

# Digitalisation of cross-border judicial cooperation

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The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Emil RADEV (EPP, BG) and Marina KALJURAND (S&D, EE) 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 committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

## *Subject*

This Regulation seeks to establish 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 and criminal matters.

## *Means of communication between competent authorities*

Where electronic communication is not possible due to the temporary disruption of the decentralised IT system, or due to the physical nature of the transmitted material, the transmission should be carried out, **based on the assessment of the competent authority**, by the swiftest, most appropriate alternative means, while ensuring a secure and reliable exchange of information.

Where the use of the decentralised computer system is not appropriate in a given case, the competent authority may exceptionally use other means of communication that ensure that the exchange of information occurs in a secure and reliable manner.

## *European Electronic Access Point*

In the design and building phases of the European electronic access point, the Commission should collaborate with external actors with experience in secure, user-friendly and accessible IT development.

The European electronic access point should:

- provide natural and legal persons with **information on their right to legal assistance**, including in cross-border proceedings. It will allow for their legal representative to act on their behalf;
- allow natural and legal persons, or their legal representatives, to file claims, launch requests, send and receive procedurally relevant information and communicate with the competent authorities.

Competent authorities should communicate with natural and legal persons **only via the European electronic access point**, where the natural or legal person concerned has given his or her **prior express consent** to the use of this means of communication.

## *Hearing by video conference in civil and commercial cases*

Member States should guarantee that the parties and other persons entitled to participate to the proceedings, including persons with a disability, have access to the necessary infrastructure to use

videoconferencing or other distance communication technology in the premises of the competent authorities.

Competent authorities may **on their own motion** allow the participation of parties to hearings by videoconference, provided that all parties to the proceedings are given the possibility to object to the use of videoconferencing or other distance communication technology.

The competent authorities responsible for the videoconferencing or other distance communication technology should ensure that communication between the parties of the proceedings and their lawyers both before and during the hearing is **confidential** in accordance with applicable national law.

The procedure for requesting and conducting a videoconference should be regulated by the national law of the Member State where the proceedings take place, which should be considered to be the Member State conducting the videoconference. Member States where the proceedings take place should take appropriate measures to ensure that such records are secured and not publicly disseminated.

### ***Hearing through video conference in criminal cases***

In criminal matters, the Regulation should allow **any person who is directly involved in the proceedings** or whose participation is relevant to the proceedings and who is located in another Member State to make use of videoconferencing.

Competent authorities should provide suspects, accused or convicted persons with **information about the procedure** for conducting a hearing through videoconferencing or other distance communication technology, including the right to interpretation and the right of access to legal assistance, before such persons are required to consent or refuse on the use of videoconferencing or other distance communication technology for that hearing.

Participation in the hearing by video conference should be allowed provided that:

- the **consent** by a suspect accused or convicted person to the use of videoconferencing, is given voluntarily and unequivocally and that the competent authority conducting the hearing by videoconferencing or other distance communication technology has verified that consent prior to starting such hearing;
- the technology used for the purposes of conducting the hearing through videoconferencing or other distance communication technology ensures it is possible to submit, review and examine evidence, including through the examination of witnesses.

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. Equivalent measures should apply when the hearing through videoconferencing concerns a vulnerable adult.

### ***Training***

Member States should ensure that the legal professionals concerned and competent authorities receive the necessary training for efficient use of the decentralised IT system and for the appropriate deployment of videoconferencing or other distance communication technology. The Commission should provide support for the training of legal professionals concerned and of the competent authorities in the efficient use of the decentralised IT system.