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From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

Subject: REGULATORY SCRUTINY BOARD OPINION

Proposal for a Regulation of the European Parliament and of the Council on the digitalisation of judicial cooperation and access to justice in crossborder civil, commercial and criminal matters Proposal for a Directive of the European Parliament and of the Council on AMENDING Council Directive 2003/8/EC, Council Framework Decision 2002/465/JHA, Council Framework Decision 2002/584/JHA, Council Framework Decision 2003/577/JHA, Council Framework Decision 2005/214/JHA, Council Framework Decision 2006/783/JHA, Council Framework Decision 2008/909/JHA, Council Framework Decision 2008/947/JHA, Council Framework Decision 2009/829/JHA, Council Framework Decision 2009/948/JHA, and Directive 2014/41/EU

Delegations will find attached document SEC(2021) 580.

Encl.: SEC(2021) 580



EUROPEAN COMMISSION

27.9.2021

SEC(2021) 580

REGULATORY SCRUTINY BOARD OPINION

Proposal for a Regulation of the European Parliament and of the Council on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters

Proposal for a Directive of the European Parliament and of the Council on AMENDING Council Directive 2003/8/EC, Council Framework Decision 2002/465/JHA, Council Framework Decision 2002/584/JHA, Council Framework Decision 2003/577/JHA, Council Framework Decision 2005/214/JHA, Council Framework Decision 2006/783/JHA, Council Framework Decision 2008/909/JHA, Council Framework Decision 2008/947/JHA, Council Framework Decision 2009/829/JHA, Council Framework Decision 2009/948/JHA, and Directive 2014/41/EU

COM(2021) 759

COM(2021) 760

SWD(2021) 392

SWD(2021) 393



EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: Impact assessment / Digitalisation of cross-border judicial cooperation

Overall opinion: POSITIVE

(A) Policy context

Most data exchanges in cross-border judicial cooperation still take place on paper. This results in inefficiencies, mainly with regard to the speed of cross-border exchanges in both civil and criminal justice.

This initiative aims to improve the efficiency and resilience of EU's cross-border judicial procedures. It also aims to improve access to justice through enhanced digitalisation. The initiative is one of several following up the Communication on digitalisation of justice.

(B) Summary of findings

The Board notes the useful additional information provided in advance of the meeting and commitments to make changes to the report.

The Board gives a positive opinion. The Board also considers that the report should further improve with respect to the following aspects:

- (1) The report is not sufficiently clear on the problems the initiative aims to address and the underlying evidence. Coherence with linked initiatives is not sufficiently analysed.**
- (2) The report does not examine knock-on effects linked to a more efficient transmission of data, including the capacity of judicial systems and potential increased data protection risks.**

(C) What to improve

(1) The problem analysis should be reinforced to highlight the main problems this initiative aims to address. The analysis should be substantiated with evidence regarding voluntary participation in digitalisation, non-recognition of electronic documents, signatures or seals and interoperability.

(2) The report should explain how this initiative will ensure coherence with other EU-level instruments designed to enhance digitalisation that could be used in cross-border judicial cooperation. The report should also explain why Member States do not fully exploit the existing possibilities for digitalisation.

(3) The impact analysis should be strengthened with a transparent presentation of impacts, particularly investment costs and stakeholders affected. It should acknowledge the uncertainties in the assumptions made and the implications these have for the impacts assessed.

(4) The report should assess effects of a potential increase of cross-border cases. It should discuss whether there is a risk that improved access to justice and more efficient cross-border judicial cooperation could lead to delays in the treatment of cases due to higher workload for judges and the time legal proceedings take.

(5) The report should clarify the data protection issues and acknowledge that moving from a paper to a digital format entails other risks. The report should address potential sensitivities linked to the fact that having more data in digital format may not only ease their transmission, but also creates data protection and security issues. The concerns raised by stakeholders about data protection should be considered.

The Board notes the estimated costs and benefits of the preferred option in this initiative, as summarised in the attached quantification tables.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must take these recommendations into account before launching the interservice consultation.

If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.

Full title	Legislative initiative on the digitalisation of cross-border judicial cooperation
Reference number	PLAN/2020/8681
Submitted to RSB on	25 August 2021
Date of RSB meeting	22 September 2021

ANNEX – Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

<i>I. Overview of Benefits (total for all provisions) – Preferred Option</i>		
<i>Description</i>	<i>Amount</i>	<i>Comments</i>
<i>Direct benefits (EUR)</i>		
Compliance cost reductions	25,589,060	The average overall yearly savings in postage costs and in paper costs for individuals/legal entities and courts

<i>II. Overview of costs – Preferred option</i>							
		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Action (a)	Direct costs	0	0	0	0	18,700,000	8,100,000
	Indirect costs						
Action (b)	Direct costs						
	Indirect costs						