

Today the EU Digitalisation Regulation has been published - the clock starts ticking

The long-awaited *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* (Digitalisation Regulation or e-justice Regulation) has been published today in the Official Journal of the European Union. For more information on the EU internal procedure, [click here](#).

The Digitalisation Regulation lays down the rules 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 (Art. 1). This is to be accomplished, in particular, through the *decentralised IT system* (Art. 3) and the *European electronic access point* (Art. 4).

It also foresees the use of videoconferencing or other distance communication technology in civil and commercial matters, without prejudice to specific provisions regulating this topic under the Regulation No 2020/1783 (Evidence Regulation), Regulation No 861/2007 and Regulation No 655/2014 (Art. 5). In addition, it contemplates provisions on electronic signatures and electronic seals (Art. 7) and legal effects of electronic documents (Art. 8).

The Digitalisation Regulation does *not* apply to the Evidence Regulation and the Regulation No 2020/1784 (Service Regulation) as those regulations “already provide for specific rules on digitalisation of judicial cooperation” (recital 17). However, it *does introduce some changes to the Service Regulation*, some of which are the following (see Article 24):

- **Article 12, paragraph 7** is amended by the following:

1. in Article 12, paragraph 7 is replaced by the following:

'7. For the purposes of paragraphs 1 and 2, the diplomatic agents or consular officers, in cases where service is effected in accordance with Article 17, and the authority or person, in cases where service is effected in accordance with Article 18, 19, 19a or 20, shall inform the addressee that the addressee may refuse to accept the document and that either form L in Annex I or a written declaration of refusal must be sent to those agents or officers or to that authority or person respectively.'

- **A new Article 19a on Electronic service through the European electronic access point:**

Article 19a

Electronic service through the European electronic access point

1. *The service of judicial documents may be effected directly on a person who has a known address for service in another Member State **through the European electronic access point established under Article 4(1) of Regulation (EU) 2023/2844 of the European Parliament and of the Council [...]**, provided that the addressee has given prior express consent to the use of that electronic means for serving documents in the course of the legal proceedings concerned.*
2. *The addressee shall confirm the receipt of the documents with an acknowledgment of receipt, including the date of the receipt. The date of service of documents shall be the date specified in the acknowledgment of receipt. The same rule shall apply in the case of service of refused documents which is remedied in accordance with Article 12(5).*

(4) in Article 37, the following paragraph is added:

'3. Article 19a shall apply from the first day of the month following the period of two years from the date of entry into force of the implementing acts referred to in Article 10(3)(a) of Regulation (EU) 2023/2844.'

For more information about the digitalisation of the Service and Evidence Regulations, including the decentralised IT system for those Regulations, see our previous posts [here](#) and [here](#).

Interestingly, Recital 21 allows for the use of software in maintenance obligations - other than national IT systems - , which has *not* been developed by the European Commission: “For matters relating to maintenance obligations, **Member States *could* also use software developed by the Hague Conference on Private International Law (iSupport).**”

Article 10 of the Digitalisation Regulation sets out when the **Implementing Acts** must be adopted by the Commission. For ease of reference, the numbers of the relevant instruments in civil and commercial matters are indicated.

*“(a) **17 January 2026** for the legal acts listed in points 3 and 4 of Annex I [Legal acts in the area of judicial cooperation in civil and commercial matters] [and the legal acts listed in points 1, 10 and 11 of Annex II [Legal acts in the area of judicial cooperation in criminal matters];*

- *Regulation (EC) No 1896/2006*
- *Regulation (EC) No 861/2007*

*(b) **17 January 2027** for the legal acts listed in points 1, 8, 9 and 10 of Annex I and the legal acts listed in points 5 and 9 of Annex II;*

- *Council Directive 2003/8/EC*
- *Regulation (EU) No 606/2013*
- *Regulation (EU) No 655/2014*
- *Regulation (EU) 2015/848*

*(c) **17 January 2028** for the legal acts listed in points 6, 11 and 12 of Annex I*

and the legal acts listed in points 2, 3, 4 and 8 of Annex II; and

- *Regulation (EU) No 650/2012*
- *Council Regulation (EU) 2016/1103*
- *Council Regulation (EU) 2016/1104*

*(d) **17 January 2029** for the legal acts listed in points 2, 5, 7 and 13 of Annex I and the legal acts listed in points 6 and 7 of Annex II.”*

- *Regulation (EC) No 805/2004*
- *Council Regulation (EC) No 4/2009*
- *Regulation (EU) No 1215/2012*
- *Council Regulation (EU) 2019/1111*

As per Article 26, this Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. It shall apply from **1 May 2025**.

Of great importance is that Article 26(3) of this Regulation specifies the applicability of Articles 3 and 4. In particular, it provides that **Articles 3 and 4** “shall apply from the first day of the month following the period of **two years from the date of entry into force of the corresponding implementing acts**, referred to in Article 10(3), establishing the decentralised IT system for each of the legal acts listed in Annexes I and II.” As a result, this will vary depending on the legal instrument (see above).

Very exciting times ahead!