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Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2021/0394(COD) Awaiting Council's 1st reading position
Digitalisation of cross-border judicial cooperation	
Subject 1.20.02 Social and economic rights 3.30.06 Information and communication technologies, digital technologies 4.60.06 Consumers' economic and legal interests 7.40 Judicial cooperation 7.40.02 Judicial cooperation in civil and commercial matters 7.40.04 Judicial cooperation in criminal matters	
Legislative priorities Joint Declaration 2023-24 Joint Declaration 2022	

Key players			
European Parliament	Joint Committee Responsible	Rapporteur	Appointed
	 \${rapporteur.jointCommitteeText}		20/04/2022
		 RADEV Emil	20/04/2022
		 KALJURAND Marina	
		Shadow rapporteur	
		 MELO Nuno	
		 LEITÃO-MARQUES Maria-Manuel	
		 KELLER Fabienne	
		 TOOM Yana	
		 DELBOS-CORFIELD Gwendoline	
		 JAKI Patryk	
		 ZŁOTOWSKI Kosma	
		 DALY Clare	
		 MAUREL Emmanuel	
		 \${rapporteur.jointCommitteeText}	

Key events

01/12/2021	Legislative proposal published	COM(2021)0759	Summary
17/01/2022	Committee referral announced in Parliament, 1st reading		
10/03/2022	Referral to joint committee announced in Parliament		
01/03/2023	Vote in committee, 1st reading		
01/03/2023	Committee decision to open interinstitutional negotiations with report adopted in committee		
09/03/2023	Committee report tabled for plenary, 1st reading	A9-0062/2023	Summary
13/03/2023	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
15/03/2023	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
20/09/2023	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE752.630 PE752.631	
23/11/2023	Debate in Parliament		
23/11/2023	Decision by Parliament, 1st reading	T9-0432/2023	Summary

Technical information

Procedure reference	2021/0394(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	Treaty on the Functioning of the EU TFEU 082-p1; Rules of Procedure EP 58; Treaty on the Functioning of the EU TFEU 081-p1
Stage reached in procedure	Awaiting Council's 1st reading position
Committee dossier	CJ03/9/08557

Documentation gateway

Legislative proposal	COM(2021)0759	01/12/2021	EC	Summary
Document attached to the procedure	SWD(2021)0392	02/12/2021	EC	

Document attached to the procedure		SWD(2021)0393	02/12/2021	EC	
Document attached to the procedure		SEC(2021)0580	13/12/2021	EC	
Economic and Social Committee: opinion, report		CES0174/2022	18/05/2022	ESC	
Committee draft report		PE737.303	14/10/2022	EP	
Amendments tabled in committee		PE738.655	23/11/2022	EP	
Committee report tabled for plenary, 1st reading/single reading		A9-0062/2023	09/03/2023	EP	Summary
Text agreed during interinstitutional negotiations		PE752.630	19/07/2023	EP	
Committee letter confirming interinstitutional agreement		PE752.631	19/07/2023	EP	
Text adopted by Parliament, 1st reading/single reading		T9-0432/2023	23/11/2023	EP	Summary

Digitalisation of cross-border judicial cooperation

PURPOSE: to introduce modern digital technology in access to justice and judicial cooperation in cross-border civil, commercial and criminal cases.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: in its [communication](#) on the digitalisation of justice in the EU, the Commission identified the need to modernise the legislative framework of the Unions cross-border procedures in civil, commercial and criminal law, in line with the digital by default principle, while ensuring all necessary safeguards (for example, specifically acknowledging the need to avoid social exclusion).

The rules on digitalisation set out in this proposal aim at improving access to justice and the efficiency and resilience of the communication flows inherent to the cooperation between judicial and other competent authorities in EU cross-border cases. The use of digital technologies has the potential to make judicial systems more efficient in this regard, by easing the administrative burden, shortening case processing times, making communication more secure and reliable, and partially automating case handling. However, as experience has shown, leaving Member States to develop their own national IT solutions leads to a fragmented approach and risks solutions not being compatible.

CONTENT: this proposal seeks to guarantee a common approach towards the use of modern technologies in cross-border judicial cooperation and access to justice.

In particular, it aims to:

- ensure the availability and use of electronic means of communication in cross-border cases between Member States judicial and other competent authorities, including the relevant JHA agencies and EU bodies, where such communication is provided for in EU legal instruments on judicial cooperation;
- enable the use of electronic means of communication in cross-border cases between individuals and legal entities, and courts and competent authorities, except in cases covered by the Service of documents regulations;
- facilitate the participation of parties to cross-border civil and criminal proceedings in oral hearings through videoconference or other distance communication technology, for purposes other than the taking of evidence in civil and commercial cases;
- ensure that documents are not refused or denied legal effect solely on the grounds of their electronic form (without interfering with the courts powers to decide on their validity, admissibility and probative value as evidence under national law);
- ensure the validity and acceptance of electronic signatures and seals in the context of electronic communication in cross-border judicial cooperation and access to justice;
- facilitate the electronic payment of fees.

Budgetary implications

The costs for the Member States will be rather limited: a total of EUR 8 100 000 per year i.e. EUR 300 000 per year per Member State. In the first two years, the cost of installation will be EUR 100 000 per year per Member State. This includes equipment costs and the human resources needed to configure it. The remaining EUR 200 000 are needed to provide support to an increasing number of users. As of the third year, there are no hardware and installation costs, only costs related to user support and maintenance of the system. This is estimated at EUR 300 000 per year. While Member States are expected to bear these costs from their national budgets, they can nonetheless apply for EU financial support under the relevant financing programmes, such as the Justice programme and the cohesion policy instruments.

Digitalisation of cross-border judicial cooperation

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 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.

Digitalisation of cross-border judicial cooperation

The European Parliament adopted by 551 votes to 5, with 6 abstentions, a legislative resolution 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.

The European Parliament adopted its position at first reading under the ordinary legislative procedure.

Subject matter and scope

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.

It should apply to electronic communication in judicial cooperation procedures in civil, commercial and criminal matters and hearings through videoconferencing or other means of distance communication technology.

European electronic access point

A European electronic access point should be established on the European e-Justice Portal. This access point may be used for electronic communication between natural or legal persons or their representatives and competent authorities in a number of cases.

The European electronic access point should all contain information for natural and legal persons on their right to legal aid, including in cross-border proceedings and on how 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.

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 should communicate with that natural or legal person or their representative using that access point, and may serve documents on them through that access point.

Hearing through videoconferencing in criminal matters

The Regulation provides for the possibility for parties and other persons concerned to participate in hearings in civil, commercial and criminal proceedings by means of videoconferencing or other remote communication technology.

The competent authority conducting the hearing should ensure that the parties and their representatives, including disabled persons, have access to videoconferencing for the hearing. When deciding whether to hear a child by videoconference or other means of distance communication, the competent authority should take into account the best interests of the child.

Member States in which the procedure takes place should take appropriate measures in accordance with national law to ensure that such recordings are made and stored securely and are not made public.

Where the competent authority of a Member State requests the hearing of a suspect or an accused or convicted person, or an affected person, other than a suspect or an accused or convicted person, present in another Member State in proceedings under the legal acts listed in this Regulation, the competent authority of that other Member State (requested competent authority) should all allow such persons to participate in the hearing through videoconferencing or other distance communication technology, provided that: (i) the particular circumstances of the case justify the use of such technology; and (ii) 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.

Competent authorities should 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 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.

Electronic signatures and electronic seals

Where a document transmitted as part of electronic communication under the Regulation requires a seal or signature, it should feature a qualified electronic seal or qualified electronic signature as defined in Regulation (EU) No 910/2014.

Member States should provide for the possibility of electronic payment of fees, including from Member States other than that where the competent authority is situated. The technical means for the electronic payment of fees should comply with applicable rules on accessibility.

Training

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

The Commission should 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.

Transparency				
KALJURAND Marina	Rapporteur	LIBE	26/10/2022	Swedish Presidency

RADEV Emil	Rapporteur	JURI	21/06/2022	Bundesnotarkammer
RADEV Emil	Rapporteur	JURI	21/06/2022	Fair Trials