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NOTE

From:	Presidency
To:	Coreper/Council
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Subject:	Proposal for a Directive of the European Parliament and of the Council amending Council Directive 2003/8/EC, Council Framework Decisions 2002/465/JHA, 2002/584/JHA, 2003/577/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA, 2008/947/JHA, 2009/829/JHA and 2009/948/JHA, and Directive 2014/41/EU of the European Parliament and of the Council, as regards digitalisation of judicial cooperation - General approach

Delegations will find below the Presidency compromise text of the proposal for a Directive of the European Parliament and of the Council amending Council Directive 2003/8/EC, Council Framework Decisions 2002/465/JHA, 2002/584/JHA, 2003/577/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA, 2008/947/JHA, 2009/829/JHA and 2009/948/JHA, and Directive 2014/41/EU of the European Parliament and of the Council, as regards digitalisation of judicial cooperation.

The changes from the initial Commission proposal are indicated in **bold** for the additions and **~~bold strikethrough~~** for deletions.

This text will be transmitted to Coreper and Council for endorsement as a general approach.

2021/0395 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Directive 2003/8/EC, Council Framework Decisions ~~2002/465/JHA~~, 2002/584/JHA, 2003/577/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA, 2008/947/JHA, 2009/829/JHA and 2009/948/JHA, Directives 2011/99/EU and 2014/41/EU of the European Parliament and of the Council, as regards digitalisation of judicial cooperation

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81(2), points (e) and (f) and Article 82(1), (d) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) In its 2 December 2020 Communication on the digitalisation of justice in the EU¹ the Commission identified the need to modernise the legislative framework of the Union's cross-border procedures in civil, commercial and criminal law, in line with the "digital by default" principle, while ensuring all necessary safeguards to avoid social exclusion.
- (2) Facilitating judicial cooperation between the Member States is among the main objectives of the Union's area of freedom, security and justice enshrined in Title V of Part Three of the Treaty on the Functioning of the European Union.
- (3) For the purposes of enhancing judicial cooperation in civil commercial and criminal matters with cross-border implications, legal acts of the Union providing for communication between competent authorities, including Union agencies and bodies, should be complemented by conditions for conducting such communication through digital means.
- (4) In order to achieve these goals, Regulation (EU) .../...[*Digitalisation Regulation*] has been adopted.

¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Digitalisation of justice in the European Union. A toolbox of opportunities, COM(2020) 710 final

- (5) For the purposes of ensuring the full attainment of the objectives of Regulation (EU) .../...[*Digitalisation Regulation*], and for the alignment of the existing Union legal acts in civil, commercial and criminal matters with that Regulation, it is necessary to amend the following legal acts: Council Directive ~~2002~~ **2003**/8/EC², Council Framework Decisions ~~2002/465/JHA~~³, 2002/584/JHA⁴, 2003/577/JHA⁵, 2005/214/JHA⁶, 2006/783/JHA⁷, 2008/909/JHA⁸, 2008/947/JHA⁹, 2009/829/JHA¹⁰ and 2009/948/JHA¹¹, and ~~Directive~~ **Directives 2011/99/EU**¹² and 2014/41/EU¹³, ~~and Directive 2011/99/EU~~¹⁴ of the European Parliament and of the Council.

² Council Directive 2003~~2~~/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes (OJ L 026, 31.1.2003, p.41).

³ ~~Council Framework Decision of 13 June 2002 on joint investigation teams (OJ L 162, 20.6.2002, p. 1).~~

⁴ Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002, p. 1–20).

⁵ Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence (OJ L 196, 2.8.2003, p. 45–55).

⁶ Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties (*OJ L 76, 22.3.2005, p. 16–30*).

⁷ Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders (OJ L 328, 24.11.2006, p. 59–78).

⁸ Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (*OJ L 327, 5.12.2008, p. 27–46*).

⁹ Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions (*OJ L 337, 16.12.2008, p. 102–122*).

¹⁰ Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention (*OJ L 294, 11.11.2009, p. 20–40*).

¹¹ Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings (*OJ L 328, 15.12.2009, p. 42–47*).

¹² **Directive 2011/99/EU of the of the European Parliament and of the Council of 13 December 2011 on the European protection order (OJ L 338, 21.12.2011, p. 2).**

¹³ Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters (*OJ L 130, 1.5.2014, p. 1–36*).

¹⁴ ~~Directive 2011/99/EU of the of the European Parliament and of the Council of 13 December 2011 on the European protection order (OJ L 338, 21.12.2011, p. 2).~~

- (6) The amendments seek to ensure that **cross-border** communication between authorities takes place in accordance with the rules and principles set out in Regulation (EU) .../...[*Digitalisation Regulation*]. **In accordance with that Regulation, communication between competent authorities of different Member States and between a national competent authority and a Union agency or body under the legal acts in criminal matters amended by this Directive should as a rule be carried out through the decentralised IT system. In particular, the decentralised IT system should, as a rule, be used for the exchange of forms provided by the legal acts in criminal matters amended by this Directive and for all other official communication under these legal acts which has to be carried out in a written form, for example for the purposes of keeping case files of competent authorities. In cases where one or more of the exceptions mentioned in the Regulation (EU) .../.... [Digitalisation Regulation] apply, namely, where the use of the decentralised IT system is not possible or appropriate, other means of communication may be used as specified in that Regulation. For the purposes of the Council Framework Decisions 2005/214/JHA, 2006/783/JHA, 2008/909/JHA, 2008/947/JHA, 2009/829/JHA and the Directive 2014/41/EU, where those legal acts provide for the communication between the authorities to be carried out by "any" or "any appropriate means", authorities should have discretion as to which method of communication to use.**
- (7) Whereas this Directive sets out amendments to rules already transposed into the national legal order of the Member States, it should also have specific provisions on the transposition of these amendments. The transposition provisions should be aligned with the implementation timeline provided for in Regulation (EU) .../...[*Digitalisation Regulation*].

- (8) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.
- (9) ~~In accordance with Articles 1, 2 and 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Directive and is not bound by it or subject to its application.~~

OR

~~**In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Ireland has notified [by letter of ...] its wish to take part in the adoption and application of this Directive,**~~

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I
AMENDMENTS TO LEGAL ACTS IN THE AREA OF JUDICIAL
COOPERATION IN CIVIL AND COMMERCIAL MATTERS

Article 1

Amendments to Directive ~~2002~~ 2003/8/EC

In Article 13(4) of Directive ~~2002~~ 2003/8/EC, ~~paragraph 4~~ the second subparagraph is replaced by the following:

“The competent transmitting authority shall transmit the application to the competent receiving authority in the other Member State in accordance with Article 3 of Regulation (EU) .../...[*Digitalisation Regulation*]* within 15 days of the receipt of the application duly completed in one of the languages referred to in paragraph 2 of this Article, and the supporting documents, translated, where necessary, into one of those languages.”.

* Regulation (EU) [...] 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, and amending certain acts in the field of judicial cooperation (OJ L ...).”.

CHAPTER II
AMENDMENTS TO LEGAL ACTS IN THE AREA OF JUDICIAL
COOPERATION IN CRIMINAL MATTERS

Article 2

Amendment to Framework Decision 2002/465/JHA

In Article 1 of Framework Decision 2002/465/JHA, the following paragraph is added:

~~“13. Written communications between Member States to set up a joint investigation team and sign a joint investigation team agreement, shall be made in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]*.~~

=====
* ~~— Regulation (EU) [...] 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, and amending certain acts in the field of judicial cooperation (OJL ...).”~~

Article 3

Amendment to Framework Decision 2002/584/JHA

Framework Decision 2002/584/JHA is amended as follows:

~~(1) in Article 10, paragraph 4 is replaced by the following:~~

~~“4. The issuing judicial authority shall forward the European arrest warrant in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]*, without prejudice to paragraphs 2 and 3 of this Article”;~~

~~* Regulation (EU) [...] 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, and amending certain acts in the field of judicial cooperation (OJ L ...).”;~~

(1) in Chapter 2, the following Article 8a is inserted:

“Article 8a

Means of communication

1. Without prejudice to Articles 9(2), 10(2) and 10(3), official communication under this Framework Decision between the issuing judicial authority and the executing judicial authority, in particular in application of Articles 9(1), 25(3), shall be carried out in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation].

Where a Member State has designated a central authority(ies), official communication with the central authority(ies) of another Member State shall also be carried out in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation].

2. The transit request made pursuant to Article 25(3) may also be sent through secure law enforcement communication channels.”;

* Regulation (EU) [...] 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, and amending certain acts in the field of judicial cooperation (OJ L ...).”;

(2) in Article 10, paragraph 4 is deleted;

(~~2~~ 3) in Article 18, paragraph (1), point (a) is replaced by the following:

“(a) either agree that the requested person should be heard according to Article 19 or via video-conference in accordance with Article 8 of Regulation (EU) .../...[*Digitalisation Regulation*]”

(~~3~~ 4) in Article 25, paragraph 3 is replaced by the following:

“3. The transit request and the information set out in paragraph 1 of this Article ~~may~~ **shall** be addressed to the authority designated pursuant to paragraph 2 of this Article ~~in accordance with Article 3 of Regulation (EU) .../...[*Digitalisation Regulation*]~~. The Member State of transit shall notify its decision ~~by the same procedure on the transit request~~.”.

Article 4
Amendment to Framework Decision 2003/577/JHA

Framework Decision 2003/577/JHA is amended as follows:

(1) in Article 4, paragraph 1 is replaced by the following:

“1. A freezing order within the meaning of this Framework Decision, together with the certificate provided for in Article 9 of this Framework Decision, shall be transmitted by the judicial authority which issued it directly to the competent judicial authority for execution ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~.”

~~* — Regulation (EU) [...] 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, and amending certain acts in the field of judicial cooperation (OJ L ...).”;~~

(2) in Article 5(1), paragraph 1, the third subparagraph is replaced by the following:

“A report on the execution of the freezing order shall be made forthwith to the competent authority in the issuing State ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~.”;

(3) in Article 7, paragraph 3 is replaced by the following:

“3. Any decision to refuse recognition or execution shall be taken and notified forthwith to the competent judicial authorities of the issuing State ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~.”;

(4) Article 8 is amended as follows:

(a) paragraph 2 is replaced by the following:

“2. A report on the postponement of the execution of the freezing order, including the grounds for the postponement and, if possible, the expected duration of the postponement, shall be made forthwith to the competent authority in the issuing State ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~.”;

(b) paragraph 3 is replaced by the following:

“3. As soon as the ground for postponement has ceased to exist, the competent judicial authority of the executing State shall forthwith take the necessary measures for the execution of the freezing order and inform the competent authority in the issuing State thereof ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~.”;

(5) In Title 2, the following Article 12a is inserted:

“Article 12a

Means of communication

Official communication under this Framework Decision between the competent judicial authority of the issuing State and the competent judicial authority of the executing State, in particular in application of Articles 4(1), 5(1)(third subparagraph), 7(3), 8(2), 8(3), shall be carried out in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]*.”

*** Regulation (EU) [...] 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, and amending certain acts in the field of judicial cooperation (OJ L ...).”;**

Article 5

Amendment to Framework Decision 2005/214/JHA

Council Framework Decision 2005/214/JHA is amended as follows:

(1) in Article 4, paragraph 3 is replaced by the following:

“3. The decision or a certified copy of it, together with the certificate, shall be transmitted by the competent authority in the issuing State directly to the competent authority in the executing State ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]*~~. The original of the decision, or a certified copy of it, and the original of the certificate, shall be sent to the executing State if it so requires. **The originals or certified copies of documents may be sent in electronic form in accordance with Article 10 of the Regulation (EU) .../...[Digitalisation Regulation]***. All official ~~written~~ communications shall also be made directly between the said competent authorities ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~”.

* Regulation (EU) [...] 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, and amending certain acts in the field of judicial cooperation (OJ L ...).”;

~~(2) In Article 7, paragraph 3 is replaced by the following:~~

~~“3. In cases referred to in paragraphs 1 and 2(c) and (g), before deciding not to recognise and to execute a decision, either totally or in part, the competent authority in the executing State shall consult the competent authority in the issuing State, in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]*, and shall, where appropriate, ask it to supply any necessary information without delay.”~~

~~(3 2) In Article 14, introductory wording, is replaced by the following:~~

~~“The competent authority of the executing State shall without delay inform the competent authority of the issuing State in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation].”;~~

~~(3) the following Article 15a is inserted:~~

~~“Article 15a~~

~~*Means of communication*~~

~~Official communication under this Framework Decision between the competent authority of the issuing State and the competent authority of the executing State, in particular in application of Articles 4(3), 14, shall be carried out in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation] *.~~

~~Where a Member State has designated a central authority(ies), official communication with the central authority(ies) of another Member State shall also be carried out in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation].~~

Where this Framework Decision provides that the communication between the authorities may be carried out by any or any appropriate means, authorities should have discretion as to which method of communication to use.”

Article 6

Amendment to Framework Decision 2006/783/JHA

Framework Decision 2006/783/JHA is amended as follows:

(1) in Article 4, paragraph 2 is replaced by the following:

“2. The confiscation order or a certified copy thereof, together with the certificate, shall be transmitted by the competent authority of the issuing State directly to the authority of the executing State which is competent to execute it, ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]*~~. The original of the confiscation order, or a certified copy thereof, and the original of the certificate shall be transmitted to the executing State if it so requires. **The originals or certified copies of documents may be sent in electronic form in accordance with Article 10 of the Regulation (EU) .../...[Digitalisation Regulation]***. All official ~~written~~ communications shall be made directly between the said competent authorities ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~.”

* Regulation (EU) [...] 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, and amending certain acts in the field of judicial cooperation (OJ L ...).”;

(2) Article 10 is amended as follows:

(a) paragraph 3 is replaced by the following:

“3. In the case of postponement pursuant to paragraph 1, point (a), of this Article the competent authority of the executing State shall inform the competent authority of the issuing State thereof immediately ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~, and the competent authority of the issuing State shall comply with the obligations referred to in Article 14(3) of this Framework Decision.”;

(b) paragraph 4 is replaced by the following:

“4. In the cases referred to in paragraph 1, points (b) to (e), of this Article, a report on the postponement, including the grounds for the postponement and, if possible, the expected duration of the postponement, shall be made forthwith by the competent authority of the executing State to the competent authority of the issuing State ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~.

As soon as the ground for postponement has ceased to exist, the competent authority of the executing State shall forthwith take the necessary measures for the execution of the confiscation order and inform the competent authority of the issuing State thereof ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~.”.

(3) in Article 14(~~3~~), **paragraph 3**, the introductory wording, is replaced by the following:

“The competent authority of the issuing State shall immediately inform the competent authority of any executing State concerned ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~.”

(4) Article 15 is replaced by the following:

“Article 15

Termination of execution

The competent authority of the issuing State shall forthwith inform the competent authority of the executing State ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation~~ **Regulation]** of any decision or measure as a result of which the order ceases to be enforceable or shall be withdrawn from the executing State for any other reason. The executing State shall terminate execution of the order as soon as it is informed by the competent authority of the issuing State of that decision or measure.”;

(5) In Article 17, the introductory wording, is replaced by the following:

“The competent authority of the executing State shall without delay inform the competent authority of the issuing State ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation~~ **Regulation]**.”;

(6) the following Article 18a is inserted:

“Article 18a

Means of communication

Official communication under this Framework Decision between the competent authority of the issuing State and the competent authority of the executing State, in particular in application of Articles 4(2), 10(3), 10(4), 14(3), 15, 17, shall be carried out in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation].

Where a Member State has designated a central authority(ies), official communication with the central authority(ies) of another Member State shall also be carried out in accordance with Article 3 of Regulation (EU) .../...[*Digitalisation Regulation*].

Where this Framework Decision provides that the communication between the authorities may be carried out by any or any appropriate means, authorities should have discretion as to which method of communication to use. ”.

Article 7

Amendments to Framework Decision 2008/909/JHA

Framework Decision 2008/909/JHA is amended as follows:

(1) in Article 5, paragraph 1 is replaced by the following:

“1. The judgment or a certified copy of it, together with the certificate, shall be forwarded, by the competent authority of the issuing State directly to the competent authority of the executing State ~~in accordance with Article 3 of Regulation (EU) .../...[*Digitalisation Regulation*]*~~. The original of the judgment, or a certified copy of it, and the original of the certificate, shall be sent to the executing State if it so requires. **The originals or certified copies of documents may be sent in electronic form in accordance with Article 10 of the Regulation (EU) .../...[*Digitalisation Regulation*]***. All official ~~written~~ communications shall also be made directly between the said competent authorities ~~in accordance with Article 3 of Regulation (EU) .../...[*Digitalisation Regulation*]~~”.

* Regulation (EU) [...] 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, and amending certain acts in the field of judicial cooperation (OJ L ...).”;

(2) in Article 16, paragraph 1 is replaced by the following:

“1. Each Member State shall, in accordance with its law, permit the transit through its territory of a sentenced person who is being transferred to the executing State, provided that a copy of the certificate referred to in Article 4 of this Framework Decision has been forwarded to it by the issuing State together with the transit request. The transit request and the certificate ~~may~~ **shall be transmitted in accordance with Article 22a 3 of Regulation (EU) .../...[Digitalisation Regulation]**. Upon request of the Member State to permit transit, the issuing State shall provide a translation of the certificate into one of the languages, to be indicated in the request, which the Member State requested to permit transit accepts.”;

(3) in Article 21, the introductory wording is replaced by the following:

“The competent authority of the executing State shall without delay inform the competent authority of the issuing State ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~.” ;

(4) the following Article 22a is inserted:

“*Article 22a*

Means of communication

1. Official communication under this Framework Decision between the competent authority of the issuing State and the competent authority of the executing State, in particular in application of Articles 5(1), 16(1), 21, shall be carried out in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation].

Where this Framework Decision provides that the communication between the authorities may be carried out by any or any appropriate means, authorities should have discretion as to which method of communication to use.

2. The transit request made pursuant to Article 16(1) may also be sent through secure law enforcement communication channels.”.

Article 8

Amendments to Framework Decision 2008/947/JHA

Framework Decision 2008/947/JHA is amended as follows:

(1) Article 6 is amended as follows:

(a) paragraph 2 is replaced by the following:

“2. The judgment and, where applicable, the probation decision, together with the certificate referred to in paragraph 1 of this Article, shall be forwarded by the competent authority of the issuing State directly to the competent authority of the executing State ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]*~~. The original of the judgment and, where applicable, the probation decision, or certified copies thereof, as well as the original of the certificate, shall be sent to the competent authority of the executing State if it so requires. **The originals or certified copies of documents may be sent in electronic form in accordance with Article 10 of the Regulation (EU) .../...[Digitalisation Regulation]***. All official ~~written~~ communications shall also be made directly between the said competent authorities ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~.”.

* Regulation (EU) [...] 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, and amending certain acts in the field of judicial cooperation (OJ L ...).”;

(b) paragraph 7 is replaced by the following:

“7. When an authority of the executing State which receives a judgment and, where applicable, a probation decision, together with the certificate referred to in paragraph 1 of this Article, has no competence to recognise it and take the ensuing necessary measures for the supervision of the probation measure or alternative sanction, it shall, *ex officio*, forward it to the competent authority and shall without delay inform the competent authority of the issuing State accordingly ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~.”;

(2) in Article 12, paragraph 1 is replaced by the following:

“1. The competent authority of the executing State shall decide as soon as possible, and within 60 days of receipt of the judgment and, where applicable, the probation decision, together with the certificate referred to in Article 6(1) of this Framework Decision, whether or not to recognise the judgment and, where applicable, the probation decision and assume responsibility for supervising the probation measures or alternative sanctions. It shall immediately inform the competent authority of the issuing State of its decision, ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~.”;

(3) Article 16 is amended as follows:

(a) paragraph 1 is replaced by the following:

“1. The competent authority of the executing State shall without delay inform the competent authority of the issuing State, ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~, of all decisions on the:

(a) modification of the probation measure or alternative sanction;

- (b) revocation of the suspension of the execution of the judgment or revocation of the decision on conditional release;
- (c) enforcement of a custodial sentence or measure involving deprivation of liberty, because of non-compliance with a probation measure or alternative sanction;
- (d) lapsing of the probation measure or alternative sanction.”;

(b) paragraph 3 is replaced by the following:

“3. The competent authority of the issuing State shall immediately inform the competent authority of the executing State, ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~, of any circumstances or findings which, in its opinion, could entail one or more of the decisions referred to in paragraph 1, points (a), (b) or (c) of this Article being taken. “;

(4) in Article 17, paragraph 3 is replaced by the following:

“3. Notice of the findings mentioned in paragraph 1 points (a) and (b) and in paragraph 2 of this Article shall be given using the standard form set out in Annex II. Notice of the facts and circumstances mentioned in paragraph 1, point (c), of this Article shall be given, ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~, including, where possible, through the form set out in Annex II of this Framework Decision.”;

(5) in Article 18, the introductory wording is replaced by the following:

“The competent authority of the executing State shall without delay inform the competent authority of the issuing State, ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~, of.”;

(6) the following Article 20a is inserted:

“Article 20a

Means of communication

Official communication under this Framework Decision between the competent authority of the issuing State and the competent authority of the executing State, in particular in application of Articles 6(2), 6(7), 12(1), 16(1), 16(3), 17(3), 18, shall be carried out in accordance with Article 3 of Regulation (EU) .../...[*Digitalisation Regulation*].

Where this Framework Decision provides that the communication between the authorities may be carried out by any or any appropriate means, authorities should have discretion as to which method of communication to use.”.

Article 9

Amendments to Framework Decision 2009/829/JHA

Framework Decision 2009/829/JHA is amended as follows:

(1) in Article 10, paragraph 2 is replaced by the following:

“2. The decision on supervision measures or a certified copy of it, together with the certificate, shall be forwarded by the competent authority in the issuing State directly to the competent authority in the executing State ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]*~~. The original of the decision on supervision measures, or a certified copy of it, and the original of the certificate, shall be sent to the executing State if it so requires. **The originals or certified copies of documents may be sent in electronic form in accordance with Article 10 of the Regulation (EU) .../...[Digitalisation Regulation]***. All official ~~written~~ communications shall also be made directly between the said competent authorities ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~”.

* Regulation (EU) [...] 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, and amending certain acts in the field of judicial cooperation (OJ L ...).”;

(2) in Article 20~~(2)~~, **paragraph 2**, the introductory wording is replaced by the following:

“The competent authority in the executing State shall, without delay, inform the competent authority in the issuing State ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~”.

(3) the following Article 23a is inserted:

“Article 23a

Means of communication

Official communication under this Framework Decision between the competent authority of the issuing State and the competent authority of the executing State, in particular in application of Articles 10(2), 20(2), shall be carried out in accordance with Article 3 of Regulation (EU) .../...[*Digitalisation Regulation*].

Where a Member State has designated a central authority(ies), official communication with the central authority(ies) of another Member State shall also be carried out in accordance with Article 3 of Regulation (EU) .../...[*Digitalisation Regulation*].

Where this Framework Decision provides that the communication between the authorities may be carried out by any or any appropriate means, authorities should have discretion as to which method of communication to use.”.

Article 10

Amendments to Framework Decision 2009/948/JHA

Article 7 of Framework Decision 2009/948/JHA is replaced by the following:

“Article 7

Means of communication

The contacting and contacted authorities shall communicate in accordance with Article 3 of Regulation (EU) .../...[*Digitalisation Regulation*]*.

Where a Member State has designated a central authority(ies), official communication with the central authority(ies) of another Member State shall also be carried out in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]".

* Regulation (EU) [...] 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, and amending certain acts in the field of judicial cooperation (OJ L ...).";

Article 10a

Amendment to Directive 2011/99/EU

Directive 2011/99/EU is amended as follows:

(1) Article 8 is amended as follows:

(a) paragraph 1 is replaced by the following:

“Where the competent authority of the issuing State transmits the European protection order to the competent authority of the executing State, it shall do so in accordance with Article 16a. All official communication shall also be made directly between those competent authorities.”

(b) paragraph 3 is replaced by the following:

“When an authority of the executing State which receives a European protection order has no competence to recognise it, that authority shall, ex officio, forward the European protection order to the competent authority and shall, without delay, inform the competent authority of the issuing State.”

(2) In Article 9, paragraph 4 is replaced by the following:

“If the competent authority in the executing State considers that the information transmitted with the European protection order in accordance with Article 7 is incomplete, it shall without delay inform the competent authority of the issuing State, assigning a reasonable period for it to provide the missing information.”

(3) the following Article 16a is inserted:

“Article 16a

Means of communication

Official communication under this Directive between the competent authority of the issuing State and the competent authority of the executing State, in particular in application of Articles 8(1), 8(3), 9(4), shall be carried out in accordance with Article 3 of Regulation (EU) .../...[*Digitalisation Regulation*]*.

Where a Member State has designated a central authority(ies), official communication with the central authority(ies) of another Member State shall also be carried out in accordance with Article 3 of Regulation (EU) .../...[*Digitalisation Regulation*].”.

Article 11
Amendment to Directive 2014/41/EU

Directive 2014/41/EU is amended as follows:

(1) in Article 7, paragraph 1 is replaced by the following:

“1. The EIO completed in accordance with Article 5 of this Directive shall be transmitted from the issuing authority to the executing authority ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~^{*}.

~~* — Regulation (EU) [...] 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, and amending certain acts in the field of judicial cooperation (OJ L ...).”;~~

(2) In Chapter I, the following Article 5a is inserted:

“Article 5a

Means of communication

Official communication under this Directive between the issuing authority and the executing authority, in particular in application of Articles 7(1), 15(2), 16(1), 16(2)(second subparagraph), 16(3), 31(1), shall be carried out in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]*.

Where a Member State has designated a central authority(ies), official communication with the central authority(ies) of another Member State shall also be carried out in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation].

Where this Directive provides that the communication between the authorities may be carried out by any or any appropriate means, authorities should have discretion as to which method of communication to use.”.

* Regulation (EU) [...] 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, and amending certain acts in the field of judicial cooperation (OJ L ...).”;

(2) in Article 15, paragraph 2 is replaced by the following:

“2. As soon as the ground for postponement has ceased to exist, the executing authority shall forthwith take the necessary measures for the execution of the EIO and inform the issuing authority ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~.”;

(3) Article 16 is amended as follows:

(a) paragraph 2 is replaced by the following:

“2. Without prejudice to Article 10(4) and (5) of this Directive the executing authority shall inform the issuing authority immediately by any means:

(a) if it is impossible for the executing authority to take a decision on the recognition or execution due to the fact that the form provided for in Annex A is incomplete or manifestly incorrect;

- (b) if the executing authority, in the course of the execution of the EIO, considers without further enquiries that it may be appropriate to carry out investigative measures not initially foreseen, or which could not be specified when the EIO was issued, in order to enable the issuing authority to take further action in the specific case; or
- (c) if the executing authority establishes that, in the specific case, it cannot comply with formalities and procedures expressly indicated by the issuing authority in accordance with Article 9.

Upon request by the issuing authority, the information shall be confirmed without delay in accordance with Article ~~5a 3 of Regulation (EU) .../...[Digitalisation Regulation]~~.”;

- (b) in paragraph 3, the introductory wording is replaced by the following:

“Without prejudice to Article 10(4) and (5) of this Directive the executing authority shall inform the issuing authority without delay ~~in accordance with Article 3 of Regulation (EU) .../...[Digitalisation Regulation]~~.”.

CHAPTER III TRANSPOSITION

Article 12

Transposition of Articles 3, 7 and 11

Member States shall adopt and publish, by [two years from the adoption of the Implementing act referred to in Article 12(3) of Regulation (EU) .../...(*Digitalisation Regulation*) at the latest, the laws, regulations and administrative provisions necessary to comply with Articles 3, 7 and 11. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from the first day of the month following the period of two years after the adoption of the implementing act referred to in Article 12(3) of Regulation (EU) .../...[*Digitalisation Regulation*].

When Member States adopt those provisions, they shall contain a reference to Articles 3, 7 and 11 of this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 13

Transposition of Articles 1, 7 and 10a

Member States shall adopt and publish, by [two years from the adoption of the Implementing act referred to in Article 12(4) of Regulation (EU) .../...(Digitalisation Regulation)] at the latest, the laws, regulations and administrative provisions necessary to comply with Articles 1, 7 and 10a. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from the first day of the month following the period of two years after the adoption of the implementing act referred to in Article 12(4) of Regulation (EU) .../...[*Digitalisation Regulation*].

When Member States adopt those provisions, they shall contain a reference to Articles 1, **7 and 10a** of this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 14

Transposition of Articles 4, 5, 6 and 10

Member States shall adopt and publish, by [two years from the adoption of the Implementing act referred to in Article 12(5) of Regulation (EU) .../...(Digitalisation Regulation)] at the latest, the laws, regulations and administrative provisions necessary to comply with Articles 4, 5, 6 and 10. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from the first day of the month following the period of two years after the adoption of the implementing act referred to in Article 12(5) of Regulation (EU) .../...[*Digitalisation Regulation*].

When Member States adopt those provisions, they shall contain a reference to Articles 4, 5, ~~6~~, **and 10 and 11** of this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 15

Transposition of Articles ~~2~~, 8 and 9

Member States shall adopt and publish, by [two years from the adoption of the Implementing act referred to in Article 12(6) of Regulation (EU) .../...(Digitalisation Regulation)] at the latest, the laws, regulations and administrative provisions necessary to comply with Articles ~~2~~, 8 and 9. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from the first day of the month following the period of two years after the adoption of the implementing act referred to in Article 12(6) of Regulation (EU) .../...[*Digitalisation Regulation*].

When Member States adopt those provisions, they shall contain a reference to Articles 2, 8 and 9 of this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 16
Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 17

This Directive is addressed to the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament
The President

For the Council
The President