that a statement of offence is established.

In order to save resources, to facilitate communication between internal and external services and other stakeholders, and to profit from the benefits of electronic records management, the FPS Employment decided to launch a global project aimed at creating a fully digital file for inquiries. The first step of this project was the creation of an e-PV, which would result in the e-PV project in 1999. That year, a working group was set up to address issues related to Social criminal law. This group sought to improve the way in which Belgian administrations, notably the social inspection services, fight social fraud and illegal employment in Belgium.

The main idea here was to allow the creation and preservation of an electronic record supporting the probative value of this kind of administrative and legal document. Procedures regarding social inspection among these

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[5] Smals is a company expert in IT development which answers to the needs of public Belgian administrations, including database management and hosting.
[6] Currently, Mister Kris Peeters.

services were not homogeneous; each service at federal and regional levels had created its own statement of offence forms and used them according to different working processes. As a consequence, the exchange of information between these services and between them and the courts was troublesome and resulted in an inefficient processing of the cases.

The following ten years, the coordinated efforts of the FPS Employment, of social inspectors and of labor auditors led to the development of a uniform statement of offence template and an online application to automate the procedure: the e-PV application developed and hosted by Smals.

Eventually, in 2009 the implementation of the project took off among its first four partners: Monitoring of Social Laws (CLS), Social Inspection (IS), National Office of Employment (ONEM) and National Office for Social Security (ONSS). This phase would last until 2011, the year when all the efforts were rewarded by the "eGov-award rentability" awarded by the Federation for the Technology Industry, AGORIA (Belgium)7.

Between 2013 and 2015 new partners have been added to the project, among which the social inspection services of the Walloon Region and of the Brussels-Capital Region. Thus, a project that was originally a federal initiative has become a shared initiative between federal and regional inspection services.

3. Analysis of the legal and normative framework
Different initiatives are currently under progress regarding the digitalization of the government and the e-PV is one of them.

Several sets of rules are simultaneously applicable to e-Government initiatives but they are not consolidated in a single body of rules, and it is thus difficult to deal with it. (Degrave, 2014) .

Those sets of rules applying to all administrative entities in Belgium are mainly:
- the rules based on several laws and developed by the doctrine imposing requirements such as the respect of the legality, the transparency and the control of the administration,
- the rules protecting the right to private life and to the protection of personal data, notably the Law of the 8th of December 1992 on the protection of privacy with respect to the processing of personal data. When this law was about to be adopted, the Privacy Commission recommended to create specific rules for the administration. This recommendation was nevertheless not followed by the Belgian

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7 http://agoria.be/fr/E-gov-Awards/Home. The eGov Awards reward the best ICT projects implemented in the public services and related to the service to the citizens and to the enterprises. Those projects must also reflect a willingness to achieve administrative simplification, innovation and collaboration. The "eGov-award rentability" rewards the project, that not only achieved the most goals for the user and the public authority while being simple to use, but that also created a maximum of values for the users and the public authority (in terms of reduction of administrative work, time saving, etc.) See the regulation of the eGov-award.

legislator, unlike in other European member States, such as Germany or Spain (Degrave, 2014),

- the Only Once law, guaranteeing the principle of single data collection in the functioning of the services and agencies or the performance of certain tasks for the authority and introducing simplification and harmonization of electronic forms and paper. This text obliges Belgian public administrations to ask for citizens' (and enterprises') personal information only once in order to improve information management efficiency and to reduce the amount of duplicates.

While Belgian e-Government initiatives must comply with several sets of rules, which can be confusing, many European countries have adopted one specific law legislating different aspects of e-Government, such as France or Germany. Most of these legislations provide "technical measures aiming at ensuring the data security and systems interoperability" and address the principle of "administrative simplification in order to improve administrative procedures for the citizens". Some laws also take into account the importance of collaboration between the administrations by imposing, for example, an "indirect data collection[8]"(Degrave, 2014).

More specifically, the legislative context of the electronic statement of offence (hereinafter, the e-PV) is linked to the codification, since the 1st of July 2011, of all the criminal provisions in social law into one code: the Social Penal Code. This Code contains all penal provisions concerning labor and social security laws and forms an attempt to simplify and clarify the use of such laws.

Less than a year after the Code entered into force, a new chapter 5 dedicated to the electronic exchange of information between stakeholders fighting illegal employment and social fraud was added by the Law of the 29th of March 2012. Thanks to this initiative, an e-PV with a qualified electronic signature would have the same probative value as a statement of offence in paper format signed in writing. Thus, social inspectors are legally obliged to draw up an e-PV by means of the e-PV application developed for this purpose. In addition to this application, the system also has two databases, the e-PV database and the GINAA database. Both are governed by the Law of the 8th of December 1992 concerning personal data protection mentioned above, in particular the rules about access to databases.

Furthermore, article 100/3 of the Social Penal Code provides that the e-PV has to be signed by a social inspector by means of an electronic signature created with a Belgian electronic identity card (e-ID), or any other system by which identity of the signatory can be established without any doubt and the integrity of the signed e-PV be fitted with solid guarantees.

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[8] The principle of "indirect data collection" is the direct consequence of the principle of "only once collection of information" mentioned earlier. If the information has already been requested from the citizen and is available in one of the administrations, the administration which needs this information is not allowed to ask for it again and must turn to the administration that first received the information.

Once signed by the inspector, the e-PV becomes a definitive version and cannot be modified. The final objective is to enable social inspectors to send the e-PV by electronic means to all the concerned stakeholders (generally the crown prosecutor, the offender and, where necessary, his/her employer and the board of administrative fines of the Ministry).

Currently, this electronic exchange is not possible since the concerned administrations and the citizens are not necessarily equipped to receive the e-PV by electronic means. Thus, a transitional period has been established for all the stakeholders to get ready regarding their digital infrastructure. During this period, the signed e-PV is printed, (manually) signed again and sent to the mentioned stakeholders by regular post. This period was supposed to end on the 31 December 2013, but has been extended twice already; the new and most recently announced deadline being the 31 December 2015 (Losdyck & Vanreck, 2015).

4. The statement of offence life cycle

The mentioned and improved procedure of the e-PV includes the creation, exchange and access to this record and all the data it contains. At present, the mentioned inspection services participate in a hybrid records management process, which alternates paper-based and digital records. To better illustrate this concept, the authors refer to the BPMN[9] models in the following figures 1 and 2:
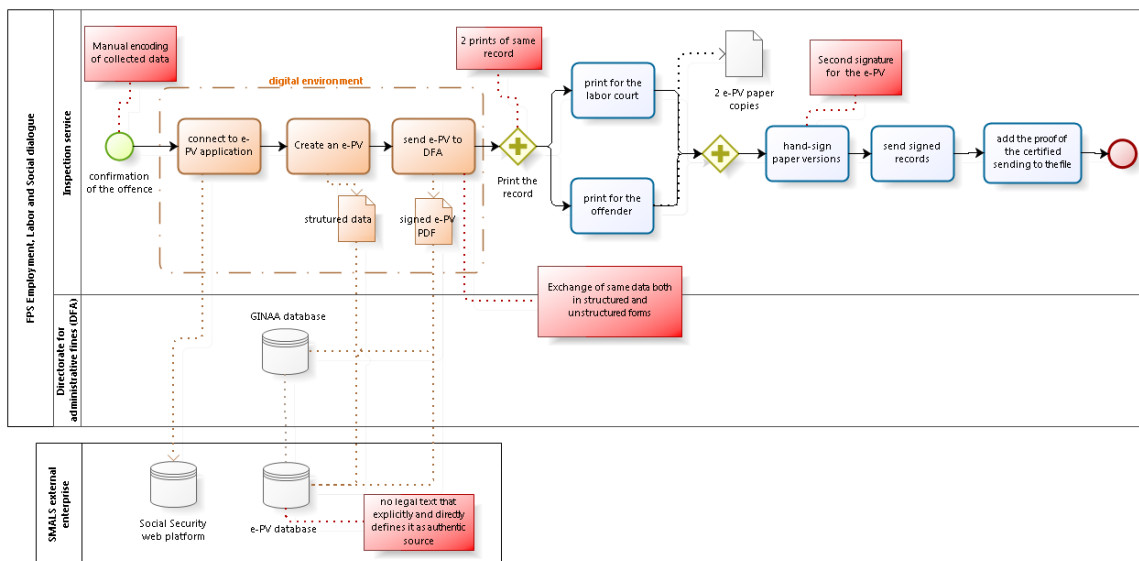

Figure 1: e-PV workflow – AS IS

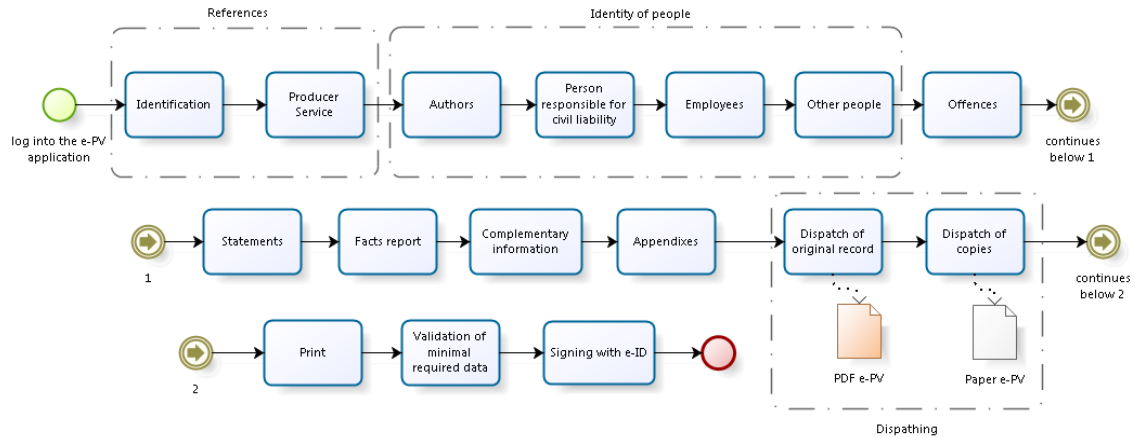[9] Business Process Model and Notation

Figure 2: Creation of an e-PV record

Figure 1 shows the sequential activities performed by social inspectors from the moment when they detect an infringement of social laws to the closure of the file that contains the e-PV. Thus, the life cycle of this record starts with its creation by means of the online e-PV. An e-PV record is created in eleven steps (see Figure 2), which includes the use of drop-down menus and automatic import of data from authentic sources, such as the National Register of Citizens, to help improve the information quality and reduce error rates. Moreover, it enables the user to add as many appendixes as required in any other format, such as pictures taken in the field at the moment when the inspection of a company has been held to document the facts of the offence, or hand-signed testimonies of employees interviewed.

Once the file is closed and depending on its legal course, it is archived by the producer if there is no need for undertaking a litigation, i.e. it is archived by the FPS Employment when the case is resolved by the payment of an administrative fine, or by the courts when there is a legal outcome pending. At the same time, the structured and unstructured digital data of the file, including the e-PV, is stored at least in both databases mentioned before, for the corresponding legal period: an e-PV central database which holds the statements of offence of all social inspections using the application; and an internal database, GINAA, which holds structured data of statements of offence from the FPS Employment. For federal administrations, the legal period is established by the retention schedules elaborated by the State Archives of Belgium. These schedules define the extent of both the semi-dynamic phase and the static phase of the life cycle of records and files; however, these retention rules are not integrated in the e-PV application, as it is not a priority for the project's stakeholders. Although the FPS Employment has taken into account the recommendations made by the State Archives and has decided to generate the e-PV record in PDF format[10], the various formats of the appendixes still cause problems.

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[10] An open, independent and widely used format.

The efforts put into the e-PV project aim at automating each and every step of the process and exchange of data mentioned above towards a future goal: the creation and management of a fully digital file. In a first stage of the project, the FPS of Employment has managed to automate the entire workflow concerning the creation of the record as well as access to it by other inspection services from other administrations within the field of Healthcare and Social Security.

Indeed, in a second stage, there are plans to extend the project through the implementation of a so called e-box for citizens as well as the automation of digital data exchange and thus beyond the borders of Healthcare and Social Security administrations, which has direct implications with the federal Police and the labor auditors and thus, the Belgian courts and the Ministry of Justice.
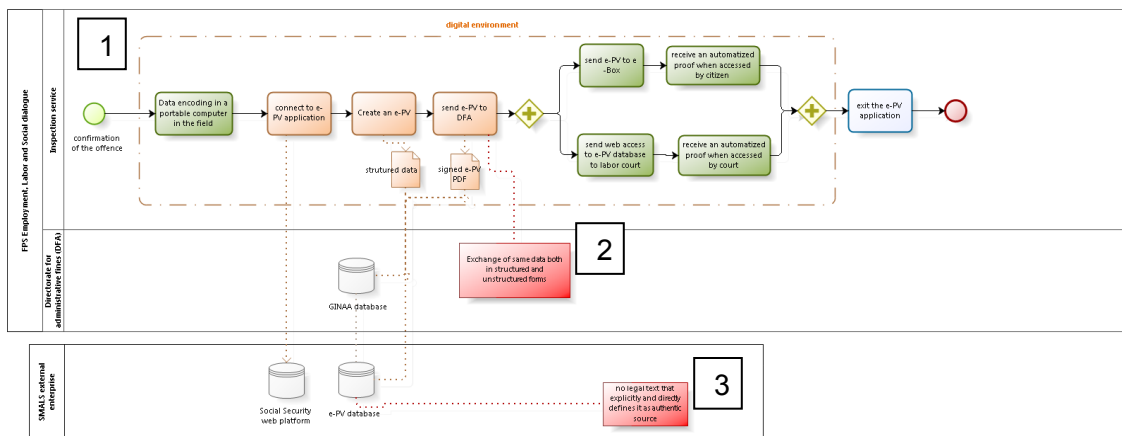

Figure 3: e-PV workflow – TO BE

Figure 3 shows the sequential activities of Figure 1 with some improvements which would transform a hybrid workflow into a 100% electronic workflow. Point 1 refers to three main changes in the workflow:
-   Instead of collecting data in the field using traditional formats and media, each inspector should use a portable computer or tablet in order to encode data directly in an electronic form (this measure is already used in other administrations).
-   Instead of sending a signed paper record to the offender, this citizen would own an e-Box, such as the one used for paying taxes on line (Tax-On-Web). This e-Box would be accessed using the e-ID online.
-   Instead of sending a signed paper record to the labor court, the inspector would send a web access to the court in order to access the electronic e-PV.

Point 2 refers to the exchange of the same data twice, in a structured and un-structured format. Nevertheless, after analyzing this fact, it is not necessarily making the workflow less efficient, as the structured data is exchanged automatically between the databases of each service. Thus, this step in the workflow could remain unchanged.

Point 3 refers to the main database, the e-PV database, managed by the Smals and so, external to the FPS Employment. The fact that the authors have not found a legal text that explicitly and directly defines this database as "authentic source" might create some concerns among the courts when being obliged to access the electronic PV instead of receiving the PV in paper format. A feasible solution could be to further develop the present chapter 5 dedicated to the electronic exchange of information between stakeholders fighting illegal employment and social fraud (see first section of this report) and avoid this way any legal risks that this detail could arise.

5. Analysis of results
The analysis of the e-PV project and of the interviews shows that there are real efforts in the Belgian public sector towards the automation of work processes and towards the creation of a solid legal framework that will sustain the technical and organizational advances which this automation involves. However, this case study shows a worrying deceleration of the advances achieved so far, which has multiple reasons.

Public spending has been cut all over Europe, also in Belgian federal administrations. On the one hand, the improvement of IT infrastructure and expertise hiring programs is impaired by these policies. On the other hand, it brings forward digitization projects which are often necessary, but are not always the best and sole solution. This fact would be better acknowledged and dealt with if a proper records management perspective was given to the matter.

Another well-known issue is the resistance to change among employees and employers alike, which is usually strongly rooted and has consequences that are difficult to identify and quantify in an initial risk analysis. Although the studied case shows a nice example of theoretical and practical training program which includes many tools and regular newsletters, the resistance among some employees persists. This situation is fueled by the rigidity of more homogeneous and strict document edition rules, better secured but slower electronic access to applications and databases, some difficulties related to the use of an e-ID-signature, and a sometimes frustrating hybrid environment that duplicates tasks and records.

Interviews with employees have shown how one specificity of the application is perceived as advantageous and disadvantageous at the same time. The possibility to connect online to the application from anywhere facilitates the collaborative work of the teams and working from home, while the highly secured connection by means of the e-ID offers the reliability employees need to trust this new digital environment. However, the technical problems that this online connection arises might be irritating if the workload is high.

Furthermore, as seen in the previous sections, the FPS Employment has inevitable interactions with other external services, both up- and downstream. These cross-organizational relations combined with a heterogeneous degree of autonomy in political decision-making that the different federal or local public entities possess, complicates the exchange of information. Therefore interoperability of systems – both technical and for

business processes – as well as a digital continuum are key success factors not only for the e-PV project but also for a general e-Government strategy. This is the real challenge that Belgium must tackle.

In this regard, another difficulty is linked to the legal uncertainty in such fast-changing digital environment. For the moment, the rules applying to e-Government derive from several sets of rules and specific laws, such as chapter 5 of the Social Penal Code, and are adopted within very particular technological contexts. Therefore, it could be necessary to draft a general legislation on e-Government which contains and respects both the administrative and the data protection rules while taking into account the technological reality (Degrave, 2014).

Even though the authors' point of view is that there is a clear correlation between the benefits of the e-PV application with regard to e-Government and those expected from a proper records management system[11], this is yet another case in which integration of both strategies has not taken place sufficiently. Thus, the absence of well-established records management policies might be a cause and a consequence of some of the mentioned reasons of poor implementation. The authors might be inclined to affirm that the reason of this non-integration is that short-term goals prevail in the government's efforts to improve efficiency. However, the analyzed project has lasted fifteen years already. Therefore, the problem is more likely due to a lack of records management tradition in the analyzed administration. Moreover, the absence of appraisal and preservation functionalities in the developed application shows how poorly the concept of records life cycle continuum is developed. Nevertheless, collaboration efforts in this regard are starting to appear: a very recent federal initiative which involves many ministries and other key public institutions such as the State Archives and Smals, consists on creating a digital archiving platform for records during the intermediate period of their life cycle. This project called "e-Archiving" is in its first stage and surveys and tests are currently in progress.

Conclusion

During fifteen years, the FPS Employment has developed an admirable initiative that shows how e-initiatives can help improve the efficacy of public services. Many positive consequences of the project bear on legal and records management aspects. Nevertheless, there are important limitations that this kind of initiatives yet have to overcome. The substantial differences between the many public administrations arise from a lack of interoperability not only at technical level, but also at organizational level. The many local initiatives that this situation generates do not help making collaboration easier either. In this regard, there needs to be a coordinated effort among all the ministries and other mentioned key public institutions in order to make progress in the matter in a homogeneous way, so that the projects already implemented and other on-going ones can be fully successful.

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[11] As a result of comparing Foley & Alfonso (2009) and ISO 15489 (International Organization for Standardization, 2001).

Parallel to technological and organizational advances, a trustful legal framework has been developed for this project, which is essential if many public services and citizens will access and use these tools with the certainty of entering a secure environment.

Despite the fact that these changes are directly linked to the most basic requirements for a proper records management and archiving policy, it is regrettable that e-Government initiatives and records management initiatives do not go hand in hand, even if some on-going projects show this is changing in the good direction. The importance of keeping records for the sake of transparence and accountability is clear and understood, and yet records management and preservation functionalities are not integrated in the analyzed e-PV application.

Last steps

The research team shall present a comparative analysis together with the Canadian partner from the North American team (Marie Demoulin) between March 2016 and June 2016.

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