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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Directive 2003/8/EC, Council Framework Decisions 2002/465/JHA, 2002/584/JHA, 2003/577/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA, 2008/947/JHA, 2009/829/JHA and 2009/948/JHA, and Directive 2014/41/EU of the European Parliament and of the Council, as regards digitalisation of judicial cooperation - 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 3) to the abovementioned proposal for a Directive, 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 3) to the abovementioned proposal for a Directive. 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.

P9_TA(2023)0433

Digitalisation of cross-border judicial cooperation (amendment of certain directives and framework decisions)

European Parliament legislative resolution of 23 November 2023 on the proposal for a directive of the European Parliament and of the Council amending Council Directive 2003/8/EC, Council Framework Decisions 2002/465/JHA, 2002/584/JHA, 2003/577/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA, 2008/947/JHA, 2009/829/JHA and 2009/948/JHA, and Directive 2014/41/EU of the European Parliament and of the Council, as regards digitalisation of judicial cooperation (COM(2021)0760 – C9-0450/2021 – 2021/0395(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2021)0760),

– having regard to Article 294(2), Article 81(2), points (e) and (f) and Article 82(1), point (d) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0450/2021),

– 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,

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

– 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,

– having regard to the report of the Committee on Legal Affairs and the Committee on Civil Liberties, Justice and Home Affairs (A9-0063/2023),

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)0395

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

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.

(2) Facilitating judicial cooperation between Member States is among the main objectives of the Union’s area of freedom, security and justice enshrined in Title V of Part Three of the Treaty on the Functioning of the European Union (TFEU).

(3) For the purposes of enhancing judicial cooperation in civil, commercial and criminal matters with cross-border implications, legal acts of the Union providing for communication between competent authorities, including Union agencies and bodies, should be complemented by conditions for conducting such communication through digital means ***in a manner that ensures the protection of fundamental rights as provided for in the Charter of Fundamental Rights of the European Union, especially those enshrined in Title VI, in particular Article 47 on the right to an effective remedy and to a fair trial. Those conditions should in no way undermine the protection of procedural rights that are essential for the protection of those fundamental rights, in accordance with Union law***.

(4) In order to modernise and enhance judicial cooperation and facilitate access to justice, Regulation (EU) …/… of the European Parliament and of the Council[3+] has been adopted.

[3] Regulation (EU) .../... of the European Parliament and of the Council of ... on ... (OJ L …).

[+] OJ: Please insert in the text the number of the Regulation in PE-CONS 50/23 (2021/0394 (COD) and insert the number, date, title and OJ reference of that Regulation in the footnote.

(5) For the purposes of ensuring that the objectives of Regulation (EU) …/…[++] are fully attained, ▌and of aligning existing Union legal acts in civil, commercial and criminal matters with that Regulation, it is necessary to amend ***Directives 2011/99/EU***[4] ***and*** ▌ 2014/41/EU[5] of the European Parliament and of the Council, Council Directive ▌ ***2003/8/EC***[6] and Council Framework Decisions ▌ 2002/584/JHA[7], 2003/577/JHA[8], 2005/214/JHA[9], 2006/783/JHA[10], 2008/909/JHA[11], 2008/947/JHA[12], 2009/829/JHA[13] and 2009/948/JHA[14].

[++] OJ: Please insert in the text the number of the Regulation in PE-CONS 50/23 (2021/0394 (COD).

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

[5] ***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).***

[6] 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 026, 31.1.2003, p. 41).

[7] ▌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).***

[8] Council Framework ▌***Decision 2003/577/JHA of 22 July 2003*** on the ▌***execution in the European Union of orders freezing property or evidence (OJ L 196, 2.8.2003, p. 45*** ▌).

[9] 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).

[10] 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).

[11] 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).

[12] 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).

[13] 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).

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

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

[+] OJ: Please insert in the text the number of the Regulation in PE-CONS 50/23 (2021/0394 (COD).

(7) Given that this Directive sets out amendments to rules already transposed into the national legal order of the Member States, it should also have specific provisions on the transposition of those amendments. Those transposition provisions should be in line with the implementation timeline provided for in Regulation (EU) …/…[+].

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

(9) In accordance with Articles 1 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 Directive and is not bound by it or subject to its application.

HAVE ADOPTED THIS DIRECTIVE:

[+] OJ: Please insert in the text the number of the Regulation in PE-CONS 50/23 (2021/0394 (COD).

CHAPTER I

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

Article 1

Amendment to Directive ***2003/8/EC***

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

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

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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 the Regulation in PE-CONS 50/23 (2021/0394 (COD) and insert the number, date and OJ reference of that Regulation in the footnote.

CHAPTER II

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

Article 2

Amendments to Framework Decision 2002/584/JHA

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

"

(1) the following article is inserted:

"Article 8a

Means of communication

1. Without prejudice to Article 9(2) and Article 10(2) and (3), official communication under this Framework Decision between the issuing judicial authority and the executing judicial authority shall be carried out in accordance with Article 3 of Regulation (EU) …/… of the European Parliament and of the Council*[+] .

Where a Member State has designated a central authority or authorities, the first subparagraph shall also apply to official communication with the central authority or authorities of another Member State.

[+] OJ: Please insert in the text the number of the Regulation in PE-CONS 50/23 (2021/0394 (COD) and insert the number, date and OJ reference of that Regulation in the footnote.

*2. Communication between the competent authority in the issuing Member State and the competent authority in the executing Member State, for the purposes of providing information required to enable the requested person to appoint a lawyer in the issuing State in accordance with Article 10(5) of Directive 2013/48/EU of the European Parliament and of the Council** and to apply for legal aid in the issuing State in accordance with Article 5(2) of Directive (EU) 2016/1919 of the European Parliament and of the Council***, shall be carried out in accordance with Article 3 of Regulation (EU) …/…[+].*

3. By way of derogation from paragraph 1, transit requests made pursuant to Article 25(3) may also be sent through secure law enforcement communication channels.

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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 …).***

** 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).

*** 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).";

[+] OJ: Please insert in the text the number of the Regulation in PE-CONS 50/23(2021/0394 (COD).

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

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

"(a) either agree that the requested person should be heard in accordance with Article 19 of this Framework Decision or via videoconferencing in accordance with Article 6 of Regulation (EU) …/…[+];";

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

"3. The transit request and the information set out in paragraph 1 ***shall*** be addressed to the authority designated pursuant to paragraph 2 . The Member State of transit shall notify its decision ***on the transit request."***.

[+] OJ: Please insert in the text the number of the Regulation in PE-CONS 50/23(2021/0394 (COD).

Article 3

Amendments to Framework Decision 2003/577/JHA

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

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

"1. A freezing order within the meaning of this Framework Decision, together with the certificate provided for in Article 9, shall be transmitted by the judicial authority which issued it directly to the competent judicial authority for execution ***.";***

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

"A report on the execution of the freezing order shall be made forthwith to the competent authority in the issuing State .";

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

"3. Any decision to refuse recognition or execution shall be taken and notified forthwith to the competent judicial authorities of the issuing State .";

(4) Article 8 is amended as follows:

(a) paragraph 2 is replaced by the following:

"2. A report on the postponement of the execution of the freezing order, including the grounds for the postponement and, if possible, the expected duration of the postponement, shall be made forthwith to the competent authority in the issuing State [redacted].";

(b) paragraph 3 is replaced by the following:

"3. As soon as the grounds for postponement have ceased to exist, the competent judicial authority of the executing State shall forthwith take the necessary measures for the execution of the freezing order and inform the competent authority in the issuing State thereof [redacted]."***;***

(5) in Title II, the following article is added:

"Article 12a

Means of communication

Official communication under this Framework Decision between the competent judicial authority of the issuing State and the competent judicial authority of the executing State shall be carried out 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 the Regulation in PE-CONS 50/23(2021/0394 (COD) and insert the number, date and OJ reference of that Regulation in the footnote.

Article 4

Amendments to Framework Decision 2005/214/JHA

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

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

"3. The decision or a certified copy of it, together with the certificate, shall be transmitted by the competent authority in the issuing State directly to the competent authority in the executing State ▌. The original of the decision, or a certified copy of it, and the original of the certificate shall be sent to the executing State if it so requires. ***The originals or certified copies of documents may be sent in electronic form*** in accordance with Article ▌***8 of*** Regulation (EU) …/…of the European Parliament and of the Council*[+]. ▌***All other official communications shall also be made directly between the said competent authorities.***

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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 the Regulation in PE-CONS 50/23(2021/0394 (COD) and insert the number, date and OJ reference of that Regulation in the footnote.

(2) in Article 14, the introductory wording is replaced by the following:

"The competent authority of the executing State shall without delay inform the competent authority of the issuing State :"***;***

(3) the following article is inserted:

"***Article 15a***
Means of communication

1. With the exception of communication under Article 7(3),official communication under this Framework Decision between the competent authority of the issuing State and the competent authority of the executing State shall be carried out in accordance with Article 3 of Regulation (EU) …/…[+].

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

[+] OJ: Please insert in the text the number of the Regulation in PE-CONS 50/23(2021/0394 (COD).

Article 5

Amendments to Framework Decision 2006/783/JHA

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

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

"2. The confiscation order or a certified copy thereof, together with the certificate, shall be transmitted by the competent authority of the issuing State directly to the authority of the executing State which is competent to execute it. The original of the confiscation order, or a certified copy thereof, and the original of the certificate shall be transmitted to the executing State if it so requires. ***The originals or certified copies of documents may be sent in electronic form*** in accordance with Article ***8 of*** Regulation (EU) …/… of the European Parliament and of the Council*[+]***. All other official communications shall also be made directly between the said competent authorities.***

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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 the Regulation in PE-CONS 50/23(2021/0394 (COD) and insert the number, date and OJ reference of that Regulation in the footnote.

(2) Article 10 is amended as follows:

(a) paragraph 3 is replaced by the following:

"3. In the case of postponement pursuant to paragraph 1, point (a), the competent authority of the executing State shall inform the competent authority of the issuing State thereof immediately ▌, and the competent authority of the issuing State shall comply with the obligations referred to in Article 14(3).";

(b) paragraph 4 is replaced by the following:

"4. In the cases referred to in paragraph 1, points (b) to (e), a report on the postponement, including the grounds for the postponement and, if possible, the expected duration of the postponement, shall be made forthwith by the competent authority of the executing State to the competent authority of the issuing State ▌.

As soon as the grounds for postponement have ceased to exist, the competent authority of the executing State shall forthwith take the necessary measures for the execution of the confiscation order and inform the competent authority of the issuing State thereof ▌.";

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

"The competent authority of the issuing State shall immediately inform the competent authority of any executing State concerned ▌ :";

(4) Article 15 is replaced by the following:

"Article 15
Termination of execution

The competent authority of the issuing State shall forthwith inform the competent authority of the executing State▌ of any decision or measure as a result of which the order ceases to be enforceable or shall be withdrawn from the executing State for any other reason. The executing State shall terminate execution of the order as soon as it is informed by the competent authority of the issuing State of that decision or measure." ;

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

"The competent authority of the executing State shall without delay inform the competent authority of the issuing State ▌ :"***;***

(6) the following article is inserted:

"Article 18a

Means of communication

1. With the exception of communication under Article 8(4) and Article 12(2), official communication under this Framework Decision between the competent authority of the issuing State and the competent authority of the executing State shall be carried out in accordance with Article 3 of Regulation (EU) …/…[+].

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

[+] OJ: Please insert in the text the number of the Regulation in PE-CONS 50/23(2021/0394 (COD).

Article 6

Amendments to Framework Decision 2008/909/JHA

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

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

"1. The judgment or a certified copy of it, together with the certificate, shall be forwarded, by the competent authority of the issuing State directly to the competent authority of the executing State . The original of the judgment, or a certified copy of it, and the original of the certificate, shall be sent to the executing State if it so requires. ***The originals or certified copies of documents may be sent in electronic form in accordance with Article 8 of Regulation (EU) …/… of the European Parliament and of the Council****[+]**.** All other official written communications shall also be made directly between the said competent authorities.

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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 the Regulation in PE-CONS 50/23(2021/0394 (COD) and insert the number, date and OJ reference of that Regulation in the footnote.

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

"1. Each Member State shall, in accordance with its law, permit the transit through its territory of a sentenced person who is being transferred to the executing State, provided that a copy of the certificate referred to in Article 4 has been forwarded to it by the issuing State together with the transit request. The transit request and the certificate ***shall*** be transmitted in accordance with Article ***22a***. Upon request of the Member State to permit transit, the issuing State shall provide a translation of the certificate into one of the languages, to be indicated in the request, which the Member State requested to permit transit accepts." ;

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

"The competent authority of the executing State shall without delay inform the competent authority of the issuing State :"***;***

(4) **the** ***following article is inserted*****:**

"Article 22a

Means of communication

1. ***With the exception of communication under Article 4(3), Article 9(3) and Article 12(3), official communication under this Framework Decision between the competent authority of the issuing State and the competent authority of the executing State shall be carried out in accordance with Article 3 of Regulation (EU) …/…***[+].

2. ***By way of derogation from paragraph 1, transit requests made pursuant to Article 16(1) may also be sent through secure law enforcement communication channels.***".

[+] OJ: Please insert in the text the number of the Regulation in PE-CONS 50/23(2021/0394 (COD).

Article 7

Amendments to Framework Decision 2008/947/JHA

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

(1) Article 6 is amended as follows:

(a) paragraph 2 is replaced by the following:

"2. The judgment and, where applicable, the probation decision, together with the certificate referred to in paragraph 1, shall be forwarded by the competent authority of the issuing State directly to the competent authority of the executing State ▌. The original of the judgment and, where applicable, the probation decision, or certified copies thereof, as well as the original of the certificate, shall be sent to the competent authority of the executing State if it so requires. ▌***The originals or certified copies of documents may be sent in electronic form*** in accordance with Article ▌***8 of*** Regulation (EU) …/… of the European Parliament and of the Council* [+]. ▌***All other official communications shall also be made directly between the said competent authorities.***

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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 the Regulation in PE-CONS 50/23(2021/0394 (COD) and insert the number, date and OJ reference of that Regulation in the footnote.

(b) paragraph 7 is replaced by the following:

"7. When an authority of the executing State which receives a judgment and, where applicable, a probation decision, together with the certificate referred to in paragraph 1, has no competence to recognise it and take the ensuing necessary measures for the supervision of the probation measure or alternative sanction, it shall, *ex officio*, forward it to the competent authority and shall without delay inform the competent authority of the issuing State accordingly .";

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

"1. The competent authority of the executing State shall decide as soon as possible, and within 60 days of receipt of the judgment and, where applicable, the probation decision, together with the certificate referred to in Article 6(1), whether or not to recognise the judgment and, where applicable, the probation decision, and assume responsibility for supervising the probation measures or alternative sanctions. It shall immediately inform the competent authority of the issuing State of its decision .";

(3) Article 16 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. The competent authority of the executing State shall without delay inform the competent authority of the issuing State of all decisions on the:

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

(b) revocation of the suspension of the execution of the judgment or revocation of the decision on conditional release;

(c) enforcement of a custodial sentence or measure involving deprivation of liberty because of non-compliance with a probation measure or alternative sanction;

(d) lapsing of the probation measure or alternative sanction.";

(b) paragraph 3 is replaced by the following:

"3. The competent authority of the issuing State shall immediately inform the competent authority of the executing State of any circumstances or findings which, in its opinion, could entail one or more of the decisions referred to in paragraph 1, points (a), (b) or (c) being taken.";

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

"3. Notice of the findings referred to in paragraph 1, points (a) and (b), and in paragraph 2 shall be given using the standard form set out in Annex II. Notice of the facts and circumstances referred to in paragraph 1, point (c), shall be given, where possible, through the form set out in Annex II.";

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

"The competent authority of the executing State shall without delay inform the competent authority of the issuing State of:"***;***

(6) the following article is inserted:

"***Article 20a***
Means of communication

With the exception of communication under Article 11(3) and Article 12(2), official communication under this Framework Decision between the competent authority of the issuing State and the competent authority of the executing State shall be carried out in accordance with Article 3 of Regulation (EU) …/…[+].".

[+] OJ: Please insert in the text the number of the Regulation in PE-CONS 50/23(2021/0394 (COD).

Article 8

Amendments to Framework Decision 2009/829/JHA

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

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

"2. The decision on supervision measures or a certified copy of it, together with the certificate, shall be forwarded by the competent authority in the issuing State directly to the competent authority in the executing State ▌. The original of the decision on supervision measures, or a certified copy of it, and the original of the certificate, shall be sent to the executing State if it so requires. ▌ ***The originals or certified copies of documents may be sent in electronic form*** in accordance with Article ▌ ***8 of*** Regulation (EU) …/… of the European Parliament and of the Council*** [+]***. All other official communications shall also be made directly between the said competent authorities***.

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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 the Regulation in PE-CONS 50/23(2021/0394 (COD) and insert the number, date and OJ reference of that Regulation in the footnote.

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

"The competent authority in the executing State shall, without delay, inform the competent authority in the issuing State ▌:";

(3) the following article is inserted:

"***Article 23a***
Means of communication

1. With the exception of communication under Article 12(3) and Article 15(2), official communication under this Framework Decision between the competent authority of the issuing State and the competent authority of the executing State shall be carried out in accordance with Article 3 of Regulation (EU) …/…[+].

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

[+] OJ: Please insert in the text the number of the Regulation in PE-CONS 50/23(2021/0394 (COD).

Article 9

Amendment to Framework Decision 2009/948/JHA

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

"Article 7

Means of communication

1. The contacting and contacted authorities shall communicate in accordance with Article 3 of Regulation (EU) …/… of the European Parliament and of the Council*[+].

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

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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 the Regulation in PE-CONS 50/23(2021/0394 (COD) and insert the number, date and OJ reference of that Regulation in the footnote.

Article 10

Amendments to Directive 2011/99/EU

Directive 2011/99/EU is amended as follows:

(1) Article 8 is amended as follows:

(a) paragraph 1 is replaced by the following:

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

(b) paragraph 3 is replaced by the following:

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

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

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

(3) the following article is inserted:

"Article 16a

Means of communication

1. Official communication under this Directive between the competent authority of the issuing State and the competent authority of the executing State shall be carried out in accordance with Article 3 of Regulation (EU) …/… of the European Parliament and of the Council [+].*

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

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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 the Regulation in PE-CONS 50/23(2021/0394 (COD) and insert the number, date and OJ reference of that Regulation in the footnote.

Article 11

Amendments to Directive 2014/41/EU

Directive 2014/41/EU is amended as follows:

▌

(1) the following article is inserted:

"***Article 5a***

Means of communication

1. With the exception of communication under Article 9(6), Article 11(4), Article 12(5) and (6) and Article 16(2), first subparagraph, official communication under this Directive 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*[*+]*.

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

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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 7, paragraph 1 is replaced by the following:

"1. The EIO completed in accordance with Article 5 shall be transmitted by the issuing authority to the executing authority ▌.

[+] OJ: Please insert in the text the number of the Regulation in PE-CONS 50/23(2021/0394 (COD) and insert the number, date and OJ reference of that Regulation in the footnote.

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

"2. As soon as the grounds for postponement have ceased to exist, the executing authority shall forthwith take the necessary measures for the execution of the EIO and inform the issuing authority thereof.";

(4) Article 16 is amended as follows:

(a) paragraph 2 is replaced by the following:

"2. Without prejudice to Article 10(4) and (5), the executing authority shall inform the issuing authority immediately by any means:

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

(b) if the executing authority, in the course of the execution of the EIO, considers without further enquiries that it may be appropriate to carry out investigative measures not initially foreseen, or which could not be specified when the EIO was issued, in order to enable the issuing authority to take further action in the specific case; or

(c) if the executing authority establishes that, in a specific case, it cannot comply with formalities and procedures expressly indicated by the issuing authority in accordance with Article 9.

Upon request by the issuing authority, the information shall be confirmed without delay in accordance with Article ***5a.***";

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

"Without prejudice to Article 10(4) and (5) , the executing authority shall inform the issuing authority without delay ▌:".

CHAPTER III

TRANSPOSITION

Article 12

Transposition of Articles 2 and 11

Member States shall adopt and publish, within two years of the entry into force of the corresponding implementing act referred to in Article *10(3)(a)* of Regulation (EU) …/…[+] the laws, regulations and administrative provisions necessary to comply with Articles 2 and 11 of this Directive. They shall immediately inform the Commission thereof.

They shall apply those provisions from the first day of the month following the period of two years after the entry into force of the corresponding implementing act referred to in Article *10(3)(a)* of Regulation (EU) …/…[+].

When Member States adopt those provisions, they shall contain a reference to Articles 2 and 11 of this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

[+] OJ: Please insert in the text the number of the Regulation in PE-CONS 50/23(2021/0394 (COD).

Article 13

Transposition of Articles 1***, 6 and 10***

Member States shall adopt and publish, within two years of the entry into force of the corresponding implementing act referred to in Article ***10(3)(b)*** of Regulation (EU) …/…[+], the laws, regulations and administrative provisions necessary to comply with ***Articles 1, 6 and 10 of this Directive***. They shall immediately inform the Commission thereof.

They shall apply those provisions from the first day of the month following the period of two years after the entry into force of the corresponding implementing act referred to in Article ***10(3)(b)*** of Regulation (EU) …/…[+].

When Member States adopt those provisions, they shall contain a reference to ***Articles 1, 6 and 10*** of this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

[+] OJ: Please insert in the text the number of the Regulation in PE-CONS 50/23(2021/0394 (COD).

Article 14

Transposition of Articles 3, 4, 5 and 9

Member States shall adopt and publish, within two years of the entry into force of the corresponding Implementing act referred to in Article ***10(3)(c)*** of Regulation (EU) …/…[+], the laws, regulations and administrative provisions necessary to comply with Articles 3, 4, 5 and 9 of this Directive. They shall immediately inform the Commission thereof.

They shall apply those provisions from the first day of the month following the period of two years after the entry into force of the corresponding implementing act referred to in Article ***10(3)(c)*** of Regulation (EU) …/…[+].

When Member States adopt those provisions, they shall contain a reference to Articles 3, 4, 5 ***and 9*** of this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

[+] OJ: Please insert in the text the number of the Regulation in PE-CONS 50/23(2021/0394 (COD).

Article 15

Transposition of Articles 7 and 8

Member States shall adopt and publish, within two years of the entry into force of the corresponding implementing act referred to in Article ***10(3)(d)*** of Regulation (EU) …/…[+], the laws, regulations and administrative provisions necessary to comply with Articles 7 and 8 of this Directive. They shall immediately inform the Commission thereof.

They shall apply those provisions from the first day of the month following the period of two years after the entry into force of the corresponding implementing act referred to in Article ***10(3)(d)*** of Regulation (EU) …/…[+].

When Member States adopt those provisions, they shall contain a reference to Articles 7 and 8 of this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

[+] OJ: Please insert in the text the number of the Regulation in PE-CONS 50/23(2021/0394 (COD).

Article 16

Entry into force

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

Article 17

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

Done at …,

For the European Parliament	*For the Council*
The President	*The President*