

# New Legal Framework on Digitalisation of Judicial Cooperation

## News

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The European Union has taken a significant step forward in the digitalisation of its Member States' justice systems: On 13 December 2023, the European Parliament and Council adopted [Regulation \(EU\) 2023/2844](#) on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters. The Regulation is accompanied by [Directive \(EU\) 2023/2843](#) which amends certain legal acts with respect on the digitalisation of judicial cooperation. Both acts were published in the [Official Journal of 27 December 2023](#). They aim to streamline electronic communications for cross-border judicial cooperation in civil, commercial, and criminal matters. This step is in line with the [newly adopted e-Justice strategy](#) for 2024-2028, which pursues the objective to accelerate the digital transformation of the justice sector.

### Subject matter of the Regulation on the digitalisation of judicial cooperation

The 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:

- The participation by parties and other relevant persons in oral hearings in civil, commercial and criminal proceedings by means of videoconferencing or other distance communication technologies;
- The application of electronic signatures and electronic seals;
- The legal effects of electronic documents;
- Electronic payment of fees.

The legal acts covered by the Regulation to implement the digitalisation of communications are listed in Annex I (for civil and commercial matters) and Annex II (for criminal matters) respectively. 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, are also covered by the Regulation.

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## The decentralised IT system and the "European electronic access point"

The Regulation provides that communications between competent national authorities or between national authorities and Union bodies/agencies, such as Eurojust, will be carried out by default through a decentralised IT system that fulfills certain conditions in relation to security, integrity and reliability. Member States will be able to use software developed by the Commission (reference implementation software) instead of a national IT system.

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

## The rules on videoconferencing, in particular in criminal matters

The Regulation opens the door for the optional use of videoconferencing or other distance communication technology in order to facilitate in proceedings in civil, commercial and criminal matters with cross-border implications oral hearings. It is clarified that 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*.

Specific to criminal matters: the Regulation provides that the use of videoconferencing or other distance communication technology can apply in the following procedures:

- European Arrest Warrant, in particular hearings of the requested person pending the surrender decision in the executing State;
- Enforcement of custodial sentences or measures involving deprivation of liberty under Framework Decision 2008/909, in particular if the sentenced person shall be given an opportunity to state his or her opinion pursuant to Art. 6(3) of the FD;
- Mutual recognition of probation decisions under Framework Decision 2008/947;
- Mutual recognition of supervision decisions as an alternative to provisional detention under Framework Decision 2009/829, in particular if subsequent decisions by the issuing authority are to be taken;
- European protection order (Directive 2011/99), in particular to ensure the right to be heard for the person causing danger;
- Mutual recognition of freezing orders and confiscation orders under Regulation 2018/1805, in particular if the "affected person" invokes legal remedies in the executing State against the recognition and execution of a freezing order or confiscation order.

Other requirements to use videoconferencing or other distance communication technology in these procedures include the following:

- The "requested competent authority" must allow the persons concerned (i.e., suspect or accused or convicted person and affected person (in case of Regulation 2018/1805)) to participate in the hearing provided that:
  - the particular circumstances of the case justify the use of such technology; and

- the person has given consent for the use of videoconferencing or other distance communication technology for that hearing.
- The consent is lawful only if:
  - The suspect/accused person has had the possibility of seeking the advice of a lawyer in accordance with Directive 2013/48/EU before giving consent;
  - The competent authorities provided the person who 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 is given voluntarily and unequivocally, and the requesting competent authority verified that consent prior to starting the hearing;
  - Consent is not exempted because the person "poses a serious threat to public security or public health which is shown to be genuine and present or foreseeable".
- Member States must ensure that the persons concerned have access to the necessary infrastructure to use videoconferencing or other distance communication technology and communication with the lawyer is confidential before and during the hearing through videoconferencing or other distance communication technology;
- 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 the Regulation have the possibility of seeking an effective remedy, in accordance with national law and in full respect of the Charter.

### The Directive as regards digitalisation of judicial cooperation

Directive 2023/2843 ensures that the necessary amendments are implemented into the instruments covered by the Regulation, such as Framework Decision 2002/584 on the European Arrest Warrant and Framework Decision 2008/909 on the enforcement of custodial sentences, so that the digital tools foreseen in Regulation 2023/2844 can apply.

### Application and further background

The Regulation entered into force on 16 January 2024 and applies from 1 May 2025 (with the exception of the provisions on the decentralised IT system and the European electronic access point that will apply from the date of entry into force of corresponding implementing acts). The Directive will need to be transposed into national law within two years of the entry into force of the corresponding implementing act referred to in Art. 10(3)(d) of Regulation 2023/2844 .

The Regulation and Directive build on earlier EU initiatives, e.g., the e-CODEX system for the secure exchange of judicial data and legislation facilitating the electronic service of documents and the taking of evidence. The comprehensive e-Justice strategy outlines key actions for the EU and Member States to further develop digital justice over the next five years.

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