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INFORMATION 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 - Outcome of the European Parliament's first reading (Strasbourg, 20 to 23 November 2023)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the Joint declaration on practical arrangements for the codecision procedure[1], a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

[1] OJ C 145, 30.6.2007, p. 5.

In this context, the Chair of the Committee on Civil Liberties, Justice and Home Affairs (LIBE) Juan Fernando LÓPEZ AGUILAR (S&D, ES) and the Chair of the Committee on Legal Affairs (JURI), Adrián VÁZQUEZ LÁZARA (Renew, ES), presented on behalf of LIBE and JURI a compromise amendment (amendment number 112) to the abovementioned proposal for a Regulation, for which Emil RADEV (EPP, BG) and Marina KALJURAND (S&D, EE) had prepared a draft report. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled.

II. VOTE

When it voted on 23 November 2023, the plenary adopted the compromise amendment (amendment number 112) to the abovementioned proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto[2].

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

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[2] The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics.*** The symbol " ▌ " indicates deleted text.

ANNEX
(23.11.2023)

P9_TA(2023)0432

Digitalisation of cross-border judicial cooperation

European Parliament legislative resolution of 23 November 2023 on the 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 (COM(2021)0759 – C9-0451/2021 – 2021/0394(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2021)0759),

– having regard to Article 294(2), Article 81(2)(e) and (f), and Article 82(1)(d) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0451/2021),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the opinion of the European Economic and Social Committee of 19 May 2022[1],

– having regard to the provisional agreement approved by the responsible committees under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 19 July 2023 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

– having regard to Rule 59 of its Rules of Procedure,

– having regard to the joint deliberations of the Committee on Legal Affairs and the Committee on Civil Liberties, Justice and Home Affairs under Rule 58 of the Rules of Procedure,

[1] OJ C 323, 26.8.2022, p. 77.

– having regard to the report of the Committee on Legal Affairs and the Committee on Civil Liberties, Justice and Home Affairs (A9-0062/2023),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P9_TC1-COD(2021)0394

Position of the European Parliament adopted at first reading on 23 November 2023 with a view to the adoption of Regulation (EU) 2023/… 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

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), point (d), thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee[1],

Acting in accordance with the ordinary legislative procedure[2],

1 OJ C 323, 26.8.2022, p. 77.
2 Position of the European Parliament of 23 November 2023.

Whereas:

(1) In its communication of 2 December 2020 entitled “Digitalisation of justice in the European Union - A toolbox of opportunities”, 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 that all necessary safeguards are in place to avoid social exclusion***, and ensuring mutual trust, interoperability and security***.

(2) ***In order to achieve a fully functional area of freedom, security and justice, it is important that all*** Member States ***seek to reduce any existing disparities regarding digitalisation of systems and take advantage of opportunities offered by the relevant*** Union ***funding mechanisms***.

(3) For the purposes of enhancing judicial cooperation and access to justice, legal acts of the Union providing for communication between competent authorities, including Union bodies and agencies, and between competent authorities and natural and legal persons ***in civil and commercial matters***, should be complemented by ***establishing the*** conditions for conducting such communication through digital means.

(4) This Regulation seeks to improve the ***efficiency and effectiveness*** of judicial procedures and to facilitate access to justice by digitalising the existing communication channels, which should lead to cost and time savings, a reduction of the administrative burden, and improved resilience in *force majeure* circumstances for all authorities involved in cross-border judicial cooperation. The use of digital channels of communication between competent authorities should lead to reduced delays in the processing of cases, ***in the short term as well as in the long term.*** That should benefit individuals***,*** legal entities ***and Member States' competent authorities, and strengthen confidence in justice systems. Digitalisation of communication channels would also be of benefit*** in the area of cross-border criminal proceedings ***and*** in the context of the Union***'***s fight against crime. In that regard, the high level of security that digital channels of communication can provide constitutes a step forward, also with respect to safeguarding the rights of the persons concerned***, such as the right to respect for private and family life and the right to the protection of*** personal data.

(5) ***The fundamental rights and freedoms of all persons concerned by the electronic exchange of data pursuant to this Regulation, in particular the right to effective access to justice, the right to a fair trial, the principle of non-discrimination, the right to respect for private and family life and the right to the protection of personal data, should be fully respected in accordance with Union law.***

(6) ***When fulfilling their obligations under this Regulation, all entities should respect the principle of the independence of the judiciary, having regard to the principle of separation of powers and the other principles of the rule of law.***

(7) ***Effective access to justice is a core objective of the area of freedom, security and justice. Digital transformation is a key step towards improving access to justice and the efficiency, quality and transparency of justice systems.***

(8) It is important that appropriate channels ***and tools*** are developed to ensure that justice systems can cooperate digitally in an efficient manner. Therefore, it is essential to establish, at Union level, ***a uniform*** information technology instrument that allows swift, direct, interoperable, reliable***, accessible,*** secure ***and efficient*** cross-border electronic exchange of ***case-related*** data between competent authorities. ***The Commission and the Member States should ensure that legal professionals are involved in the digital transformation of justice systems.***

(9) Tools have been developed for the digital exchange of ***case-related*** data, which make it possible to avoid replacing or requiring costly modifications to the existing IT systems already established in the Member States. The e-Justice Communication via the On-line Data Exchange (e-CODEX) system, the legal framework for which is established by Regulation (EU) 2022/850 of the European Parliament and of the Council[3], is the main tool of that type developed to date ***to ensure the swift, direct, interoperable, sustainable, reliable and secure cross-border electronic exchange of case-related data between competent authorities***.

(10) Digitalisation of proceedings should ensure access to justice for all, including persons with disabilities. The decentralised IT system and the European electronic access point established by this Regulation should comply with the web accessibility requirements set out in Directive (EU) 2016/2102 of the European Parliament and of the Council[4]. At the same time, the electronic payment methods referred to in this Regulation should comply with the accessibility requirements set out in Directive (EU) 2019/882 of the European Parliament and of the Council[5].

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3 Regulation (EU) 2022/850 of the European Parliament and of the Council of 30 May 2022 on a computerised system for the cross-border electronic exchange of data in the area of judicial cooperation in civil and criminal matters (e-CODEX system), and amending Regulation (EU) 2018/1726 (OJ L 150, 1.6.2022, p. 1).

4 Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies (OJ L 327, 2.12.2016, p. 1).

5 Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (OJ L 151, 7.6.2019, p. 70).

(11) Establishing digital channels for cross-border communication would contribute directly to improving access to justice, by enabling natural and legal persons to seek the protection of their rights and assert their claims, initiate proceedings, ***and*** exchange ***case-related*** data in digital form with judicial or other competent authorities, in procedures falling under the scope of Union law in the area of civil and commercial matters.

(12) In order to ensure that electronic communication tools have a positive impact on access to justice, Member States should allocate sufficient resources to the improvement of citizens' digital skills and literacy and should pay particular attention to ensuring that a lack of digital skills does not become an obstacle to the use of the decentralised IT system. Member States should ensure that training is offered to all justice professionals concerned, including prosecutors, judges and administrative staff, and competent authorities, in order to ensure effective use of the decentralised IT system. Such training should aim to improve the functioning of justice systems across the Union, as well as the upholding of fundamental rights and values, in particular by enabling justice professionals to efficiently address any challenges that might arise during proceedings or hearings held via videoconferencing or other distance communication technology, due to their virtual nature. Member States should be encouraged and supported by the Commission to apply for grants for training activities under the relevant Union financial programmes.

(13) This Regulation should cover the digitalisation of communication in cases with cross-border implications falling under the scope of ***certain*** Union legal acts in civil, commercial and criminal matters. Those acts should be listed in the Annexes to this Regulation. Communication between competent authorities and Union bodies and agencies, such as ***the European Public Prosecutor's Office or*** Eurojust, ***in cases where they are competent under*** the legal acts listed in Annex II, should also be covered by this Regulation. ***Where insolvency practitioners are competent under national law to receive claims lodged by a foreign creditor in insolvency proceedings*** under ***Regulation (EU) 2015/848 of the European Parliament and of the Council[6], they should be considered to be competent authorities within the meaning of*** this Regulation.

(14) This Regulation should not affect the rules governing cross-border judicial procedures established by the legal acts listed in Annexes I and II except for the rules related to communication by digital means introduced by this Regulation. This Regulation should be without prejudice to national law on the designation of any authority, person or body dealing with any aspect of the verification and filing of applications, documents and information. The requirements under applicable national law concerning the authenticity, accuracy, reliability, trustworthiness and the appropriate legal form of documents or information should remain unaffected, except for the rules related to the communication by digital means introduced by this Regulation.

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6 ***Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (OJ L 141, 5.6.2015, p. 19).***

(15) Whether a case is to be considered a matter with cross-border implications should be determined under the legal acts listed in Annexes I and II. Where the legal acts listed in Annexes I and II explicitly state that national law should govern a communication procedure between competent authorities, this Regulation should not apply.

(16) The obligations under this Regulation should not apply to oral communication such as by phone or in person.

(17) This Regulation should not apply to the service of documents pursuant to Regulation (EU) 2020/1784 of the European Parliament and of the Council[7], or to the taking of evidence pursuant to Regulation (EU) 2020/1783 of the European Parliament and of the Council[8]. Those Regulations already provide for specific rules on digitalisation of judicial cooperation. ***However, in order to enhance the electronic service of documents which is to be effected directly on a person who has a known address for service in another Member State, this Regulation should introduce certain amendments to Regulation (EU) 2020/1784.***

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7 Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (OJ L 405, 2.12.2020, p. 40).

8 Regulation (EU) 2020/1783 of the European Parliament and of the Council of 25 November 2020 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (taking of evidence) (OJ L 405, 2.12.2020, p. 1).

(18) When the Commission collaborates with external actors in the design and building stages of the European electronic access point, such actors should have experience in secure, user-friendly and accessible IT development.

(19) In order to ensure secure, ***efficient,*** swift, interoperable, confidential and reliable communication between Member States for the purposes of cross-border judicial procedures in civil, commercial and criminal matters, appropriate ***communication*** technology should be used, provided that certain conditions relating to the ***security,*** integrity and reliability of the document received and the identification of the participants in the communication are met. Therefore, a secure***, efficient*** and reliable decentralised IT system should be ***established*** for data exchanges in cross-border judicial procedures. The decentralised nature of ***the*** IT system ***should aim to*** enable secure data exchanges between ***competent authorities***, without any Union institution being involved in the substance of those exchanges. ***The decentralised IT system should also make secure data exchanges possible between a Member State and Union bodies and agencies, such as Eurojust, in cases falling under the scope of the legal acts listed in Annex II.***

(20) The decentralised IT system should be comprised of ▌back-end systems ▌***in*** the Member States and the ***relevant*** Union bodies and agencies, and interoperable access points through which those systems are ▌***linked using secure interconnections***. The access points of the decentralised IT system should be based on e-CODEX.

(21) For the purposes of this Regulation, Member States▌ ***should be able to use software developed by the Commission*** (reference implementation software)▌ ***instead of a national IT system.*** That reference implementation software ▌***should be based on a modular setup, meaning that the*** software ▌***is packaged and delivered separately from the e-CODEX components needed to connect it to the decentralised IT system. Such a setup should enable Member States to reuse or enhance their existing national judicial communication infrastructure for the purpose of cross-border use. For matters relating to maintenance obligations, Member States could also use software developed by the Hague Conference on Private International Law (iSupport)***.

(22) The Commission should be responsible for the creation, development and maintenance of the reference implementation software, in accordance with the principles of data protection by design and by default, and with accessibility requirements. The Commission should design, develop and maintain the reference implementation software in compliance with the data protection requirements and principles laid down in Regulations (EU) 2018/1725[9] and (EU) 2016/679[10] of the European Parliament and of the Council, and Directive (EU) 2016/680 of the European Parliament and of the Council[11], in particular the principles of data protection by design and by default as well as a high level of cybersecurity. In particular, any natural or legal person that takes part in creating, developing or maintaining the national IT systems or the reference implementation software should be bound by those requirements and principles. The reference implementation software should also include appropriate technical measures and should allow for organisational measures, including the necessary oversight for ensuring a level of security and interoperability which is appropriate for the exchange of information in the context of cross-border judicial procedures. In order to ensure interoperability with national IT systems, the reference implementation software should be able to implement the digital procedural standards, as defined in Regulation (EU) 2022/850, for the corresponding legal acts listed in Annexes I and II to this Regulation.

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9 Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

10 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

11 Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

(23) In order to provide swift, secure and efficient assistance to applicants, ▌communication between competent authorities, such as courts and central authorities established under Council Regulations (EC) No 4/2009[12] and (EU) 2019/1111[13], should, as a rule, be carried out through the decentralised IT system. ▌

(24) Transmission through the decentralised IT system could be impossible due to a disruption of the system***. Any disruption of the system should be resolved as soon as possible by the relevant Union bodies and the Member States. The transmission could also be impossible in practice due to the physical or technical*** ▌nature of what has to be transmitted***, such as the***▌ transmission ▌***of physical evidence or the need to transmit the original document in paper format to assess its authenticity, or due to force majeure. Situations of force majeure, as a general rule, follow from unforeseeable and unavoidable events arising from a cause external to the competent authority.*** Where the decentralised IT system is not used, communication should be carried out by the most appropriate alternative means. Such alternative means should entail, inter alia, transmission being performed as swiftly as possible and in a secure manner by other secure electronic means▌***,*** by postal service ***or by transmission in person where such transmission is possible***.

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12 Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ L 7, 10.1.2009, p. 1).

13 Council Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (OJ L 178, 2.7.2019, p. 1).

(25) ***The decentralised IT system should be used by default in the communication between competent authorities. However,*** for the purposes of ensuring the flexibility of judicial cooperation ▌, other means of communication could be more appropriate ▌ ***in certain situations. This could*** be appropriate ***where the competent authorities need direct personal communication, and in particular*** for direct communication between courts under Regulations (EU) 2015/848 and (EU) 2019/1111 ▌, as well as ***for*** direct communication between competent authorities under ***Council Framework Decisions 2005/214/JHA[14], 2006/783/JHA[15], 2008/909/JHA[16], 2008/947/JHA[17], 2009/829/JHA[18], Directive 2014/41/EU of the European Parliament and of the Council[19] or Regulation (EU) 2018/1805 of the European Parliament and of the Council[20] where the communication between the competent authorities could be carried out by any means or any appropriate means*** ▌, as provided for in those acts. In such cases, ***competent authorities could use*** less formal communication means, such as e-mail***. Other means of communication could also be appropriate where the communication involves the handling of sensitive data or where the conversion of voluminous documentation into electronic form imposes a disproportionate administrative burden on the competent authority that sends the documentation. Considering that competent authorities deal with sensitive data, the security and reliability of the information exchange should always be ensured when selecting the appropriate means of communication. The decentralised IT system should always be considered the most appropriate means of***

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14 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).

15 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).

16 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).

17 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).

18 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

19 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).

20 Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders (OJ L 303, 28.11.2018, p. 1).

exchanging forms established pursuant to the legal acts listed in Annexes I and II to this Regulation. However, forms ~~could be~~ ***exchanged by other means in cases where the competent authorities of different Member States are present at the same location in a Member State for the purpose of assisting in the execution of judicial cooperation procedures under the legal acts listed in Annex II to this Regulation, if it is necessary due to the urgency of the matter, such as in situations under Directive 2014/41/EU where the issuing authority assists in the execution of the European Investigation Order in the executing State or where competent authorities of different Member States coordinate judicial cooperation procedures under the legal acts listed in Annex II to this Regulation at a meeting in person***.

(26) In relation to the components of the decentralised IT system which are under the responsibility of the Union, ***in accordance with the security requirements established by Regulation (EU) 2022/850*** **,** the entity managing the system's components should have sufficient resources in order to ensure their proper functioning.

(27) For the purpose of facilitating the access of natural and legal persons to the competent authorities ***in civil and commercial matters***, this Regulation should establish an access point at Union level, a "European electronic access point", as part of the decentralised IT system , ***which should contain information for*** natural and legal persons ***on their right to legal aid, and through which they*** should be able to file claims, launch requests, send, request and receive procedurally relevant information***, including digitalised case files or parts thereof,*** and communicate with the competent authorities, ***or have their representative do so on their behalf, in the instances covered by*** this Regulation ***or be served with judicial or extra-judicial documents***. The European electronic access point should be hosted on the European e-Justice Portal, which serves as a one-stop-shop for judicial information and services in the Union.

(28) The right to legal aid or legal assistance as provided for by Union and national law, in particular the right to legal aid as established by Regulation (EU) No 650/2012 of the European Parliament and of the Council[21], Council Regulations (EC) No 4/2009 and (EU) 2019/1111 and Council Directive 2003/8/EC[22], applies. Natural and legal persons should be able to access relevant information on the e-Justice Portal through links on the European electronic access point.

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21 ***Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession (OJ L 201, 27.7.2012, p. 107).***

22 Council Directive 2003/8/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 26, 31.1.2003, p. 41).

(29) In the context of communication ▌by natural and legal persons with competent authorities ***in civil and commercial matters in cross-border cases***, electronic communication should be used as an alternative to the existing means of communication***, including national means, without affecting how natural or legal persons communicate with their national authorities, in accordance with national law. In the case of communication by legal persons with competent authorities, the use by default of electronic means should be encouraged***. Nevertheless, to ensure that access to justice through digital means does not contribute to ***a*** further widening of the digital divide, the choice of the means of communication between electronic communication, as provided for by this Regulation, and other means of communication should be left to the discretion of the persons concerned. This is particularly important in order to cater for the specific circumstances of ▌***persons who might lack the requisite technical means or digital skills to access digital services and persons with disabilities, as the Member States and the Union have committed themselves to taking appropriate measures in accordance with the United Nations Convention on the Rights of Persons with Disabilities***.

(30) In order to enhance electronic cross-border communication and transmission of documents through the decentralised IT system, ***including through*** the European electronic access point, those documents should not be denied legal effect and should not be considered inadmissible in the proceedings solely on the grounds that they are in electronic form. However, that principle should be without prejudice to the assessment of the legal effects or the admissibility of those documents, which ***could*** constitute evidence in accordance with national law.

(31) In order to facilitate oral hearings in proceedings in civil, commercial and criminal matters with cross-border implications, this Regulation should provide for the optional use of videoconferencing or other distance communication technology.

(32) Videoconferencing or other distance communication technology ***should allow the competent authority to authenticate the identity of the persons to be heard, and should enable visual, audio and oral*** communication ***during the hearing. A mere phone call should not be considered to be appropriate*** distance communication technology ***for oral hearings. The technology used should meet applicable standards for the protection of personal data, of the confidentiality of communications and of data security, irrespective of the type of hearing for which it is used***.

(33) A hearing conducted through videoconferencing or other distance communication technology should not be refused solely on account of the non-existence of national rules governing the use of distance communication technology. In such a case, the most appropriate rules applicable under national law, such as rules on the taking of evidence, should apply mutatis mutandis.

(34) The right to interpretation should not be affected by this Regulation, and videoconferencing or other distance communication technology used in proceedings in civil, commercial or criminal matters should allow for the use of interpretation.

(35) In order to facilitate oral hearings in proceedings in civil and commercial matters with cross-border implications, this Regulation should provide for the optional use of videoconferencing or other distance communication technology for the participation of the parties or their representatives in such hearings, subject to the availability of the relevant technology, the possibility for the parties to submit an opinion on the use of such technology and the appropriateness of the use of such technology in the specific circumstances of the case. This Regulation should preclude neither persons that assist a party nor public prosecutors in civil and commercial matters from attending the hearing through videoconferencing or other distance communication technology, in accordance with applicable national law.

(36) The procedure for initiating and conducting hearings through videoconferencing or other distance communication technology should be governed in civil and commercial matters by the law of the Member State where the proceedings take place. Where the recording of hearings is provided for under the national law of the Member State conducting the hearing in civil or commercial matters, the parties should be informed of those provisions, and, where provided for, of the possibility for them to object to the recording.

(37) When deciding whether to allow the participation of the parties and their representatives in a hearing in civil and commercial matters through videoconferencing or other distance communication technology, the competent authority should choose an appropriate method for exploring the opinions of the parties in accordance with national procedural law.

(38) Where a competent authority in proceedings in civil or commercial matters has decided to allow the participation of at least one of the parties or other persons in a hearing through videoconferencing, that competent authority should ensure that such persons have access to that hearing through videoconferencing. In particular, the competent authority should send such persons a link to be able to participate in that videoconference and provide technical assistance. For example, the competent authority should provide instructions about the software which will be used and organise, where necessary, a technical test before the hearing. The competent authority should take into account the specific needs of persons with disabilities.

(39) Where a child participates in proceedings in civil or commercial matters, in particular as a party, under national law, the child should be able to participate in the hearing through videoconferencing or other distance communication technology provided for in this Regulation, taking into account their procedural rights. On the other hand, where the child is participating in the proceedings for the purpose of taking evidence in civil or commercial matters, for example where the child is to be heard as a witness, the child could also be heard through videoconferencing or other distance communication technology in accordance with Regulation (EU) 2020/1783.

(40) Where a competent authority requests the participation of a person for the purpose of taking evidence in civil or commercial matters, the participation of such person in the hearing through videoconferencing or other distance communication technology should be governed by Regulation (EU) 2020/1783.

(41) This Regulation should not apply to the use of videoconferencing or other distance communication technology in civil and commercial matters where such use is already provided for in the legal acts listed in Annex I, or in matters which do not have cross-border implications. Moreover, this Regulation should not apply to the use of videoconferencing or other distance communication technology in notarial authentication procedures.

(42) In criminal matters, the procedure for initiating and conducting hearings through videoconferencing or other distance communication technology should be governed by the law of the Member State which conducts the hearing. The Member State that conducts the hearing through videoconferencing or other distance communication technology should be understood to be the Member State that has requested the use of videoconferencing or other distance communication technology.

(43) The rules laid down in this Regulation on the use of videoconferencing or other distance communication technology for hearings in judicial cooperation procedures in criminal matters should not apply to hearings through videoconferencing or other distance communication technology for the purposes of taking evidence or of holding a trial which could result in a decision on the guilt or innocence of a suspect or an accused person. This Regulation should be without prejudice to Directive 2014/41/EU, to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, and to Council Framework Decision 2002/465/JHA[23].

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23 Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams (OJ L 162, 20.6.2002, p. 1).

(44) In order to safeguard the right to a fair trial and the rights of defence, the suspect, the accused or convicted person, or an affected person, as defined in Regulation (EU) 2018/1805, other than a suspect or an accused or convicted person, should give their consent to the use of videoconferencing or other distance communication technology for a hearing in judicial cooperation procedures in criminal matters. It should be possible for the competent authority to derogate from the requirement to seek the consent of the suspect, the accused or convicted person or the affected person, only in exceptional circumstances in which such derogation is duly justified by serious threats to public security and public health, which are shown to be genuine and present or foreseeable. The use of an exemption in respect of seeking consent for videoconferencing should be limited to what is necessary and should fully respect the Charter of Fundamental Rights of the European Union (the 'Charter'). In the absence of consent being sought, the suspect, the accused or convicted person or the affected person should have the possibility of seeking a review in accordance with national law and in full compliance with the Charter.

(45) Where the rights of a suspect or of an accused or convicted person are violated in the context of a hearing conducted through videoconferencing or other distance communication technology, access to an effective remedy should be guaranteed in accordance with Article 47 of the Charter. Access to an effective remedy should also be guaranteed for affected persons, other than a suspect or an accused or convicted person, in the context of a hearing through videoconferencing or other distance communication technology in proceedings under Regulation (EU) 2018/1805.

(46) The competent authorities responsible for a hearing through videoconferencing or other distance communication technology in criminal matters should ensure that communication between the suspect, the accused or convicted person or the affected person in proceedings under Regulation (EU) 2018/1805 and their lawyer, both immediately before and during the hearing, is confidential in accordance with applicable national law.

(47) Where a hearing through videoconferencing or other distance communication technology is organised in criminal matters, the competent authority that receives the request to set up such a hearing (the 'requested competent authority') should ensure that the suspect, the accused or convicted person, or the affected person as defined in Regulation (EU) 2018/1805, including persons with disabilities, have access to the necessary infrastructure to use videoconferencing or other distance communication technology. This should include a responsibility to provide access, for example, to the premises where the hearing is to be held and to the available technical equipment. Where technical equipment is not available on the premises of the requested competent authority, it should be possible for that authority to make the practical arrangements by organising the hearing at the premises of another authority for the purpose of conducting it through videoconferencing or other distance communication technology, if possible, in accordance with national procedures.

(48) Regulation (EU) No 910/2014 of the European Parliament and of the Council[24] sets up a common Union regulatory framework for the recognition of electronic identification means and electronic trust services ("e-IDAS trust services"), in particular electronic signatures, electronic seals, time stamps, electronic delivery services and website authentication, which are recognised across borders as having the same legal status as their physical equivalents. Therefore, this Regulation should provide for the use of the e-IDAS trust services for the purposes of digital communication.

[24] Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73,

(49) Where a document transmitted as part of electronic communication under this Regulation requires a seal or signature, a qualified electronic seal or signature as defined in Regulation (EU) No 910/2014 should be used by competent authorities and a qualified electronic signature or electronic identification should be used by natural or legal persons. However, this Regulation should not affect the formal requirements applicable to documents produced in support of a request, which could be digital originals or certified copies. This Regulation should also be without prejudice to national law regarding the conversion of documents and to any requirements regarding the authenticity, accuracy, reliability, trustworthiness and appropriate legal form of documents or information, except with regard to the conditions relating to the communication by digital means introduced by this Regulation.

(50) For the purposes of facilitating payment of fees in cases with cross-border implications falling under the scope of the Union legal acts in civil and commercial matters listed in Annex I, ***the technical means of*** electronic payment of fees should ***comply with the applicable rules on accessibility. The use of p***ayment methods widely available throughout the Union, such as credit cards, debit cards, e-wallet and bank transfers ***should be possible in an online environment and accessible through the European electronic access point***.

(51) It is necessary, for the purposes of ensuring the full attainment of the objectives of this Regulation and for the alignment of the existing Union legal acts in civil, commercial and criminal matters with this Regulation, that amendments be introduced by this Regulation in the following legal acts: Regulations (EC) No 805/2004[25], (EC) No 1896/2006[26], (EC) No 861/2007[27], (EU) ***No 606/2013***[28]***, (EU)*** No 655/2014[29], (EU) 2015/848 and (EU) 2018/1805 of the European Parliament and of the Council. Those amendments seek to ensure that communication takes place in accordance with the rules and principles set out in this Regulation. Amendments to Directives and Framework Decisions in civil, commercial and criminal matters are introduced by Directive (EU) …/… of the European Parliament and of the Council [+][30].

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[25] Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims (OJ L 143, 30.4.2004, p. 15).

[26] Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure (OJ L 399, 30.12.2006, p. 1).

[27] Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure (OJ L 199, 31.7.2007, p. 1).

[28] Regulation (EU) ***No 606/2013*** of the European Parliament and of the Council of ***12 June 2013 on mutual recognition of protection measures*** in civil matters (OJ L ***181, 29.6.2013, p. 4)***.

[29] Regulation (EU) ***No 655/2014*** of the European Parliament and of the Council of ***15 May 2014 establishing a European Account Preservation Order procedure to facilitate cross-border debt recovery in civil and commercial matters (OJ L 189, 27.6.2014, p. 59)***.

[+] OJ: Please insert in the text the number and publication details of the Directive in PE-CONS 51/23 (2021/0395 (COD).

[30] ***Directive (EU) …/… of the European Parliament and of the Council amending Directives 2011/99/EU and 2014/41/EU of the European Parliament and of the Council, Council Directive 2003/8/EC and Council Framework Decisions 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, as regards digitalisation of judicial cooperation.***

(52) In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement of ***13 April*** 2016 on Better Law-Making[31], the Commission should evaluate this Regulation on the basis of the information collected through specific monitoring arrangements***, including quantitative and qualitative assessments*** for each of the legal acts listed in Annexes I and II to this Regulation, in order to assess the actual effects of this Regulation ***on the ground, particularly to examine the impact on the efficiency and effectiveness of the digitalisation of cross-border judicial cooperation*** and the need for any further action.

(53) The reference implementation software developed by the Commission as a back-end system should programmatically collect the data necessary for monitoring purposes and such data should be transmitted to the Commission. Where Member States choose to use a national IT system instead of the reference implementation software developed by the Commission, such a system ***could*** be equipped to programmatically collect those data and, in that case, those data should be transmitted to the Commission. ***The e-CODEX connector could also be equipped with a feature to allow retrieval of relevant statistical data.***

[31] OJ L 123, 12.5.2016, p. 1.

(54) In ***cases where data on the number of hearings*** – in which –***videoconferencing was used*** cannot be collected automatically, and for the purpose of – ***limiting the additional*** administrative burden of data collection, each Member State should designate at least one court or competent authority for the purpose of establishing a monitoring sample. The designated court or competent authority should be tasked with collecting and providing the Commission with ***such*** data on its own – ***hearings,*** which should serve to provide an estimate of the amount of data necessary for the evaluation of this Regulation for a given Member State. The designated court or – ***competent*** authority should be – ***competent to conduct hearings through videoconferencing in accordance with this*** Regulation –. In areas where authorities other than courts or prosecutors are considered to be competent authorities within the meaning of this Regulation, such as notaries, the designated monitoring sample should also be representative of their implementation of this Regulation.

(55) The application of this Regulation ***is*** without prejudice to ***the separation of powers and the independence of the judiciary in the Member States, as well as to*** procedural rights as enshrined in the Charter and Union law, such as the procedural rights directives, namely Directives 2010/64/EU[32], 2012/13/EU[33], 2013/48/EU[34], (EU) 2016/343[35], (EU) 2016/800[36] and (EU) 2016/1919[37] of the European Parliament and of the Council, and in particular to the right to interpretation, the right of access to a lawyer, the right of access to the case file, the right to legal aid, and the right to be present at the trial.

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32 Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ L 280, 26.10.2010, p. 1).

33 Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ L 142, 1.6.2012, p. 1).

34 Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty (OJ L 294, 6.11.2013, p. 1).

35 Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ L 65, 11.3.2016, p. 1).

36 Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings (OJ L 132, 21.5.2016, p. 1).

37 Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings (OJ L 297, 4.11.2016, p. 1).

(56) Regulations (EU) 2016/679 and ***(EU) 2018/1725 ▌ and*** Directive (EU) 2016/680 apply to the processing of personal data carried out in the decentralised IT system. In order to clarify the responsibility for the processing of personal data sent or received through the decentralised IT system, this Regulation should indicate who is to be regarded as the controller of the personal data. For that purpose, each sending or receiving entity should be regarded as having determined the purpose and means of the personal data processing separately.

(57) In order to ensure uniform conditions for the implementation of this Regulation as regards the establishment of the decentralised IT system, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[38]. ***The implementing acts should enable Member States to adapt their relevant national IT systems for the purpose of connection to the decentralised IT system.***

[38] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(58) Since the objectives of this Regulation, in particular harmonised digitalisation of cross-border judicial cooperation, cannot be sufficiently achieved by the Member States acting alone, on account of, inter alia, it not being possible to guarantee that the IT systems of Member States and Union bodies and agencies are interoperable, but can rather, by reason of coordinated Union action, be better achieved at Union level, the Union ***may*** adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(59) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the Treaty on the Functioning of the European Union (TFEU), Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(60) In accordance with Articles 1 and 2 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 TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(61) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EC) 2018/1725 and delivered formal comments on ***25 January 2022***,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Regulation establishes a ***uniform*** legal framework for ***the use of*** electronic communication between competent authorities in judicial cooperation procedures in civil, commercial and criminal matters and for ***the use of*** electronic communication between natural or legal persons and competent authorities in judicial procedures in civil and commercial matters.

In addition, it lays down rules on:

(a) the use of videoconferencing or other distance communication technology for purposes other than the taking of evidence under Regulation (EU) 2020/1783;

(b) the application of electronic ***signatures and electronic seals***;

(c) the legal effects of electronic documents;

(d) electronic payment of fees.

2. This Regulation applies to ***electronic communication in judicial cooperation procedures in civil, commercial and criminal matters, as provided for in Articles 3 and 4, and hearings through videoconferencing or other means of distance communication technology in civil, commercial and criminal matters, as provided for in Articles 5 and 6.***

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

(1) ***"competent authority"*** means a court, public prosecutor***'s office, central authority and other competent authorities defined in, designated or which are the subject of notification in accordance with, the legal acts listed in Annexes I and II, as well as Union bodies and agencies*** that take part in judicial cooperation procedures in accordance with the legal acts listed in Annex ***II; for the purposes of Article 5, 'competent authority' also means any court or other authority competent under Union or national law to conduct hearings through videoconferencing or other distance communication technology in civil and commercial matters; for the purposes of Article 6, 'competent authority' also means any court or other authority taking part in procedures laid down in the legal acts listed in*** Annex II;

(2) "electronic communication" means the digital exchange of information over the internet or another electronic communication network;

(3) “decentralised IT system” means a network of IT systems and interoperable access points, operating under the individual responsibility and management of each Member State, Union body or agency, that enables the secure and reliable cross-border exchange of information;

(4) "*European electronic access point*" means ***a portal which is accessible to natural and legal persons or their representatives, throughout the Union, and is connected to an interoperable access point in the context of the decentralised IT system***;

(5) “fees” means payments levied by competent authorities in the context of proceedings under the legal acts listed in Annex I;

(6) "videoconferencing" means audio-visual transmission technology that allows two-way and simultaneous communication of image and sound, thereby enabling visual, audio and oral interaction.

CHAPTER II

COMMUNICATION BETWEEN COMPETENT AUTHORITIES

Article 3

Means of communication between competent authorities

1. ***Communication pursuant to the legal acts listed in Annex I*** between competent authorities ***of different Member States, and, pursuant to*** the legal acts listed in Annex II, ***between competent authorities of different Member States and between a national competent authority and a Union body or agency***, including the exchange of forms established by ***those*** acts, shall be carried out through a secure***, efficient*** and reliable decentralised IT system.

2. ***Communication may, however, be carried out by competent authorities by alternative means*** where electronic communication in accordance with paragraph 1 is not possible due to***:***

(a) the disruption of the decentralised IT system;

(b) the physical or technical nature of the trans mitted material***; or***

(c) force majeure.

For the purposes of the first subparagraph, the competent authorities shall ensure that the alternative means ***of communication used are the swiftest and most appropriate and that they*** ensure a secure and reliable exchange of information.

3. ***In addition to the exceptions referred to in paragraph 2,*** where the use of the decentralised IT system is not appropriate in ***a given situation, any other means of communication may be used. Competent authorities shall ensure that the exchange of information under this paragraph occurs in a secure and reliable manner***.

4. Paragraph 3 shall not apply to the exchange of forms provided for by the legal acts listed in ***Annexes*** I and ***II.***

In cases where the competent authorities of different Member States are present at the same location in a Member State for the purpose of assisting in the execution of judicial cooperation procedures under the legal acts listed in Annex II***, they may exchange the forms through other appropriate means if it is necessary due to the urgency of the matter***. ***Competent authorities shall ensure that the exchange of forms referred to in this subparagraph occurs in a secure and reliable manner.***

5. This Article is without prejudice to applicable procedural provisions in Union and national law on admissibility of documents, with the exception of requirements related to the means of communication.

6. Each Member State may decide to use the decentralised IT system for communication between its national authorities in cases falling under the scope of the legal acts listed in Annex I or II.

7. Union bodies or agencies may decide to use the decentralised IT system for communication within the body or agency in cases falling under the scope of the legal acts listed in Annex II.

CHAPTER III

COMMUNICATION BETWEEN NATURAL OR LEGAL PERSONS AND COMPETENT AUTHORITIES IN CIVIL AND COMMERCIAL MATTERS

Article 4

[redacted]-European electronic access point

1. A European electronic access point shall be established on the European e-Justice Portal[redacted] .

2. The European electronic access point may be used for electronic communication between natural or legal persons or their representatives and competent authorities in the following instances:

(a) procedures provided for in Regulations (EC) No 1896/2006, (EC) No 861/2007 and (EU) No 655/2014;

(b) procedures provided for in Regulation (EC) No 805/2004;

(c) proceedings for recognition, a declaration of enforceability or refusal of recognition provided for in Regulations (EU) No 650/2012, (EU) No 1215/2012[39] and (EU) No 606/2013 of the European Parliament and of the Council and Council Regulations (EC) No 4/2009, (EU) 2016/1103[40], (EU) 2016/1104[41] and (EU) 2019/1111;

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39 Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1).

40 Council Regulation (EU) 2016/1103 of 24 June 2016 implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes (OJ L 183, 8.7.2016, p. 1).

41 Council Regulation (EU) 2016/1104 of 24 June 2016 implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of the property consequences of registered partnerships (OJ L 183, 8.7.2016, p. 30).

(d) procedures related to the issuance, rectification and withdrawal of:

(i) extracts provided for in Regulation (EC) No 4/2009,

(ii) the European Successions Certificate and the attestations provided for in Regulation (EU) No 650/2012,

(iii) certificates provided for in Regulation (EU) No 1215/2012,

(iv) certificates provided for in Regulation (EU) No 606/2013,

(v) attestations provided for in Regulation (EU) 2016/1103,

(vi) attestations provided for in Regulation (EU) 2016/1104,

(vii) certificates provided for in Regulation (EU) 2019/1111;

(e) the lodging of a claim by a foreign creditor in insolvency proceedings under Article 53 of Regulation (EU) 2015/848;

(f) communication between natural or legal persons or their representatives with the Central Authorities under Regulation (EC) No 4/2009 and Regulation (EU) 2019/1111 or the competent authorities under Chapter IV of Directive 2003/8/EC.

3. The Commission shall be responsible for the technical management, development, ***accessibility,*** maintenance, security and ***user technical*** support of the European electronic access point. The Commission shall provide the user technical support free of charge.

4. ***The European electronic access point shall contain information for natural and legal persons on their right to legal aid, including in cross-border proceedings. It shall also enable their representatives to act on their behalf.*** The European electronic access point shall allow natural and legal persons***, or their representatives, in the instances referred to in paragraph 2,*** to file claims, launch requests, send and ***receive*** procedurally relevant information and communicate with the competent authorities, ***or be served with judicial or extrajudicial documents.***

Communication through the European electronic access point shall comply with the requirements of Union law and national law of the relevant Member State, in particular with regard to form, language and representation.

5. Competent authorities shall accept communication through the European electronic access point in the instances referred to in paragraph 2.

6. Provided that a natural or legal person or their representative has given prior express consent to the use of the European electronic access point as a means of communication or method of service, competent authorities shall communicate with that natural or legal person or their representative in the instances referred to in paragraph 2 using that access point, and may serve documents on them through that access point. Each instance of consent shall be specific to the procedure in which it is given and shall be given separately for the purposes of communication and service of documents. Where a natural or legal person intends to use the European electronic access point on their own initiative for communication in proceedings, they shall be able to indicate their consent in that initial communication.

7. The European electronic access point shall be such as to ensure that users are identified.

CHAPTER IV

HEARING THROUGH VIDEOCONFERENCING OR OTHER DISTANCE COMMUNICATION TECHNOLOGY

Article 5

Participation in a hearing through videoconferencing or other distance communication technology in civil and commercial matters

1. Without prejudice to specific provisions regulating the use of videoconferencing or other distance communication technology in proceedings under ***Regulations (EC) No 861/2007, (EU) No 655/2014 and (EU) 2020/1783***, and at the request of a party ***or their representative or, where provided for under national law, on its own initiative, in proceedings in*** civil and commercial matters where one of the parties or their representative is present in another Member State, ***the competent authority shall decide on the participation of the parties and their representatives in*** a hearing ***through*** videoconferencing or other distance communication technology, ***on the basis of:***

   (a) ***the availability of such technology;***

   (b) the ***opinion of the*** parties to the proceedings on the use of such technology ***; and***

   (c) the appropriateness of the use of such technology in the specific circumstances of the case.

2. The competent authority conducting the hearing shall ensure that the parties and their representatives, including persons with disabilities, have access to the videoconference for the hearing.

3. Where the recording of hearings is provided for under the national law of the Member State in which the proceedings take place, the same rules shall apply to hearings conducted through videoconferencing or other distance communication technology. The Member State in which the proceedings take place shall take appropriate measures in accordance with national law to ensure that such recordings are made and stored in a secure manner and not publicly disseminated.

4. Without prejudice to paragraphs 1, 2 and 3, the procedure for hearings through videoconferencing or other distance communication technology shall be regulated by the national law of the Member State conducting the hearing.

Article 6

Hearing through videoconferencing or other distance communication technology in criminal ***matters***

1. ***This Article shall apply in proceedings under the following legal acts:***

(a) Council Framework Decision 2002/584/JHA[42], in particular Article 18(1)(a) thereof;

(b) Framework Decision 2008/909/JHA, in particular Article 6(3) thereof;

(c) Framework Decision 2008/947/JHA, in particular Article 17(4) thereof;

(d) Framework Decision 2009/829/JHA, in particular Article 19(4) thereof;

(e) Directive 2011/99/EU of the European Parliament and of the Council [43], in particular Article 6(4) thereof;

(f) Regulation (EU) 2018/1805, in particular Article 33(1) thereof.

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42 Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002, p. 1).

43 Directive 2011/99/EU 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).

2. Where the competent authority of a Member State requests ***(the 'requesting competent authority')*** the hearing of a ***suspect or an accused or convicted person, or an affected person, as defined in Article 2 , point 10 of Regulation (EU) 2018/1805, other than a suspect or an accused or convicted person, present in another Member State in proceedings under the legal acts listed in paragraph 1 of this Article, the competent authority of that other Member State (the 'requested competent authority') shall allow such persons to participate in the hearing through videoconferencing or other distance communication technology, provided that:***

(a) the particular circumstances of the case justify the use of such technology; ***and***

(b) the ***suspect, the accused or convicted person or the affected person*** has given consent for the use of videoconferencing or other distance communication technology ***for that hearing in accordance with the requirements referred to in the second, third and fourth subparagraphs of this paragraph***.

Before giving consent for the use of videoconferencing or other distance communication technology, the suspect or the accused person shall have the possibility of seeking the advice of a lawyer in accordance with Directive 2013/48/EU. ***Competent authorities shall provide the person that is to be heard with information about the procedure for conducting a hearing through videoconferencing or other distance communication technology, as well as about their procedural rights, including the right to interpretation and the right of access to a lawyer before the consent is given.***

The consent shall be given voluntarily and unequivocally, and the requesting competent authority shall verify that consent prior to starting such hearing. Verification of the consent shall be recorded in the records of the hearing in accordance with the national law of the requesting Member State.

Without prejudice to the principle of a fair trial and the right to a legal remedy under national procedural law, the competent authority may decide not to seek the consent of the persons referred to in point (b) of the first subparagraph of this paragraph where participation in a hearing in person poses a serious threat to public security or public health which is shown to be genuine and present or foreseeable.

3. ***The requested competent authority shall ensure that the persons referred to in paragraph 2, including persons with disabilities, have access to the necessary infrastructure to use videoconferencing or other distance communication technology.***

4. ***This Article*** is without prejudice to ***other Union legal acts that provide for*** the use of videoconferencing or other distance communication technology in ***criminal matters***.

5. The confidentiality of communication between ***a suspect, an accused or convicted person or an affected person*** and their lawyer before and during the hearing through videoconferencing or other distance communication technology shall be ensured ***in accordance with applicable national law***.

6. Before hearing a child through videoconferencing or other distance communication technology, holders of parental responsibility as defined in Article 3, point (2) of Directive (EU) 2016/800 or another appropriate adult as referred to in Article 5(2) of that Directive shall be informed promptly. When deciding whether to hear a child through videoconferencing or other distance communication technology, the competent authority shall take into account the best interests of the child.

7. Where the recording of hearings is provided for under the national law of a Member State for domestic cases, the same rules shall apply to hearings ***conducted*** through videoconferencing or other distance communication technology in cross-border cases. ***The requesting*** Member ***State*** shall take appropriate measures ***in accordance with national law*** to ensure that such recordings are made and stored in a secure manner and not publicly disseminated.

8. A ***suspect, an accused or convicted person or an affected person*** shall***, in the event of a breach of the requirements or guarantees provided for in this Article,*** have the ***possibility of seeking an*** effective remedy***, in accordance with national law and in full respect of the Charter***.

9. Without prejudice to paragraphs 1 to 8, the procedure for conducting a ***hearing through videoconferencing or other distance communication technology*** shall be regulated by the national law of the ***requesting*** Member State***. The requesting and requested competent authorities shall agree on the practical arrangements for the hearing.***

CHAPTER V

TRUST SERVICES, LEGAL EFFECTS OF ELECTRONIC DOCUMENTS AND ELECTRONIC PAYMENT OF FEES

Article 7

Electronic signatures and electronic seals

1. The general legal framework for the use of trust services set out in Regulation (EU) No 910/2014 shall apply to electronic communication under this Regulation.

2. Where a document transmitted as part of electronic communication under Article 3 of this Regulation requires ***a seal or signature in accordance with the legal acts listed in Annexes I and II to this Regulation, the document shall feature a*** qualified electronic ***seal*** or qualified electronic ***signature*** as defined in Regulation (EU) No 910/2014 .

3. Where a document transmitted as part of electronic communication ***in the instances referred to in*** Article ***4(2)*** of this Regulation requires ***the*** signature ***of the person transmitting the document***, ***that person shall fulfil that requirement by means of:***

   (a) electronic identification with an assurance level high as specified in Article 8(2), point (c), of Regulation (EU) No 910/2014; or

   (b) a qualified electronic signature as defined in Article 3(12) of Regulation (EU) No 910/2014.

Article 8

Legal effects of electronic documents

Documents transmitted as part of electronic communication shall not be denied legal effect or be considered inadmissible in the context of cross-border judicial procedures under the legal acts listed in ***Annexes*** I and II solely on the grounds that they are in electronic form.

Article 9

Electronic payment of fees

1. Member States shall provide for the possibility of electronic payment of fees, including from Member States other than that where the competent authority is situated.

2. ***The technical means for the electronic payment of fees*** shall ***comply with applicable rules on accessibility. Where the available*** means ***of electronic*** payment of ***fees so allow, they shall be accessible*** through the European electronic access point.

CHAPTER VI

PROCEDURAL PROVISIONS AND EVALUATION

Article 10

Adoption of implementing acts by the Commission

1. The Commission shall adopt implementing acts ***on*** the decentralised IT system ***referred to in Article 3(1) of this Regulation and the European electronic access point referred to in Article 4(1) of this Regulation***, setting out the following:

(a) the technical specifications ***for*** the methods of communication by electronic means for the purposes of the decentralised IT system;

(b) the technical specifications for communication protocols;

(c) the information security objectives and relevant technical measures ensuring minimum information security standards and a high level of cybersecurity for the processing and communication of information within the decentralised IT system;

(d) the minimum availability objectives and possible related technical requirements for the services provided by the decentralised IT system;

(e) digital procedural standards as defined in Article 3(9) of Regulation (EU) 2022/850;

(f) an implementation timetable laying down, inter alia, the dates of the availability of the reference implementation software, referred to in Article 12 of this Regulation, its installation by the competent authorities, and, where relevant, completion of the adjustments to national IT systems necessary for ensuring compliance with the requirements referred to in points (a) to (e) of this paragraph; and

(g) the technical specifications for the European electronic access point, including the means used for the electronic identification of the user at the assurance level high as specified in Article 8(2), point (c), of Regulation (EU) No 910/2014 and the retention period for storing information and documents.

2. The implementing acts referred to in paragraph 1 of this Article shall be adopted in accordance with the examination procedure referred to in Article 15(2).

3. The implementing acts ***referred to in paragraph 1 of this Article*** shall be adopted by :

(a) *... [2 years from the date of entry into force of this Regulation] for the legal acts listed in points 3 and 4 of Annex I and the legal acts listed in points 1, 10 and 11 of Annex II;*

(b) *... [3 years from the date of entry into force of this Regulation] for the legal acts listed in points 1, 8, 9 and 10 of Annex I and the legal acts listed in points 5 and 9 of Annex II;*

(c) *... [4 years from the date of entry into force of this Regulation] for the legal acts listed in points 6, 11 and 12 of Annex I and the legal acts listed in points 2, 3, 4 and 8 of Annex II; and*

(d) *... [5 years from the date of entry into force of this Regulation] for the legal acts listed in points 2, 5, 7 and 13 of Annex I and the legal acts listed in points 6 and 7 of Annex II.*

Article 11

Training

1. Member States shall ensure that the justice professionals concerned and competent authorities are offered the necessary training for efficient use of the decentralised IT system and for the appropriate use of videoconferencing or other distance communication technology. Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union and with due respect for the independence of the legal profession, Member States shall encourage such training for judges, prosecutors and other justice professionals.

2. The Commission shall ensure that the training of justice professionals in the efficient use of the decentralised IT system is among the training priorities supported by the relevant Union financial programmes.

3. Member States shall encourage the authorities to share best practices regarding videoconferencing in order to reduce costs and increase efficiency.

4. The Commission shall inform Member States of the possibility of applying for grants to support the activities referred to in paragraphs 1 and 3, under the relevant Union financial programmes.

Article 12

Reference implementation software

1. The Commission shall be responsible for the creation, ***accessibility, development and*** maintenance of reference implementation software which Member States may choose to apply as their back-end system instead of a national IT system. The creation, development and maintenance of the reference implementation software shall be financed from the general budget of the Union.

2. The Commission shall provide, maintain and support the reference implementation software on a free-of-charge basis.

3. The reference implementation software shall offer a common interface for communication with other national IT systems.

Article 13

Costs of the decentralised IT system, European electronic access point and national IT ▌**systems**

1. Each Member State ***or entity operating an authorised e-CODEX access point as defined in Article 3(4) of Regulation (EU) 2022/850*** shall bear the costs of the installation, operation and maintenance of the decentralised IT system access points for which ▌ they are responsible.

2. Each Member State ***or entity operating an authorised e-CODEX access point as defined in Article 3(4) of Regulation (EU) 2022/850*** shall bear the costs of establishing and adjusting its ***relevant*** national ***or, where applicable, other*** IT systems to make them interoperable with the access points, and shall bear the costs of administering, operating and maintaining those systems.

3. ***The Commission shall inform*** Member States ▌***of the possibility of applying*** for grants to support the activities referred to in paragraphs 1 and 2, under the relevant Union financial programmes.

4. Union bodies and agencies shall bear the costs of the installation, operation and maintenance of the components of the decentralised IT system under their responsibility.

5. Union bodies and agencies shall bear the costs of establishing and adjusting their case-management systems to make them interoperable with the access points, and shall bear the costs of administering, operating and maintaining those systems.

6. The Commission shall bear all costs related to the European electronic access point.

Article 14

Protection of information transmitted

1. The competent authority shall be regarded as ***a*** controller within the meaning of Regulations (EU) 2016/679 and (EU) 2018/1725 or Directive (EU) 2016/680 in respect of the processing of personal data sent or received through the decentralised IT system.

2. The Commission shall be regarded as a controller within the meaning of Regulation (EU) 2018/1725 in respect of personal data processing by the European electronic access point.

3. Competent authorities shall ensure that information transmitted in the context of cross-border judicial procedures to another competent authority and deemed confidential ***under the law of*** the Member State from which the information is being sent ***is subject to the rules on confidentiality laid down by Union law and*** the national law of the Member State to which the information is being sent.

Article *15*

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article *16*

Monitoring and Evaluation

1. ***Four*** years from the date of ***entry into force of the implementing acts referred to in*** Article ***10(3)(d) and every five years thereafter***, the Commission shall carry out an evaluation of this Regulation and submit to the European Parliament and to the Council a report supported by information supplied by the Member States to the Commission and information collected by it. ***The Commission shall also include an assessment of the effect of electronic communication on the equality of arms in the context of cross-border civil and criminal proceedings. The Commission shall, in particular, assess the application of Article 5. On the basis of that assessment, the Commission shall submit, if appropriate, a legislative proposal obliging Member States to make videoconferencing or other distance communication technology available, specifying the relevant technology and the interoperability standards and establishing judicial cooperation for the purposes of providing the parties to the proceedings with access to the infrastructure necessary for use of videoconferencing or other distance communication technology in the premises of the competent authorities in the Member State where a party is present.***

2. Unless an equivalent notification procedure applies under other Union legal acts, the Member States shall provide the Commission on an annual basis with ***the following*** information relevant for the evaluation of the operation and application of this Regulation :

(a) ***three years from the date of entry into force of each of the implementing acts referred to in Article 10(3),*** the costs incurred ***for establishing or adjusting their relevant national IT systems to make them interoperable with the access points;***

(b) ***three years from the entry into force of each of the implementing acts referred to in Article 10(3)(b),*** the length of first instance judicial proceedings, from the reception of the application by the competent authority until the date of the decision, under the legal acts listed in points 3, 4 and 9 of Annex I***, where such information is available;***

(c) three years from the date of entry into force of each of the implementing acts referred to in Article 10(3), the length of time needed to transmit information on the decision on recognition and execution of a judgment or a judicial decision or, if not applicable, to transmit information on the results of the execution of such a judgment or a judicial decision, under the legal acts listed in points 1 to 7 and 9 to 11 of Annex II, grouped by corresponding legal act, where available;

(d) three years from the date of entry into force of each of the implementing acts referred to in Article 10(3), the number of requests transmitted through the decentralised IT system in accordance with Article 3(1) and (2), where such information is available.

3. For the purpose of establishing a sample, each Member State shall designate one or more competent authorities to collect the data on the number of hearings conducted by those authorities in which videoconferencing or other distance communication technology was used in accordance with Articles 5 and 6. Such data shall be provided to the Commission from ... [one year after the date of application of this Regulation].

4. The reference implementation software and, where equipped to do so, the national back-end system shall programmatically collect the data referred to in ***paragraph 2, points (b), (c) and (d)*** and transmit them to the Commission on an annual basis.

5. Member States shall make every endeavour to collect the data referred to in paragraph 2, points (b), (c) and (d).

Article 17

Information to be communicated to the Commission

1. Member States shall communicate by ... [six months ***from*** the date of entry into force of this Regulation] to the Commission the following information with a view to making it available through the European e-Justice Portal:

(a) details of national IT portals, where applicable;

(b) a description of the national laws and procedures applicable to videoconferencing ***in accordance with Articles 5 and 6***;

(c) information on fees due;

(d) details on the electronic payment methods available for fees due in cross-border cases;

(e) the authorities with competence under the legal acts listed in Annexes I and II, where they have not already been notified to the Commission in accordance with those legal acts.

Member States shall communicate to the Commission any changes with regard to the information referred to in the first subparagraph without delay.

2. Member States ***shall*** notify the Commission if they are in a position to ***apply Article 5 or 6 or*** operate the decentralised IT system earlier than required by this Regulation. The Commission shall make such information available electronically, in particular through the European e-Justice Portal.

CHAPTER VII

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

Article 18

Amendment to Regulation (EC) No 805/2004

In Article 13 (1) of Regulation (EC) No 805/2004, the following point is added:

***"(e) electronic means of service provided for in Articles 19 and 19a of Regulation (EU) 2020/1784 of the European Parliament and of the Council*[*]**.

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[*] ***Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (OJ L 405, 2.12.2020, p. 40).".***

Article 19

Amendments to Regulation (EC) No 1896/2006

Regulation (EC) No 1896/2006 is amended as follows:

(1) in Article 7, paragraph 5 is replaced by the following:

"5. The application shall be submitted – by the means of electronic communication provided for in Article – ***4*** of Regulation (EU) …/… of the European Parliament and of the Council[+*] ***, in paper form*** – or by any other means of communication, including electronic, accepted by the Member State of origin and available to the court of origin –.

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* 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 …).";

+ OJ: Please insert in the text the number of this Regulation and insert the number, date and OJ reference of this Regulation in the footnote.

(2) in Article 7(6), the first subparagraph is replaced by the following:

"The application shall be signed by the claimant or, where applicable, by the claimant's representative. Where the application is submitted in electronic form in accordance with paragraph 5 of this Article, ***the requirement to sign the application*** shall be ***fulfilled*** in accordance with Article 7(3) of Regulation (EU) …/…[+]. The electronic signature shall be recognised in the Member State of origin and may not be made subject to additional requirements.";

(3) in Article 13, the following paragraph is added:

"The European order for payment may be served on the defendant by electronic means of service provided for in Articles 19 and 19a of Regulation (EU) 2020/1784 of the European Parliament and of the Council[*].

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[*] ***Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (OJ L 405, 2.12.2020, p. 40).";***

[+] OJ: Please insert in the text the number of this Regulation.

(4) Article 16 is amended as follows:

(a) paragraph 4 is replaced by the following:

"4. The statement of opposition shall be submitted by the means of electronic communication provided for in Article *4* of Regulation (EU) …/…[+]***, in paper form*** or by any other means of communication, including electronic, accepted by the Member State of origin and available to the court of origin.";

(b) in paragraph 5, the first subparagraph is replaced by the following:

"The statement of opposition shall be signed by the defendant or, where applicable, by the defendant's representative. Where the statement of opposition is submitted in electronic form in accordance with paragraph *4* of this Article, ***the requirement to sign the statement of opposition*** shall be ***fulfilled*** in accordance with Article 7(3) of Regulation (EU) …/…[+]. The electronic signature shall be recognised in the Member State of origin and may not be made subject to additional requirements.***"***.

[+] OJ: Please insert in the text the number of this Regulation.

Article 20

Amendments to Regulation (EC) No 861/2007

Regulation (EC) No 861/2007 is amended as follows:

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

"1. The claimant shall commence the European Small Claims Procedure by filling in standard claim Form A, as set out in Annex I to this Regulation, and lodging it with the court or tribunal with jurisdiction directly, by post, by the means of electronic communication provided for in Article ~~5~~ *4* of Regulation (EU) …/… of the European Parliament and of the Council[+*] or by any other means of communication, such as fax or e-mail, acceptable to the Member State in which the procedure is commenced. The claim form shall include a description of evidence supporting the claim and be accompanied, where appropriate, by any relevant supporting documents.

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[*] 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 …).";

[+] OJ: Please insert in the text the number of this Regulation and insert the number, date and OJ reference of this Regulation in the footnote.

(2) in Article 13 (1), point (a), is replaced by the following:

"(a) by postal service;";

(3) in Article 13 (1), point (b) is replaced by the following:

"(b) by electronic means of service provided for in Articles 19 and 19a of Regulation (EU) 2020/1784 of the European Parliament and of the Council[*]; or

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[*] *Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (OJ L 405, 2.12.2020, p. 40).";*

(4) in Article 13 (1), the following point is added:

"(c) through the European electronic access point established under Article 4(1) of Regulation (EU) …/…[+], provided that the addressee gave prior express consent to the use of this means for service of documents in the course of the European Small Claims Procedure concerned.";

[+] OJ: Please insert in the text the number of this Regulation.

(5) in Article 13, paragraph 2 is replaced by the following:

"2. All communication not referred to in paragraph 1 between the court or tribunal and the parties or other persons involved in the proceedings shall be carried out either by:

(a) electronic means attested by an acknowledgment of receipt, where such means are technically available and admissible in accordance with the procedural rules of the Member State in which the European Small Claims Procedure concerned is conducted, provided that the party or person concerned has accepted in advance such means of communication or is, in accordance with the procedural rules of the Member State in which that party or person is domiciled or habitually resident, under a legal obligation to accept such means of communication; or

(b) the means of electronic communication provided for in Article 4 of Regulation (EU)…/…[+].";

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

"2. The Member States shall ensure that the parties can make electronic payments of court fees by means of distance payment methods which allow the parties to make the payment also from a Member State other than the Member State in which the court or tribunal is situated, in accordance with Article 9 of Regulation (EU) …/…[+].".

[+] OJ: Please insert in the text the number of this Regulation.

Article 21

Amendments to Regulation (EU) No 606/2013

Regulation (EU) No 606/2013 is amended as follows:

(1) in Article 8(2), the first subparagraph is replaced by the following:

"Where the person causing the risk resides in the Member State of origin, the notification shall be effected in accordance with the law of that Member State. Where the person causing the risk resides in a Member State other than the Member State of origin, the notification shall be effected by registered letter with acknowledgment of receipt or equivalent or by the electronic means of service provided for in Articles 19 and 19a of Regulation (EU) 2020/1784 of the European Parliament and of the Council[*]. Where the person causing the risk resides in a third country, the notification shall be effected by registered letter with acknowledgment of receipt or equivalent.

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[*] ***Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (OJ L 405, 2.12.2020, p. 40)."***;

(2) in Article 11(4), the first subparagraph is replaced by the following:

"***Where the person causing the risk resides in the Member State addressed, the notification shall be effected in accordance with the law of that Member State. Where the person causing the risk resides in a Member State other than the Member State addressed, the notification shall be effected by registered letter with acknowledgment of receipt or equivalent or by the electronic means of service provided for in Articles 19 and 19a of Regulation (EU) 2020/1784. Where the person causing the risk resides in a third country, the notification shall be effected by registered letter with acknowledgment of receipt or equivalent.".***

Article 22

Amendments to Regulation (EU) No 655/2014

Regulation (EU) No 655/2014 is amended as follows:

(1) in Article 8, paragraph 4 is replaced by the following:

"4. The application and supporting documents may be submitted by any means of communication, including electronic, which are accepted under the procedural rules of the Member State in which the application is lodged or by the means of electronic communication provided for in Article ~~4~~ ***4*** of Regulation (EU) …/… of the European Parliament and of the Council[+*].

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[*] 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 17, paragraph 5 is replaced by the following:

"5. The decision on the application shall be brought to the notice of the creditor in accordance with the procedure provided for by the law of the Member State of origin for equivalent national orders or by the means of electronic communication provided for in Article ~~4~~ ***4*** of Regulation (EU) …/…[++] ***.";***

[+] OJ: Please insert in the text the number of this Regulation and insert the number, date and OJ reference of this Regulation in the footnote.

[++] OJ: Please insert in the text the number of this Regulation.

(3) Article 29 is replaced by the following:

"Article 29
Transmission of documents

1. Where this Regulation provides for transmission of documents in accordance with this Article, such transmission shall be carried out in accordance with Regulation (EU) …/…[+] as regards the communication between authorities, or by any appropriate means where communication is to be carried out by creditors, provided that the content of the document received is true and faithful to that of the document transmitted and that all information contained in it is easily legible.

2. The court or authority that received documents in accordance with paragraph 1 of this Article shall, by the end of the working day following the day of receipt, send to:

(a) the authority that transmitted the documents an acknowledgment of receipt, in accordance with Article 3 of Regulation (EU) …/…[+]; or

(b) the creditor or bank that transmitted the documents an acknowledgment of receipt, employing the swiftest possible means of transmission.

The court or authority that received documents in accordance with paragraph 1 of this Article shall ***use*** the standard form for acknowledgment of receipt established by means of implementing acts adopted in accordance with the advisory procedure referred to in Article 52(2).";

[+] OJ: Please insert in the text the number of this Regulation.

(4) Article 36 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. The application for a remedy pursuant to Article 33, 34 or 35 shall be made using the remedy form established by means of implementing acts adopted in accordance with the advisory procedure referred to in Article 52(2).

The application may be made at any time and may be submitted:

(a) by any means of communication, including electronic means, which are accepted under the procedural rules of the Member State in which the application is lodged; or

(b) by the means of electronic communication provided for in Article ***4*** of Regulation (EU) …/…[+].***";***

[+] OJ: Please insert in the text the number of this Regulation.

(b) paragraph 3 is replaced by the following:

"3. Except where the application was submitted by the debtor pursuant to point (a) of Article 34(1) or pursuant to Article 35(3), the decision on the application shall be issued after both parties have been given the opportunity to present their case, including by such appropriate means of communication technology as are available and accepted under the national law of each of the Member States involved or by the means of electronic communication provided for under Regulation (EU) …/…[+]."".

[+] OJ: Please insert in the text the number of this Regulation.

Article 23

Amendments to ***Regulation (EU) 2015/848***

Regulation (EU) ***2015/848*** is amended as follows:

(1) In Article 42(3), the first sentence is replaced by the following:

"The cooperation referred to in paragraph 1 of this Article shall be implemented in accordance with Article 3 of Regulation (EU) …/… of the European Parliament and of the Council [++*].

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* 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 …).";

++ OJ: Please insert in the text the number of this Regulation and insert the number, date and OJ reference of this Regulation in the footnote.

(2) Article 53 is replaced by the following:

"Article 53
Right to lodge claims

Any foreign creditor may lodge claims in insolvency proceedings by any means of communication which are accepted by the law of the State of the opening of proceedings or by the means of electronic communication provided for in Article ~~4~~ *4* of Regulation (EU) …/…[+].

Representation by a lawyer or another legal professional shall not be mandatory for the sole purpose of lodging of claims.";

(3) in Article 57(3), the first sentence is replaced by the following:

*"*The cooperation referred to in paragraph 1 of this Article shall be implemented in accordance with Article 3 of Regulation (EU) …/…[+].*"*.

[+] OJ: Please insert in the text the number of this Regulation

Article 24

Amendments to Regulation (EU) 2020/1784

Regulation (EU) 2020/1784 is amended as follows:

(1) in Article 12, paragraph 7 is replaced by the following:

"***7. For the purposes of paragraphs 1 and 2, the diplomatic agents or consular officers, in cases where service is effected in accordance with Article 17, and the authority or person, in cases where service is effected in accordance with Article 18, 19, 19a or 20, shall inform the addressee that the addressee may refuse to accept the document and that either form L in Annex I or a written declaration of refusal must be sent to those agents or officers or to that authority or person respectively.***";

(2) in Article 13, paragraph 3 is replaced by the following:

"***3. This Article also applies to the other means of transmission and service of judicial documents provided for in Section 2 with the exception of Article 19a.";***

(3) the following Article is inserted:

"Article 19a

Electronic service through the European electronic access point

1. The service of judicial documents may be effected directly on a person who has a known address for service in another Member State through the European electronic access point established under Article 4(1) of Regulation (EU) …/… of the European Parliament and of the Council [+], provided that the addressee has given prior express consent to the use of that electronic means for serving documents in the course of the legal proceedings concerned.*

2. The addressee shall confirm the receipt of the documents with an acknowledgment of receipt, including the date of the receipt. The date of service of documents shall be the date specified in the acknowledgment of receipt. The same rule shall apply in the case of service of refused documents which is remedied in accordance with Article 12(5).

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* 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 …).";

+ OJ: Please insert in the text the number of this Regulation and insert the number, date and OJ reference of this Regulation in the footnote.

(4) in Article 37, the following paragraph is added:

"3. Article 19a shall apply from the first day of the month following the period of two years from the date of entry into force of the implementing acts referred to in Article 10(3)(a) of Regulation (EU) …/…[++].".

[++] OJ: Please insert in the text the number of this Regulation.

CHAPTER VIII

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

Article 25

Amendments ***to*** Regulation (EU) 2018/1805

Regulation (EU) 2018/1805 is amended as follows:

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

"1. A freezing order shall be transmitted by means of a freezing certificate. The issuing authority shall transmit the freezing certificate provided for in Article 6 directly to the executing authority or, where applicable, to the central authority referred to in Article 24(2) ***.***";

(2) in Article 7, paragraph 2 is replaced by the following:

"2. The executing authority shall report to the issuing authority on the execution of the freezing order, including a description of the property frozen and, where available, providing an estimate of its value. Such reporting shall be carried out without undue delay once the executing authority has been informed that the freezing order has been executed.";

(3) in Article 8, paragraph 3 is replaced by the following:

"3. Any decision not to recognise or execute the freezing order shall be taken without delay and notified immediately to the issuing authority.";

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

"4. The executing authority shall communicate without delay the decision on the recognition and execution of the freezing order to the issuing authority.";

(5) in Article 10, paragraphs 2 and 3 are replaced by the following:

"2. The executing authority shall immediately report to the issuing authority on the postponement of the execution of the freezing order, specifying the grounds for the postponement and, where possible, the expected duration of the postponement.

3. As soon as the grounds for postponement have ceased to exist, the executing authority shall immediately take the measures necessary for the execution of the freezing order and inform the issuing authority thereof.";

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

"2. The executing authority may, taking into account the circumstances of the case, make a reasoned request to the issuing authority to limit the period for which the property is to be frozen. Such a request, including any relevant supporting information, shall be transmitted ***directly to the issuing authority***. When examining such a request, the issuing authority shall take all interests into account, including those of the executing authority. The issuing authority shall respond to the request as soon as possible. If the issuing authority does not agree to the limitation, it shall inform the executing authority of the reasons thereof. In such a case, the property shall remain frozen in accordance with paragraph 1. If the issuing authority does not respond within six weeks of receiving the request, the executing authority shall no longer be obliged to execute the freezing order.***";***

(7) in Article 14, paragraph 1 is replaced by the following:

"1. A confiscation order shall be transmitted by means of a confiscation certificate. The issuing authority shall transmit the confiscation certificate provided for in Article 17 directly to the executing authority or, where applicable, to the central authority referred to in Article 24(2) ▌ .";

▌(8) in Article 16(3), the introductory wording is replaced by the following:

"The issuing authority shall immediately inform the executing authority▌ where: ";

▌(9) in Article 18, paragraph 6 is replaced by the following:

"6. As soon as the execution of the confiscation order has been completed, the executing authority shall inform▌ the issuing authority of the results of the execution.";

▌

(10) in Article 19, paragraph 3 is replaced by the following:

"3. Any decision not to recognise or execute the confiscation order shall be taken without delay and notified immediately to the issuing authority ***.";***

(11) in Article 20, paragraph 2 is replaced by the following:

"2. The executing authority shall communicate without delay the decision on the recognition and execution of the confiscation order to the issuing authority.***";***

(12) in Article 21, paragraphs 3 and 4 are replaced by the following:

"3. The executing authority shall without delay report to the issuing authority on the postponement of the execution of the confiscation order, specifying the grounds for the postponement and, where possible, the expected duration of the postponement.

4. As soon as the grounds for postponement have ceased to exist, the executing authority shall take, without delay, the measures necessary for the execution of the confiscation order and inform the issuing authority thereof ▌.";

▌*(13) in Article 25:*

(a) the title is replaced by the following:

"Means of communication";

(b) paragraph 1 is replaced by the following:

"1. With the exception of communication under Article 8(2) and (4), Article 9(5), Article 19(2), Article 20(4) and Article 29(3), official communication under this Regulation between the issuing authority and the executing authority shall be carried out in accordance with Article 3 of Regulation (EU) …/… of the European Parliament and of the Council[+].*

[+] OJ: Please insert in the text the number of this Regulation and insert the number, date and OJ reference of this Regulation in the footnote.

2. Where a Member State has designated a central authority, paragraph 1 shall also apply to official communication with the central authority of another Member State.

3. Where necessary, the issuing authority and the executing authority shall consult each other without delay to ensure efficient application of this Regulation, using any appropriate means of communication.

** 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 …).*";

(14) in Article 27, paragraphs 2 and 3 are replaced by the following:

"2. The issuing authority shall immediately inform the executing authority of the withdrawal of a freezing order or confiscation order and of any decision or measure that causes a freezing order or confiscation order to be withdrawn.

3. The executing authority shall terminate the execution of the freezing order or confiscation order, in so far as the execution has not yet been completed, as soon as it has been informed by the issuing authority in accordance with paragraph 2. The executing authority shall send without undue delay a confirmation of the termination to the issuing State.";

(15) in Article 31(2), the third subparagraph is replaced by the following:

"The consultations, or at least the result thereof, shall be recorded .".

CHAPTER IX

FINAL PROVISIONS

Article 26

Entry into force and application

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

2. It shall apply from ... [the first day of the month following the period of ***15 months*** from the date of entry into force].

3. However, Articles 3 and 4 shall apply from the first day of the month following the period of two years from the date of entry into force of the corresponding implementing acts, referred to in Article 10(3), establishing the decentralised IT system for each of the legal acts listed in Annexes I and II.

4. Articles 3 and 4 shall apply to proceedings initiated from the day referred to in paragraph 3 of this Article.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at …,

For the European Parliament *For the Council*

The President *The President*

ANNEX I

LEGAL ACTS IN THE AREA OF JUDICIAL COOPERATION IN CIVIL AND COMMERCIAL MATTERS

(1) Council Directive ***2003/8/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.

(2) Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims.

(3) Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure.

(4) Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure.

(5) Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations.

(6) Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession.

(7) Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast).

(8) ***Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters.***

(9) Regulation (EU) No 655/2014 of the European Parliament and of the Council of 15 May 2014 establishing a European Account Preservation Order procedure to facilitate cross-border debt recovery in civil and commercial matters.

(10) Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings.

(11) Council Regulation (EU) 2016/1103 of 24 June 2016 implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes.

(12) Council Regulation (EU) 2016/1104 of 24 June 2016 implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of the property consequences of registered partnerships.

(13) Council Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction.

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ANNEX II

LEGAL ACTS IN THE AREA OF JUDICIAL COOPERATION IN CRIMINAL MATTERS

(1) Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States.

(2) Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence[47].

(3) Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties.

(4) Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders.

(5) 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.

(6) 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.

[47] OJ L 196, 2.8.2003, p. 45.

(7) 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.

(8) Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings[48].

(9) ***Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order.***

(10) Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters.

(11) Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders.

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[48] OJ L 328, 15.12.2009, p. 42.