



Brussels, 25 November 2022
(OR. en)

15205/22

LIMITE

EJUSTICE 92
JURINFO 14
JAI 1544
JUSTCIV 160
COPEN 406
CODEC 1833

Interinstitutional Files:
2021/0394(COD)
2021/0395(COD)

NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	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, and amending certain acts in the field of judicial cooperation 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

I. INTRODUCTION

1. In December 2021, the Commission submitted:
 - a proposal for a Regulation 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 (proposal for a Regulation on digitalisation of Justice), and

- a proposal for a Directive 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 (proposal for a Directive on digitalisation of Justice).
2. They were all accompanied by an impact assessment.

II. BACKGROUND

A. PROPOSAL FOR A REGULATION ON THE DIGITALISATION OF JUSTICE

3. The Regulation aims at improving access to justice and the efficiency and resilience of the communication flows inherent to the cooperation between judicial and other competent authorities in EU cross-border cases.
4. The Regulation provides rules for:
- establishing the European electronic access point, located on the European e-Justice Portal, which will be used as a one stop shop for cross-border judicial procedures,
 - accepting electronic communication from natural and legal persons in judicial procedures,
 - using videoconferencing or other distance communication technology in cross-border civil and commercial proceedings,
 - using videoconferencing or other distance communication technology in criminal matters, for hearing a suspect, an accused or a convicted person and for hearing children through videoconferencing or other distance communication technology,

- using trust services (electronic signatures and seals),
- accepting electronic documents, notwithstanding their electronic form, and
- paying fees through electronic means.

5. This proposal will guarantee a common approach towards the use of modern technologies in cross-border judicial cooperation and access to justice, by providing a framework for the use of ITC in the framework of Justice, at EU level.

B. PROPOSAL FOR A DIRECTIVE ON THE DIGITALISATION OF JUSTICE

6. The proposal aims at modifying several directives and framework decisions concerning judicial cooperation in civil, commercial and criminal matters, in order to align them with the provisions of the Regulation on digitalisation of Justice (2021/0394(COD)).

III. WORK AT THE LEVEL OF WORKING PARTIES

A. PROPOSAL FOR A REGULATION ON THE DIGITALISATION OF JUSTICE

7. The Working Party on e-Justice, focussed on a better definition of the scope of the proposal under French Presidency, with a compromise text amending the first articles being presented at the start of the Czech Presidency.
8. During the Czech Presidency, the proposal was amended with the aim of providing a better framework for the future implementation of the European Electronic Access Point (EEAP) and ancillary services for videoconferencing, court fees payment and communication through electronic documents.

9. In particular, delegations had requested a more detailed inventory of the functionalities of the EEAP, as well as the responsibilities for its implementation. Additionally, a more thorough approach for the organisation of videoconferences during civil, commercial or criminal proceedings was introduced, along with a more robust framework for electronic services, such as electronic signatures and seals for documents to be transmitted to judicial authorities. Delegations also made sure that practitioners involved in certain types of proceedings, like insolvency, were included within the scope of the proposal.
10. The Working Party in its JHA Counsellors format finalised the text at its meeting on 18 November. The Presidency then considered that the text was ready to be presented to Coreper and Council for a general approach.

B. PROPOSAL FOR A DIRECTIVE ON THE DIGITALISATION OF JUSTICE

11. The Working Party on e-Justice worked on the proposal under the Czech Presidency, focussing on its consistency with other instruments, including the proposed Regulation on digitalisation of Justice as amended during discussions. The Presidency considers that the text is ready to be presented to Coreper and Council for a general approach.

IV. CONCLUSION

12. Considering the above,

- the Permanent Representatives Committee is invited to confirm the agreement on the texts of the general approach for
 - a) a Regulation on digitalisation of Justice, as set out in 15139/22, and
 - b) a Directive on digitalisation of Justice, as set out in 15138/22, and
 - to recommend that the Council reach a general approach for a Regulation on digitalisation of Justice, as set out in 15139/22, and for a Directive on digitalisation of Justice, as set out in 15138/22, and
 - the Council is invited to reach a general approach on these two texts, which will constitute the basis for the negotiations with the European Parliament in the framework of the ordinary legislative procedure (Art. 294 TFEU).
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