









Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) 2021/0395(COD) Directive</p>	Awaiting Council's 1st reading position
<p>Digitalisation of cross-border judicial cooperation (amendment of certain directives and framework decisions)</p> <p>Amending JHA act 2002/584 2001/0215(CNS) Amending JHA act 2003/577 2001/0803(CNS) Amending JHA act 2002/465 2001/0821(CNS) Amending JHA act 2005/214 2001/0825(CNS) Amending Directive 2003/8 2002/0020(CNS) Amending JHA act 2006/783 2002/0816(CNS) Amending JHA act 2008/909 2005/0805(CNS) Amending JHA act 2009/829 2006/0158(CNS) Amending JHA act 2008/947 2007/0807(CNS) Amending JHA act 2009/948 2009/0802(CNS) Amending Directive 2014/41 2010/0817(COD)</p> <p>Subject</p> <p>3.30.06 Information and communication technologies, digital technologies 7.30 Police, judicial and customs cooperation in general 7.30.20 Action to combat terrorism 7.30.30 Action to combat crime 7.40 Judicial cooperation 7.40.02 Judicial cooperation in civil and commercial matters 7.40.04 Judicial cooperation in criminal matters</p> <p>Legislative priorities</p> <p>Joint Declaration 2023-24 Joint Declaration 2022</p>	

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	



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[MAUREL Emmanuel](#)

LIBE [\\${rapporteur.jointCommitteeText}](#)

Council of the European Union
European Commission

Commission DG
[Justice and Consumers](#)

Commissioner
REYNDERS Didier

Key events

02/12/2021	Legislative proposal published	COM(2021)0760	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	A9-0063/2023	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	PE752.642 PE752.643	
23/11/2023	Debate in Parliament		
23/11/2023	Decision by Parliament, 1st reading	T9-0433/2023	Summary

Technical information

Procedure reference	2021/0395(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending JHA act 2002/584 2001/0215(CNS)

	Amending JHA act 2003/577 2001/0803(CNS) Amending JHA act 2002/465 2001/0821(CNS) Amending JHA act 2005/214 2001/0825(CNS) Amending Directive 2003/8 2002/0020(CNS) Amending JHA act 2006/783 2002/0816(CNS) Amending JHA act 2008/909 2005/0805(CNS) Amending JHA act 2009/829 2006/0158(CNS) Amending JHA act 2008/947 2007/0807(CNS) Amending JHA act 2009/948 2009/0802(CNS) Amending Directive 2014/41 2010/0817(COD)
Legal basis	Rules of Procedure EP 58; Treaty on the Functioning of the EU TFEU 082-p1; Treaty on the Functioning of the EU TFEU 081-p1
Stage reached in procedure	Awaiting Council's 1st reading position
Committee dossier	CJ03/9/08558

Documentation gateway					
Document attached to the procedure		SWD(2021)0392	02/12/2021	EC	
Document attached to the procedure		SWD(2021)0393	02/12/2021	EC	
Legislative proposal		COM(2021)0760	02/12/2021	EC	Summary
Economic and Social Committee: opinion, report		CES0174/2022	18/05/2022	ESC	
Committee draft report		PE737.328	14/10/2022	EP	
Amendments tabled in committee		PE738.656	22/11/2022	EP	
Committee report tabled for plenary, 1st reading/single reading		A9-0063/2023	09/03/2023	EP	Summary
Committee letter confirming interinstitutional agreement		PE752.643	19/07/2023	EP	
Text agreed during interinstitutional negotiations		PE752.642	19/07/2023	EP	
Text adopted by Parliament, 1st reading/single reading		T9-0433/2023	23/11/2023	EP	Summary

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

PURPOSE: to amend certain legal acts in civil, commercial and criminal matters to include references to the digital means of communication as established by the digitalisation Regulation.

PROPOSED ACT: Directive 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).

At Union level, there exists a comprehensive set of instruments designed to enhance judicial cooperation in cross-border civil, commercial and criminal cases. Many of these govern the communication between authorities, including in certain cases with the EU Justice and Home Affairs (JHA) agencies and bodies. However, most instruments do not provide for engaging in such communication through digital means. Even where they do, other gaps still exist, such as a lack of secure and reliable digital communication channels or non-recognition of electronic documents, signatures and seals. This deprives judicial cooperation of using the most efficient, secure and reliable channels of communication available.

In order to ensure that communication is conducted uniformly under the scope of all Union legal instruments in the area of civil, commercial and criminal matters, certain provisions already governing communication need to be aligned with the goal of ensuring digital by default information exchanges.

CONTENT: the proposed Directive seeks to amend 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.

The purpose of the amendments is to ensure legal certainty in such situations where existing provisions may govern communication differently than the [proposed Regulation](#) on the digitisation of judicial cooperation.

The proposal:

- introduces amendments to the Framework Decisions and Directives in civil, commercial and criminal matters to include references to the digital means of communication as established by the Regulation on digitalisation of judicial cooperation and access to justice in civil, commercial and criminal matters, to avoid uncertainty as to the communication means to be used under the existing legal acts;
- sets out the transposition periods for the implementation of the amendments in the concerned Directives and Framework decisions.

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

The Committee on Legal Affairs, Civil Liberties, Justice and Home Affairs adopted the report by Emil RADEV (EPP, BG) and Marina KALJURAND (S&D, EE) 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.

The proposal:

- introduces amendments to the Framework Decisions and Directives in civil, commercial and criminal matters to include references to the digital means of communication as established by the Regulation on digitalisation of judicial cooperation and access to justice in civil, commercial and criminal matters, to avoid uncertainty as to the communication means to be used under the existing legal acts;
- sets out the transposition periods for the implementation of the amendments in the concerned Directives and Framework decisions.

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:

Amendments to Framework Decision 2009/829/JHA

Members introduced amendments to Framework Decision 2009/829/JHA 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.

The issuing judicial authority shall use the decentralised IT system referred to in the [Digitalisation Regulation](#), to provide the competent authority in the executing Member State with:

- the information required to enable the requested person to appoint a lawyer in the issuing state and to apply for legal aid in the issuing state;
- the material evidence that supports the cross-border cooperation request in due time before the hearing through videoconferencing or other distance communication technology.

Fundamental rights

Members stressed that EU legal acts allowing communication between competent authorities, including EU 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 and Article 47 on the right to an effective remedy and to a fair trial. These 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.

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

The European Parliament adopted by 555 votes to 5, with 4 abstentions, a legislative resolution 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.

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

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 the [Regulation](#) on the digitalisation of judicial cooperation and access to justice in civil, commercial and criminal matters. 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 the Regulation on the digitalisation of judicial cooperation and access to justice in civil, commercial and criminal matters 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.

The amended text stresses that Union legal acts 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.