



Research Paper

"Beyond the Fax Machine: Digitalizing Cross-Border Judicial Cooperation in Civil and Commercial Matters"

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Abstract

This paper looks at a shift that seems technical on the surface but actually reworks how cross-border judicial cooperation functions within the European Union. For years, the delivery of court documents between member states stayed tied to outdated channels post, fax, consular routes even as the rest of the internal market had long since gone digital. Regulation (EU) 2020/1784, followed by the 2023 legislative package (Regulation 2023/2844 and Directive 2023/2843), changed that picture by turning the use of secure IT systems from a voluntary option into a binding legal requirement. The paper examines this transition along three main lines: first, what has actually changed in practice, the mandatory use of the decentralized IT system (built on the e-CODEX platform), the extended window for refusing an improperly translated document, and the introduction of direct electronic service through the European electronic access point under the new Article 19a; second, how these changes fit within the EU's broader Digital Single Market strategy, tracing a line from the European Parliament's 2012 resolution through to the e-Justice Strategy 2024–2028; and third, how this process connects to parallel developments such as the European Digital Identity under eIDAS 2.0.

The central argument is that COVID-19 did not create the underlying fragmentation problem, it simply made it impossible to keep ignoring, a point reinforced by the European Commission's own figures showing roughly 3.4 million cross-border civil and commercial cases handled annually across the EU. The paper also addresses the tension between the efficiency gains of digitalization and procedural safeguards, particularly the risk of a "digital divide" emerging between member states with uneven technical and institutional capacity. It concludes that the new legal framework marks a shift in procedural philosophy rather than a purely technological upgrade, though its real-world implementation remains uneven and still very much a work in progress.

Keywords: digitalization of justice; cross-border judicial cooperation; e-CODEX; Regulation (EU) 2020/1784; European Digital Identity

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I. Introduction

Ever since the EU built its internal market, it has lived with a curious contradiction: goods, services, and people cross borders with relative ease, yet a court document trying to reach someone in another member state can still get held up in surprisingly old-fashioned ways. A summons that has to go by post instead of email. A judge unable to hear a witness abroad without arranging an in-person hearing. A small business owner chasing an unpaid invoice from a customer in another country, only to find the paperwork slower and costlier than the dispute itself. None of this is new for years it was simply accepted as the price of cross-border justice.¹

That is beginning to shift, and this paper tries to explain why now, and what precisely is shifting. In short, the EU has moved from merely encouraging member states to digitalise cross-border judicial cooperation to actually requiring it. For years, tools such as e-CODEX existed only as voluntary experiments, built and maintained by whichever member states chose to invest in them, with everyone else free to sit it out.² The outcome was a two-speed system: a handful of countries with working digital channels, and many others still relying on post, fax, or whatever local practice happened to allow. The recast Service of Documents Regulation, together with the broader 2021 proposal on digitalising judicial cooperation, marks the point where the EU stopped treating this as optional.³

It would be easy to credit COVID-19 with forcing this change, and the pandemic certainly played its part courts across Europe had to improvise almost overnight, with uneven results. But the argument here is that the pandemic did not create the underlying problem; it merely made it impossible to keep ignoring. The fragmentation described above was already well documented before 2020, and the Commission's own figures roughly 3.4 million cross-border civil and commercial proceedings every year had already made the economic and human cost of a slow, inconsistent system plain enough.⁴ What the pandemic did was strip away any excuse for further delay.

This paper sets out to do three things. First, it examines what has actually changed in practice: the mandatory use of secure IT systems between designated authorities, the new duty to help trace an unknown address, the longer window recipients now have to refuse an improperly translated document, and the rules on electronic signatures and seals that finally put digital documents on equal legal footing with paper ones. Second, it places these changes within the EU's much longer-running Digital Single Market project, since none of this happened in isolation the push to digitalise justice sits alongside decades of parallel work on scrapping roaming charges, banning unjustified geo-blocking, and building a single digital gateway, shaped throughout by a European Parliament that has pushed the digital agenda with notable consistency since at least 2012⁵. Third, it looks ahead to where this is heading: the proposed European digital identity, which, if it works as intended, could become the single credential letting a citizen in one member state deal with a court in another without ever leaving their laptop.⁶

¹European Commission, *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*, COM(2021) 759 final (Brussels, December 1, 2021), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021PC0759>.

²European Commission, *Proposal for a Regulation of the European Parliament and of the Council on a Computerised System for Communication in Cross-Border Civil and Criminal Proceedings (e-CODEX System), and Amending Regulation (EU) 2018/1726*, COM(2020) 712 final (Brussels, December 2, 2020), <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020PC0712>.

³European Parliament and Council of the European Union, *Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the Service in the Member States of Judicial and Extrajudicial Documents in Civil or Commercial Matters (Service of Documents) (Recast)*, Official Journal of the European Union, L 405 (December 2, 2020), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32020R1784>.

⁴European Commission, *Proposal for a Regulation of the European Parliament and of the Council Amending Regulation (EC) No 1393/2007... (Service of Documents)*, COM(2018) 379 final, section on "Reasons for and Objectives of the Proposal," <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?from=EN&uri=CELEX:52018PC0379>.

⁵European Commission, *A Digital Single Market Strategy for Europe*, COM(2015) 192 final (Brussels, May 6, 2015), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52015DC0192>; European Parliament, *Resolution of 20 April 2012 on a Competitive Digital Single Market — eGovernment as a Spearhead*, 2011/2178(INI), <https://oeil.europarl.europa.eu/oeil/en/document-summary?id=1203464>.

⁶European Commission, *Proposal for a Regulation of the European Parliament and of the Council Amending Regulation (EU) No 910/2014 as Regards Establishing a Framework for a European Digital Identity*, COM(2021) 281 final (Brussels, June 3, 2021), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021PC0281>.

None of this is a finished story. Much of what follows concerns proposals, pilot systems, or regulations only a few years old, with implementation still being worked out across very different national judicial systems. But the direction of travel is clear enough to be worth setting out carefully both because it will matter to anyone who ends up on the wrong side of a cross-border dispute, and because it says something about how the EU builds infrastructure that outlasts whatever crisis first prompted it.

1.1. Digitalizing Judicial Cooperation and Strengthening Access to Justice in Civil and Commercial Matters

The digital transformation of judicial cooperation within the European Union is one of the more significant regulatory developments of recent years in the field of procedural law with cross-border implications. At the heart of this process sits Regulation (EU) 2023/2844 of the European Parliament and of the Council, adopted on 13 December 2023, which lays down a uniform legal framework for electronic communication between competent authorities involved in judicial cooperation procedures across civil, commercial and criminal matters.⁷ The Regulation is accompanied by Directive (EU) 2023/2843, which amends a number of other legal acts including Framework Decision 2002/584, which governs the European Arrest Warrant so that the digital mechanisms envisaged under the Regulation can actually be put into practice.⁸ Both instruments were published together in the Official Journal of the EU on 27 December 2023, closing out a legislative journey that began with the Commission's 2020 Communication, "Digitalisation of justice in the European Union: A toolbox of opportunities," and continued through the formal proposal COM(2021) 759 final.⁹

In terms of what it actually sets out to achieve, the Regulation covers two interconnected layers of digitalization: on one hand, electronic exchanges taking place between Member States' judicial authorities in the course of cooperation procedures; on the other, electronic communication between individuals or legal entities and the competent authorities in civil and commercial court proceedings.¹⁰ The main technical vehicle for making this happen is a decentralized IT system, built on top of the existing e-CODEX infrastructure established under Regulation (EU) 2022/850 on the electronic exchange of data across borders in the context of judicial cooperation.¹¹ What this really comes down to is that digitalization here isn't some standalone technical fix it's a genuine overhaul of how the European judicial area is procedurally built, driven by the aim of trimming costs, saving time, and clearing away the geographic hurdles that have long made cross-border justice harder to reach.

The Regulation entered into force on 16 January 2024, while its application began on 1 May 2025 except for the provisions governing the decentralized IT system and the European electronic access point, which will only take effect once the corresponding implementing acts are adopted. The rollout itself was designed to happen in stages and stretches out to 2029, with different deadlines depending on the instrument involved: 17 January 2027 for the European Account Preservation Order (Regulation 655/2014) and the provisions on mutual recognition of civil protection measures (606/2013); 17 January 2028 for the regulations that put enhanced cooperation into effect for matrimonial property regimes and the property consequences of registered partnerships; and 17 January 2029 for the European Enforcement Order for uncontested claims (805/2004), the Maintenance Obligations Regulation (4/2009), and Brussels I bis (1215/2012). One notable addition brought by

⁷Regulation (EU) 2023/2844 of the European Parliament and of the Council of 13 December 2023 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, *Official Journal of the European Union*, L, 27 December 2023. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32023R2844>

⁸Directive (EU) 2023/2843 of the European Parliament and of the Council of 13 December 2023 Amending Certain Directives and Council Framework Decisions as Regards Digitalisation of Judicial Cooperation, *Official Journal of the European Union*, L, 27 December 2023. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32023L2843>

⁹European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Digitalisation of Justice in the European Union – A Toolbox of Opportunities*, COM(2020) 710 final, Brussels, 2 December 2020. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0710>

¹⁰ European Parliament, "Digitalisation of Cross-Border Judicial Cooperation," Legislative Observatory, Procedure 2021/0394(COD), accessed 2026. <https://oeil.europarl.europa.eu/oeil/en/document-summary?id=1770751>

¹¹ Regulation (EU) 2022/850 of the European Parliament and of the Council of 30 May 2022 on a Computerised System for the Cross-Border Electronic Exchange of Data in the Area of Judicial Cooperation in Civil and Criminal Matters (e-CODEX System), and Amending Regulation (EU) 2018/1726, *Official Journal of the European Union*, L 150, 1 June 2022. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022R0850>

this legislative package is the new Article 19a, inserted into the Service Regulation, which allows judicial documents to reach a party directly provided that party's address in another Member State is known by way of the European electronic access point provided the recipient has given prior, express consent to receiving documents this way in the proceedings concerned.¹²

Making full sense of what Regulation 2023/2844 actually does requires situating it within the broader "regulatory web" governing the digitalization of legal and economic relations across the EU.¹³ The Regulation is closely tied to the General Data Protection Regulation (GDPR) and to Directive (EU) 2016/680, which deals with data protection in the context of criminal justice, particularly regarding standards for secure access, confidentiality, and the protection of personal data during electronic exchanges.¹⁴ The technical basis for the electronic communication itself including electronic signatures and seals rests on the eIDAS Regulation (EU) 910/2014. For video-conference hearings in criminal proceedings, the Regulation requires the consent of the suspected, accused, or convicted person, while the specifics of how such hearings are conducted remain governed by the national law of the responsible Member State.¹⁵ Taken together, this interlocking framework places the digitalization of judicial cooperation squarely within the EU's the e-Justice Strategy 2024–2028, whose purpose is to speed up the digital transformation of the justice sector overall.

From a more critical, academic standpoint, the digitalization of judicial cooperation raises questions that go beyond simply describing the legal framework: the wide disparities between national IT systems and the uneven institutional capacity of Member States to meet the deadlines that have been set; exposure to cybersecurity risks and the challenges of data protection within a decentralized exchange architecture; and the more fundamental question of whether digitalization genuinely contributes to fairer, more equal access to justice — or whether it instead creates new forms of exclusion for those without adequate access to technology (the "digital divide"). These issues form the basis for the analytical and comparative discussion that follows in the remainder of this paper.

II. Mandatory IT Systems in Cross-Border Service

Adopted by the European Parliament and the Council on 25 November 2020, Regulation (EU) 2020/1784 on the service of judicial and extrajudicial documents in civil or commercial matters (recast) is the instrument that turned reliance on IT systems for cross-border document service from a mere possibility into a binding legal requirement.¹⁶ Applicable across all Member States except Denmark since 1 July 2022, it replaces the earlier Regulation (EC) 1393/2007. The real shift brought about by this recast lies in moving away from a system where digital tools were simply one possible channel among others, toward a framework where using a secure IT platform becomes, as a general rule, mandatory for exchanges taking place between sending and receiving bodies, as well as between the central authorities of the Member States.¹⁷

Under Article 5, the documents to be delivered together with requests, confirmations, acknowledgments of receipt, certificates, and any other exchange between the designated bodies must, as a general rule, pass through a decentralized IT system that meets standards of security and reliability. Article 2(2)

¹²European Union e-Justice Association (UEHJ), "EU Digitalisation Regulation 2023/2844," accessed 2026. <https://www.uehj.eu/eu-digitalisation-regulation-2023-2844/>

¹³ Guillaume Croisant, "Digitalisation of Justice Systems in the European Union: Towards a European Judicial Area 2.0," *European Association of Private International Law (EAPIL) Blog*, 6 February 2024. <https://eapil.org/2024/02/06/digitalisation-of-justice-systems-in-the-european-union-towards-a-european-judicial-area-2-0/>

¹⁴Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the Protection of Natural Persons with Regard to the Processing of Personal Data by Competent Authorities for the Purposes of the Prevention, Investigation, Detection or Prosecution of Criminal Offences, *Official Journal of the European Union*, L 119, 4 May 2016. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016L0680>

¹⁵ EUR-Lex, "The Digitalisation of Judicial Cooperation and Access to Justice in Cross-Border Civil, Commercial and Criminal Matters," Summary, accessed 2026. <https://eur-lex.europa.eu/EN/legal-content/summary/the-digitalisation-of-judicial-cooperation-and-access-to-justice-in-cross-border-civil-commercial-and-criminal-matters.html>

¹⁶ Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the Service in the Member States of Judicial and Extrajudicial Documents in Civil or Commercial Matters (Service of Documents) (Recast), *Official Journal of the European Union*, L 405, 2 December 2020. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32020R1784>

¹⁷Michael Kyprianou Law Firm, "New Rules on Cross-Border Service in the Member States of Judicial and Extrajudicial Documents in Civil or Commercial Matters – Regulation (EU) 2020/1784," accessed 2026. <https://www.kyprianou.com/new-rules-on-cross-border-service-in-the-member-states-of-judicial-and-extrajudicial-documents-in-civil-or-commercial-matters-regulation-eu-2020-1784/>

describes this system as a network made up of national IT platforms and interoperable access points, each run and overseen independently by the respective Member State, together making it possible to share information securely and dependably across borders.¹⁸ The technical foundation for all of this is the e-CODEX platform, which was subsequently given a firmer legal footing through Regulation (EU) 2022/850 on the computerized system for the cross-border electronic exchange of data in civil and criminal judicial cooperation.¹⁹ This mandatory character is, according to practitioner commentary, the single most notable change in the recast Regulation – a move away from the old "channel-by-channel" approach (post, consular or diplomatic routes, direct service) toward an infrastructure that, while technically centralized in design, stays institutionally decentralized, aiming for uniformity and speed in the notification process.²⁰

That said, the obligation to use the IT system isn't absolute. The Regulation itself provides that where the decentralized system can't be used due to technical disruptions or other exceptional circumstances transmission is to proceed through the most appropriate alternative means, provided this still ensures delivery as swiftly and securely as possible, including other secure electronic means or postal service.²¹ In other words, this alternative exists because someone realized that digitalization however necessary, cannot be pursued at all costs; if the platform crashes or a state lacks the requisite capacity, the judiciary must continue to function regardless. Also worth noting: to prevent electronically transmitted documents from being treated as somehow inferior to paper ones, the Regulation expressly states that documents sent through the decentralized IT system may not have their legal effect refused, nor be treated as inadmissible evidence simply because they exist in electronic form. The trust framework underpinning these exchanges – signatures, seals, receipts, certificates – rests on the broader legal regime for qualified trust services set out in the eIDAS Regulation (EU) 910/2014.²²

It's worth pointing out that this same logic of technological obligation runs in parallel through other instruments of civil judicial cooperation – most notably Regulation (EU) 2020/1783, the recast instrument that sets out how the courts of Member States work together when obtaining evidence in civil or commercial cases which likewise establishes, as a baseline rule, the obligation to use the decentralized IT system for communication between the requesting and requested courts. This suggests the push toward digitalization isn't an isolated feature of document service alone, but a horizontal principle running across several parallel instruments of civil judicial cooperation – instruments that were later consolidated and further aligned through Regulation (EU) 2023/2844, which lays down the rules for digitalising judicial cooperation.²³

From a more critical academic angle, the literature has pointed out that the underlying goal of this recast was to bring the judicial cooperation framework in line with the Digital Single Market strategy specifically by cutting costs and needless delays facing citizens and businesses involved in cross-border proceedings, by speeding up transmission through mechanisms that depend less on paper-based exchanges. However, the transition from the letter of the law to everyday practice has been far from easy. Studies closely, examining on-the-ground implementation, with the Italian case being perhaps the most frequently cited example have highlighted concrete operational challenges and the need for institutional changes as courts attempt to move away from traditional notification methods toward paperless processes.²⁴ All this leads to a broader conclusion: while the legal mandate to use IT-s systems aims to foster standardization and efficiency, this does not happen automatically, it requires significant institutional and technical investment at

¹⁸ UIHJ – International Union of Judicial Officers, "Adoption of (EU) Regulation No. 2020/1784 on the Service of Documents," 7 December 2020. <https://www.uilhj.com/2020/12/07/adoption-of-eu-regulation-no-2020-1784-on-the-service-of-documents/>

¹⁹ Regulation (EU) 2022/850 of the European Parliament and of the Council of 30 May 2022 on a Computerised System for the Cross-Border Electronic Exchange of Data in the Area of Judicial Cooperation in Civil and Criminal Matters (e-CODEX System), and Amending Regulation (EU) 2018/1726, *Official Journal of the European Union*, L 150, 1 June 2022. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022R0850>

²⁰ Cocuzza & Associati, "Regulation (EU) 2020/1784: New Rules on Cross-Border Service," 29 June 2022. <https://www.cocuzza.it/en/2022/06/29/regulation-eu-2020-1784-new-rules-on-cross-border-service/>

²¹ Regulation (EU) 2020/1784, Recital 10.

²² Regulation (EU) 2020/1784, Article 5(2), referencing Regulation (EU) No 910/2014 (eIDAS Regulation).

²³ Regulation (EU) 2023/2844 of the European Parliament and of the Council of 13 December 2023 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, *Official Journal of the European Union*, L 27, 27 December 2023. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32023R2844>

²⁴ "Cross-Border Document Service Procedures in the EU from the Perspective of Italian Practitioners—The Lessons Learnt and the Process of Digitalisation of the Procedure through e-CODEX," *MDPI – Laws* 11, no. 6 (2022): 81. <https://www.mdpi.com/2075-471X/11/6/81>

the national level. Without such investment, there is a real risk that, rather than facilitating access to justice, this mandate could itself become yet another barrier.

III. Comparative Overview Between the New and the Previous Legislation

Regulation (EU) 2020/1784 replaced Regulation (EC) 1393/2007, which had itself previously replaced Regulation (EC) 1348/2000, the first act adopted by the EU in this field.²⁵ However, the true distinction between these two regimes lies not merely in the wording of the legal texts, but in the practical operation of the process itself. The 2007 Regulation relied almost entirely on traditional channel postal services and transmitting and receiving agencies, without requiring any technological tools. In contrast, the new version establishes the decentralized IT system (e-CODEX) as the default standard, a requirement clearly set out in Article 5.²⁶ This is not simply a minor technical adjustment, as it might appear at first glance; it represents a fundamental shift in the philosophy underpinning the procedure: matters of document transmission methods, previously left to the discretion of individual Member States, have now become a mandatory digital standard, with traditional methods relegated to mere fallback options for exceptional cases.

Other practical changes affect the rights of the addressee as well. The window during which a person can refuse to accept a document on the grounds that it isn't in a language they understand was extended from one week under 2007 Regulation to two weeks under the new regime.²⁷ The standard notification form (Form "L") is now also adapted to a language the addressee can actually understand, rather than necessarily being attached in every official EU language as required before — a procedural relief meant to ease the administrative burden on receiving agencies. Finally, where the 2007 Regulation made no provision at all for direct electronic service on the person, that option is now built into the new regime, as discussed below. Taken together, these changes aim to speed up, simplify, and standardize the procedure across the European judicial area, though how well they actually work still depends heavily on the institutional and technical capacity each Member State brings to implementing them.

IV. Electronic Service of Documents

Beyond the obligation for judicial authorities themselves to communicate electronically, another key innovation in the new Regulation is the possibility of serving documents directly on the person concerned by electronic means something the earlier 2007 regime didn't provide for at all.²⁸ This method applies only when the person has a residence or known address in another Member State—and it is crucial to remember that this applies only if they have previously given their clear and express consent to receive judicial documents in this manner. This consent requirement is not merely a formality to be satisfied. Electronic service entails risks not present in postal or in-person delivery: the real question is whether the person actually saw the document, rather than simply whether it technically reached them.

Regulation (EU) 2023/2844 went further and strengthened this mechanism by inserting Article 19a into the Service Regulation, allowing for direct electronic service through the European electronic access point, established specifically as part of the EU's e-Justice portal.²⁹ This is a step beyond simply digitalizing communication between authorities—it extends the logic of digitalization into the relationship between the court (or competent authority) and the private party, the citizen or business subject to the proceedings. In that sense, Article 19a brings together the two dimensions of digitalization discussed above: the institutional one (communication between authorities) and the individual one (communication with private parties). The prior-consent requirement remains, however, a central and inseparable feature of this mechanism, since it's meant to keep a necessary balance between the efficiency gains of digitalization and the procedural guarantees essential

²⁵ UIHJ – International Union of Judicial Officers, "Toolkit on Service of Documents in the EU," accessed 2026. <https://www.uhj.com/documents/toolkit-on-service-of-documents-in-the-eu/>

²⁶ Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the Service in the Member States of Judicial and Extrajudicial Documents in Civil or Commercial Matters (Service of Documents) (Recast), Article 5, *Official Journal of the European Union*, L 405, 2 December 2020. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32020R1784>

²⁷ UEHJ – European Union of Judicial Officers, "Entry into Force on 1st July 2022 of Regulation (EU) 2020/1784 on Service of Documents," accessed 2026. <https://www.uehj.eu/entry-into-force-on-1st-july-2022-of-regulation-eu-2020-1784-on-service-of-documents/>

²⁸ Freshfields, "The New EU Service Regulation and the Most Practically Relevant Means of Service," accessed 2026. <https://www.freshfields.com/en/our-thinking/blogs/risk-and-compliance/the-new-eu-service-regulation-and-the-most-practically-relevant-means-of-service-102hs7z>

²⁹ Regulation (EU) 2023/2844 of the European Parliament and of the Council of 13 December 2023, amending Article 19a of Regulation (EU) 2020/1784, *Official Journal of the European Union*, L, 27 December 2023. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32023R2844>

to proper notification a matter tied directly to the entitlement to be properly heard and the adversarial principle that governs civil litigation.

V. Reasons, Objectives and Strategic Framework of the Digital Single Market in Judicial Cooperation

The proposal COM(2021) 759 final, put forward by the European Commission on 1 December 2021, starts from a fairly simple premise: effective cross-border judicial cooperation just isn't possible unless communication between courts and the relevant authorities is secure, dependable, and prompt.³⁰ The COVID-19 pandemic acted as something of a catalyst here with many national courts forced to shift toward digital tools (email, video-conferencing) simply to keep functioning, exposing the regulatory gap that had existed all along.³¹ The explanatory memorandum lays out three main objectives: effective cooperation across borders, the capacity of institutions to keep functioning under force majeure conditions, and ensuring that access to justice is delivered within a "reasonable time" a defining feature of the right to a fair trial.³² It's worth noting that the proposal doesn't create any new European procedures; its aim is simply to put in place the legal framework needed for electronic communication within the existing procedures for civil, commercial, and criminal judicial cooperation.³³

This objective is closely related to the EU's wider Digital Single Market initiative, which ultimately aims to save citizens and businesses the money and time that are usually "swallowed up" by cross-border procedures. The same benefits reappear repeatedly in the literature: documents and information that circulate more quickly between authorities, less administrative and financial marathons for the parties involved, more transparency and predictability during the development of procedures, as well as stronger mutual trust between national judicial systems, when technical standards finally reach convergence. The increased use of e-stamps, e-signatures and e-payment of court fees is also seen as a tangible step towards the fuller integration of the European judicial space into the digital economy.³⁴

The strategic groundwork for all this goes back to the Commission's 2020 Communication, "Digitalisation of justice in the European Union: A toolbox of opportunities," which flagged the need to bring the legislative framework up to date around a "digital by default" approach while still keeping safeguards in place against social exclusion and making sure mutual trust, interoperability, and security weren't left behind.³⁵ This strategy was reinforced further by the Council's October 2020 conclusions, "Access to justice – seizing the opportunities of digitalisation," which called on the Commission to take concrete steps, including looking into extending the digital evidence exchange system (eEDES) to other instruments of judicial cooperation in criminal matters.³⁶ This policy direction later found its institutional continuation in the e-Justice Strategy 2024–2028,

³⁰ European Commission, 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, COM(2021) 759 final, Brussels, 1 December 2021. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52021PC0759>

³¹ Cristina Mariottini, "On Digitalisation of Judicial Cooperation and Access to Justice: The Commission Proposal," *Conflict of Laws Blog*, 4 December 2021. <https://conflictoflaws.net/2021/on-digitalisation-of-judicial-cooperation-and-access-to-justice-the-commission-proposal/>

³² EAPIL, "European Commission Proposal for a Regulation on Digitalisation of Judicial Cooperation," 19 January 2022. <https://eapil.org/2022/01/19/european-commission-proposal-for-a-regulation-on-digitalisation-of-judicial-cooperation/>

³³ European Parliament, "Digitalisation of Cross-Border Judicial Cooperation," Legislative Train Schedule, accessed 2026. <https://www.europarl.europa.eu/legislative-train/theme-a-new-push-for-european-democracy/file-digitalisation-of-judicial-cooperation>

³⁴ Fernando Gascón Inchausti, "The New Regulation on the Digitalisation of Judicial Cooperation in the European Union: Something Old, Something New, Something Borrowed and Something Blue," *ERA Forum* (2024). <https://link.springer.com/article/10.1007/s12027-024-00782-z>

³⁵ European Commission, *Communication: Digitalisation of Justice in the European Union – A Toolbox of Opportunities*, COM(2020) 710 final, Brussels, 2 December 2020. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0710>

³⁶ EU Monitor, "Considerations on COM(2021)759 – Digitalisation of Judicial Cooperation and Access to Justice in Cross-Border Civil, Commercial and Criminal Matters," accessed 2026. https://www.eumonitor.eu/9353000/1/j4nvhdlglbmvdzx_j9vvik7mlc3gyxp/vloel45gdapf

which now serves as the long-term framework steering the digital overhaul still under way across the EU's justice sector.³⁷

VI. The Role of the European Parliament, the Data Protection Package, and the eIDAS Framework for European Digital Identity

Regulation (EU) 2023/2844 came into being via the ordinary legislative procedure, under which the European Parliament shared equal legislative standing with the Council throughout the process. Within Parliament, the file was handled by two joint committees – Legal Affairs (JURI) and Civil Liberties, Justice and Home Affairs (LIBE) – working together under the joint committee mechanism laid out in Rule 58 of the Rules of Procedure, with Emil Radev and Marina Kaljurand appointed as rapporteurs for the file.³⁸ The jointly drafted report was approved to open interinstitutional negotiations on 9 March 2023, and the subsequent trilogue talks with the Council led to a compromise reached on 19 July 2023, formally endorsed at committee level on 19 September of that same year. Parliament's role throughout this process was anything but a rubber stamp: the amendments proposed by the joint committees shaped, among other things, the scope of the provisions on video-conferencing and the procedural safeguards afforded to the parties involved – a fairly clear reflection of Parliament's recurring role as guardian of fundamental rights within the EU's legislative architecture.³⁹

On the data protection side, this issue runs right through the core of the digitalization framework for judicial cooperation, resting on what might loosely be called the EU's "data protection package" made up mainly of the General Data Protection Regulation (GDPR), covering data processing in civil and commercial matters, and Directive (EU) 2016/680 – often referred to as the "Police Directive" – which is aimed specifically at authorities operating within the criminal justice system.⁴⁰ Regulation 2023/2844 builds this framework directly into its own architecture, requiring both the decentralized IT system and the European electronic access point, requiring them to adhere to principles of data minimization, security, and purpose limitation, while also setting out a clear division of responsibilities between Member States and the relevant EU bodies – eu-LISA among them acting as operators of the technical infrastructure.⁴¹

Ultimately, the trust framework underpinning all these instruments leads to the eIDAS Regulation (EU) 910/2014 – a text that underwent a major overhaul via Regulation (EU) 2024/1183, adopted in 2024 and commonly referred to simply as "eIDAS 2.0."⁴² This change introduced the European Digital Identity Wallet, something every Member State must now offer to its citizens upon request, enabling a person's electronic identification to be recognized throughout the European area. This isn't some side development, unrelated to judicial cooperation quite the opposite: it builds the digital identity infrastructure that more advanced forms of secure access to electronic judicial systems could eventually rest on, linking the digitalization of justice to the EU's wider digital identity strategy.

VII. Conclusions and Recommendations

What emerges from the analysis above is that the digitalization of cross-border judicial cooperation in the EU is not simply a technical upgrade to existing procedures, but a genuine rethinking of the logic underlying cross-border justice itself. The shift from a system where electronic tools were just one option among others to a framework where using the decentralized IT platform is the general rule suggests that the EU has decided to put

³⁷Rafał Mańko, "Digitalising Cross-Border Judicial Cooperation," EU Legislation in Progress, European Parliamentary Research Service, 12 February 2024. <https://ephinktank.eu/2022/12/14/digitalising-cross-border-judicial-cooperation-eu-legislation-in-progress/>

³⁸European Parliament, Report 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, A9-0062/2023, 9 March 2023. https://www.europarl.europa.eu/doceo/document/A-9-2023-0062_EN.html

³⁹European Parliament, "Digitalisation of Judicial Cooperation," Legislative Train Schedule, accessed 2026. <https://www.europarl.europa.eu/legislative-train/theme-a-new-push-for-european-democracy/file-digitalisation-of-judicial-cooperation>

⁴⁰ Regulation (EU) 2016/679 (General Data Protection Regulation) and Directive (EU) 2016/680, *Official Journal of the European Union*, L 119, 4 May 2016.

⁴¹ Pingen, Anna, and Thomas Wahl. "New Legal Framework on Digitalisation of Judicial Cooperation." *eucri*m – The European Criminal Law Associations' Forum, no. 4 (2023): 331–332. <https://eucri.m.eu/news/new-legal-framework-on-digitalisation-of-judicial-cooperation/>.

⁴² Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on Electronic Identification and Trust Services for Electronic Transactions in the Internal Market (eIDAS Regulation), as amended by Regulation (EU) 2024/1183 of 11 April 2024, *Official Journal of the European Union*, L 257, 28 August 2014.

an end to the previous practice of leaving each member state to decide, on its own, how "digital" it wanted to be. This is a meaningful achievement, since the earlier fragmentation was never just an administrative inconvenience – it carried real costs, in time and money, for citizens and businesses caught up in cross-border disputes.

That said, the paper also points to a limitation that shouldn't be brushed aside: a unified legal framework does not, by itself, guarantee uniform implementation. As the Italian case shows, moving toward paperless processes requires actual institutional and technical investment, and not every member state is starting from the same place. This is exactly where the main risk identified in the paper lies: if the technological capacity of member states stays uneven, digitalization risks creating new forms of exclusion instead of removing the old ones – a "digital divide" that would hit hardest precisely those citizens and small businesses who already struggled most with the cost of cross-border litigation.

For this reason, it would be advisable for EU institutions to pair these legal obligations with financial and technical support directed specifically at member states with more limited capacity, so that the deadlines running through 2029 don't end up as administrative pressure with no real benefit for citizens. Equally important are awareness campaigns and training for legal practitioners, since even a well-designed system falls flat if the people expected to use it aren't actually prepared to do so.

As for direct electronic service on the person (Article 19a), the recommendation here is that the requirement for clear, prior consent should keep being treated as a fundamental safeguard rather than a mere formality, precisely to preserve the balance between the speed digitalization offers and the right to be properly heard. Finally, the paper suggests that the next steps – particularly the rollout of the European Digital Identity under eIDAS 2.0, should be assessed not only in terms of technical interoperability, but also in terms of the real access ordinary citizens will actually have, so that the European "single digital gateway" to justice doesn't end up as a privilege reserved for those who already had better access to technology.

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