



**2020/0345(COD)**

14.6.2021

**\*\*\*I**

## **DRAFT REPORT**

on the 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)0712 – C9-0389/2020 – 2020/0345(COD))

Committee on Legal Affairs  
Committee on Civil Liberties, Justice and Home Affairs

Rapporteurs: Emil Radev, Nuno Melo

(Joint committee procedure – Rule 58 of the Rules of Procedure)

***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

***Amendments to a draft act*****Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

**Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ***■*** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

## CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION .....	5
EXPLANATORY STATEMENT .....	31



## **DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION**

**on the 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)0712 – C9-0389/2020 – 2020/0345(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2020)0712),
  - having regard to Article 294(2), Article 81 (2) and Article 82(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0389/2020),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of 27 April 2021<sup>1</sup>,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the joint deliberations of the Committee on Legal Affairs and the Committee the Civil Liberties, Justice and Home Affairs under Rule 58 of the Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs and the Committee on Civil Liberties, Justice and Home Affairs (A9-0000/2021),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

**Proposal for a regulation**  
**Recital 1 a (new)**

---

<sup>1</sup> Not yet published in the Official Journal.

*Text proposed by the Commission*

*Amendment*

**(1a) From a user's perspective, access to justice systems is frequently weakened by a number of aspects such as formalistic and expensive legal procedures, long procedural delays and prohibitive costs of using court systems.**

Or. en

## **Amendment 2**

### **Proposal for a regulation Recital 2**

*Text proposed by the Commission*

(2) It is ***thus*** important that appropriate channels are developed to ensure that justice systems can efficiently cooperate in a digital way. Therefore, it is essential to establish, at Union level, an information technology instrument that allows swift, direct, interoperable, reliable and secure cross-border electronic exchange of case related data. Such a system, enabling citizens and businesses to exchange documents and evidence in digital form with judicial or other competent authorities, when provided ***forby*** national or Union law, should contribute to improving access to justice.

*Amendment*

(2) It is important that appropriate channels are developed to ensure that justice systems can efficiently cooperate in a digital way. Therefore, it is essential to establish, at Union level, an information technology instrument that allows swift, direct, interoperable, ***sustainable***, reliable and secure cross-border electronic exchange of case related data. Such a system, enabling citizens and businesses to exchange documents and evidence in digital form with judicial or other competent authorities, when provided ***for by*** national or Union law, should contribute to improving access to justice ***and mutual trust between Member States' judicial authorities***.

Or. en

## **Amendment 3**

### **Proposal for a regulation Recital 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**(2a)** *By improving access to justice, digitalisation of proceedings in civil and criminal matters will also help to strengthen the rule of law in the Union, while ensuring the protection of fundamental rights, such as the right to an effective remedy and to a fair trial.*

Or. en

#### **Amendment 4**

##### **Proposal for a regulation Recital 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**(4a)** *The e-CODEX system should be the preferred solution for an interoperable, secure and decentralised communication network between national IT systems in the area of cross-border judicial cooperation in civil and criminal matters.*

Or. en

#### **Amendment 5**

##### **Proposal for a regulation Recital 5**

*Text proposed by the Commission*

*Amendment*

(5) The e-CODEX system consists of two software elements: the Domibus Gateway software for the exchange of messages with other gateways and the Domibus connector software, which provides a number of functionalities related to the transmission of messages between national systems. The gateway is based on

(5) The e-CODEX system consists of two software elements: the Domibus Gateway software for the exchange of messages with other gateways and the Domibus connector software, which provides a number of functionalities related to the transmission of messages between national systems. The gateway is based on

the eDelivery building block maintained by the Commission, while the operational management of the connector is carried out by a consortium of Member States and organisations with funding from Union Programmes (the entity managing the e-CODEX system). The connector software **provides** functions such as verification of electronic signatures via a security library and proof of delivery. In addition, the entity managing the e-CODEX system **has developed templates for** digital **forms** to be used in **the** specific civil and criminal procedures **for which it has piloted** the e-CODEX system.

the eDelivery building block maintained by the Commission, while the operational management of the connector is carried out by a consortium of Member States and organisations with funding from Union Programmes (the entity managing the e-CODEX system). The connector software **should provide** functions such as **the** verification of electronic signatures **or seals** via a security library and proof of delivery. In addition, the entity managing the e-CODEX system **should develop** digital **procedural standards defining the electronic structure of the data exchanged in the context of the e-CODEX system and are** to be used in specific civil and criminal procedures. **The Commission should ensure that those digital procedural standards are laid down in an implementing act establishing detailed rules on the use of** the e-CODEX system.

Or. en

## Amendment 6

### Proposal for a regulation Recital 6

#### *Text proposed by the Commission*

(6) Given the importance of the e-CODEX system for cross-border exchanges in the justice area in the Union, there should be a sustainable Union legal framework establishing the e-CODEX system and providing rules regarding its functioning and development. Such legal framework should clearly define and frame the components of the e-CODEX system in order to guarantee its technical sustainability. The system should define the IT components of an access point, which should consist of a gateway for the purpose of secure communication with other identified gateways and a connector for the purpose of supporting the message

#### *Amendment*

(6) Given the importance of the e-CODEX system for cross-border exchanges in the justice area in the Union, there should be a sustainable Union legal framework establishing the e-CODEX system and providing rules regarding its functioning and development. Such legal framework should clearly define and frame the components of the e-CODEX system in order to guarantee its technical sustainability **and security**. The system should define the IT components of an access point, which should consist of a gateway for the purpose of secure communication with other identified gateways and a connector for the purpose



exchanges. It should also include digital procedural standards consisting of the business process models **and templates** defining the electronic format of the **documents used** in the context of those procedures to support the use of e-CODEX access points for legal procedures provided for by legal acts adopted in the area of judicial cooperation and to enable the exchange of information between the access points.

of supporting the message exchanges. It should also include digital procedural standards consisting of the business process models defining the electronic format of the **data exchanged** in the context of those procedures to support the use of e-CODEX access points for legal procedures provided for by legal acts adopted in the area of judicial cooperation **in civil and criminal matters** and to enable the exchange of information between the access points.

Or. en

## Amendment 7

### Proposal for a regulation Recital 7

#### *Text proposed by the Commission*

(7) Since it is necessary to ensure the long term sustainability of the e-CODEX system and its governance while **taking into account** the independence of the national judiciaries, an appropriate entity for the operational management of the system should be designated.

#### *Amendment*

(7) Since it is necessary to ensure the long term sustainability of the e-CODEX system and its governance while **ensuring** the independence of the national judiciaries, an appropriate entity for the operational management of the system should be designated.

Or. en

## Amendment 8

### Proposal for a regulation Recital 9

#### *Text proposed by the Commission*

(9) According to Article 19 of Regulation (EU) 2018/1726 the role of the Management Board of eu-LISA is to ensure that all decisions and actions of the Agency affecting large-scale IT systems in the area of freedom, security and justice

#### *Amendment*

(9) According to Article 19 of Regulation (EU) 2018/1726 the role of the Management Board of eu-LISA is, **inter alia**, to ensure that all decisions and actions of the Agency affecting large-scale IT systems in the area of freedom, security

respect the principle of independence of the judiciary. The ***governance structure of the*** Agency and financing scheme further guarantee the respect of that principle. ***It*** is also important to involve the legal professions and other stakeholders in the governance of the e-CODEX system through the Programme Management Board.

and justice respect the principle of independence of the judiciary. The Agency and financing scheme ***should*** further guarantee the respect of that principle. ***It*** is also important to involve the legal professions and other ***relevant*** stakeholders in the governance of the e-CODEX system through the Programme Management Board.

Or. en

## Amendment 9

### Proposal for a regulation Recital 11

*Text proposed by the Commission*

(11) The e-CODEX system can be used in cross-border civil and criminal ***proceedings. However, given its open source nature, it could also be used in other situations. This Regulation should not apply to any*** use of the e-CODEX system ***which is not based on the legal acts listed in Annex I.***

*Amendment*

(11) The e-CODEX system can be used in cross-border civil and criminal ***matters. It should be possible to use the e-CODEX system and components of the e-CODEX system for other purposes outside of the scope of judicial cooperation under national or Union law as long as such use does not impair the*** use of the e-CODEX system ***for judicial proceedings. This Regulation only applies to the cross-border exchange of data between connected systems via authorised e-CODEX access points, in accordance with the corresponding digital procedural standards.***

Or. en

## Amendment 10

### Proposal for a regulation Recital 12

*Text proposed by the Commission*

(12) eu-LISA should have responsibility

*Amendment*

(12) eu-LISA should have responsibility

for the components of the e-CODEX system, except for the operational management of the Domibus Gateway software, since that software is currently provided on a cross-sectoral basis within the eDelivery building block by the Commission. eu-LISA should take over full responsibility for the operational management of the Domibus Connector software and the digital procedural standards from the entity managing the e-CODEX system. Given that the Domibus Gateway and the Domibus Connector are integral components of e-Codex, eu-LISA should assure compatibility of the connector with the latest version of the gateway. To that end, the Commission should include eu-LISA in the relevant governance body of the eDelivery building block from the moment of the entry into force of this Regulation.

for the components of the e-CODEX system, except for the operational management of the Domibus Gateway software, since that software is currently provided on a cross-sectoral basis within the eDelivery building block by the Commission. eu-LISA should take over full responsibility for the operational management of the Domibus Connector software and the digital procedural standards from the entity managing the e-CODEX system. Given that the Domibus Gateway and the Domibus Connector are integral components of e-Codex, eu-LISA should assure compatibility of the connector with the latest version of the gateway. To that end, the Commission should include eu-LISA in the *preparatory work undertaken before eu-LISA takes over the e-CODEX system and in the* relevant governance body of the eDelivery building block from the moment of the entry into force of this Regulation.

Or. en

## Amendment 11

### Proposal for a regulation Recital 12 a (new)

*Text proposed by the Commission*

*Amendment*

***(12a) In order to supplement this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of extending the judicial procedures covered by the e-CODEX system. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>1a</sup>. In***

*particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.*

---

<sup>1a</sup> OJ L 123, 12.5.2016, p. 1.

Or. en

## Amendment 12

### Proposal for a regulation

#### Recital 13

*Text proposed by the Commission*

(13) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>34</sup>. The implementing acts adopted in that framework should establish the minimum technical specifications and standards, including on security, underpinning the components of the e-CODEX system; establish the service level requirements for the activities carried out by eu-LISA and other necessary technical specifications for these activities; and establish the modalities of the handover/takeover process. Implementing acts *could* also establish the technical arrangements supporting the use of the e-CODEX system in the procedures in the area of judicial cooperation.

---

<sup>34</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of

*Amendment*

(13) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>34</sup>. The implementing acts adopted in that framework should establish ***the digital procedural standards***; the minimum technical specifications and standards, including on security, underpinning the components of the e-CODEX system; establish the service level requirements for the activities carried out by eu-LISA and other necessary technical specifications for these activities; and establish the modalities of the handover/takeover process. Implementing acts ***should*** also establish the technical arrangements supporting the use of the e-CODEX system in the procedures in the area of judicial cooperation.

---

<sup>34</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of

16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Or. en

## Amendment 13

### Proposal for a regulation Recital 14 a (new)

*Text proposed by the Commission*

*Amendment*

***(14a) Sufficient resources should be provided to eu-LISA in order to ensure that it is able to respond in an adequate manner to the challenge posed by its undertaking of the new tasks.***

Or. en

## Amendment 14

### Proposal for a regulation Recital 15

*Text proposed by the Commission*

*Amendment*

(15) The Member States should maintain a list of authorised e-CODEX access points operated within their territory, and communicate them to eu-LISA in order to enable the interaction between them in the context of the relevant procedures. The Commission should maintain a similar list of authorised e-CODEX access points operated by the Union institutions, bodies and agencies for the same reason. The entities operating the access points at national level may be public authorities, organisations representing legal practitioners **or** private

(15) The Member States should maintain a list of authorised e-CODEX access points operated within their territory, and communicate them to eu-LISA in order to enable the interaction between them in the context of the relevant procedures. The Commission should maintain a similar list of authorised e-CODEX access points operated by the Union institutions, bodies and agencies for the same reason. The entities operating the access points at national level may be public authorities **or legal persons, such as** organisations representing legal

companies. Bearing in mind the decentralised nature of the e-CODEX system, while eu-LISA should ensure the operational management of the e-CODEX system, the responsibility for setting up and operating the authorised e-CODEX access points should lie exclusively with the entities operating the relevant access points. The entities operating the authorised e-CODEX access point should bear the responsibility for any damage resulting from the operation of the authorised e-CODEX access point.

practitioners *and* private companies, *which are authorised under national law to operate the access points. The Union institutions, bodies, offices and agencies operating authorised e-CODEX access points are to comply with the data protection requirements and principles laid down in Regulation (EU) 2018/1725 of the European Parliament and of the Council*<sup>1a</sup>. The entities operating authorised e-CODEX access points at national level are to comply with the data protection requirements and principles laid down in Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>1b</sup>. Bearing in mind the decentralised nature of the e-CODEX system, while eu-LISA should ensure the operational management of the e-CODEX system, the responsibility for setting up and operating the authorised e-CODEX access points should lie exclusively with the entities operating the relevant access points. The entities operating the authorised e-CODEX access point should bear the responsibility for any damage resulting from the operation of the authorised e-CODEX access point. *The Member States and the Commission should ensure that the entities operating the authorised e-CODEX access points have the necessary technical equipment and human resources in order to guarantee the proper functioning of the e-CODEX system.*

---

<sup>1a</sup> *Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).*

<sup>1b</sup> *Regulation (EU) 2016/679 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 and on the  
free movement of such data, and  
repealing Directive 95/46/EC (General  
Data Protection Regulation) (OJ L 119,  
4.5.2016, p. 1).*

Or. en

## **Amendment 15**

### **Proposal for a regulation Recital 15 a (new)**

*Text proposed by the Commission*

*Amendment*

*(15a) Member States should supervise  
their authorised e-CODEX access points,  
in particular where they are operated by  
entities that are not public authorities.  
Member States should ensure that  
adequate data security measures are in  
place.*

Or. en

## **Amendment 16**

### **Proposal for a regulation Recital 16**

*Text proposed by the Commission*

*Amendment*

(16) The national systems interconnected via the e-CODEX system should allow for monitoring its efficiency and effectiveness by providing a mechanism to monitor the outputs, results and impacts of instruments that enable the transmission of electronic data in the context of cross-border civil and criminal proceedings in the Union. The systems connected to the authorised e-CODEX

(16) The national systems interconnected via the e-CODEX system should allow for monitoring its efficiency and effectiveness by providing a mechanism to monitor the outputs, results and impacts of instruments that enable the transmission of electronic data in the context of cross-border civil and criminal proceedings in the Union. The systems connected to the authorised e-CODEX



access points should therefore be able to systematically collect and maintain comprehensive data on the use of cross-border civil and criminal proceedings in accordance with the relevant provisions of the legal acts *listed in Annex I*. This should not only alleviate the work of the Member States in collecting the relevant data and ensure mutual accountability and transparency, but also significantly facilitate the ex-post monitoring of the legal acts adopted in the area of civil and criminal cooperation by the Commission. The collected information should only encompass aggregated data and should not constitute personal data.

access points should therefore be able to systematically collect and maintain comprehensive data on the use of cross-border civil and criminal proceedings in accordance with the relevant provisions of the legal acts *adopted in the area of cross-border judicial cooperation in civil and criminal matters within the competence of the Union*. This should not only alleviate the work of the Member States in collecting the relevant data and ensure mutual accountability and transparency, but also significantly facilitate the ex-post monitoring of the legal acts adopted in the area of civil and criminal cooperation by the Commission. The collected information should only encompass aggregated data and should not constitute personal data.

Or. en

## Amendment 17

### Proposal for a regulation Recital 17

#### *Text proposed by the Commission*

(17) eu-LISA should maintain a high level of security when carrying out its tasks. When undertaking further technical evolutions of software, eu-LISA should implement the principles of security by design and data protection by design and by default, in accordance with Regulation (EU) 2018/1725. The entities operating the authorised e-CODEX access point should bear the responsibility for the security of the data transmitted via their access points.

#### *Amendment*

(17) eu-LISA should maintain a high level of security when carrying out its tasks. When undertaking further technical evolutions of software, eu-LISA should implement the principles of security by design and data protection by design and by default, in accordance with Regulation (EU) 2018/1725. The entities operating the authorised e-CODEX access point should bear the responsibility for the security *and the protection* of the data transmitted via their access points.

Or. en



## Amendment 18

### Proposal for a regulation Recital 21

#### *Text proposed by the Commission*

(21) In order for the Commission to be able to evaluate the e-CODEX system on a regular basis, eu-LISA should report to the Commission every two years on the technical evolution and the technical functioning of the e-CODEX system. In order to feed into that report, Member States should provide eu-LISA with the relevant information concerning the access points operated in their territory and the Commission should provide similar information concerning the access points operated by Union institutions, bodies and agencies.

#### *Amendment*

(21) In order for the Commission to be able to evaluate the e-CODEX system on a regular basis, eu-LISA should report to the Commission every two years on the technical evolution and the technical functioning of the e-CODEX system. In order to feed into that report, Member States should provide eu-LISA with the relevant information concerning the access points operated in their territory and the Commission should provide similar information concerning the access points operated by Union institutions, bodies and agencies. ***The information on the evaluation of the e-CODEX system should be regularly transmitted by the Commission to the European Parliament and to the Council.***

Or. en

## Amendment 19

### Proposal for a regulation Article 1 – paragraph 1

#### *Text proposed by the Commission*

This Regulation establishes a decentralised IT system for cross-border communication for the purpose of facilitating electronic exchange of documents, requests, legal forms, evidence or other information in a secure and reliable manner in cross-border civil and criminal proceedings (e-Justice Communication via Online Data EXchange - e-CODEX system).

#### *Amendment*

This Regulation establishes a decentralised IT system for cross-border communication for the purpose of facilitating electronic exchange of documents, requests, legal forms, evidence or other information in a ***swift***, secure and reliable manner in cross-border civil and criminal proceedings (e-Justice Communication via Online Data EXchange - e-CODEX system).

Or. en

## Amendment 20

### Proposal for a regulation Article 2 – paragraph 1

#### *Text proposed by the Commission*

This Regulation shall apply to the electronic transmission of information in the context of cross-border civil and criminal **proceedings** by means of the e-CODEX system in accordance with the legal acts adopted in the area of judicial cooperation **listed in Annex I**.

#### *Amendment*

This Regulation shall apply to the electronic transmission of information in the context of cross-border **judicial cooperation in** civil and criminal **matters** by means of the e-CODEX system in accordance with the legal acts adopted in the area of judicial cooperation **in civil and criminal matters within the competence of the Union**.

Or. en

## Amendment 21

### Proposal for a regulation Article 3 – paragraph 1 – point b

#### *Text proposed by the Commission*

(b) ‘authorised e-CODEX access point’ means an e-CODEX access point which has been notified to eu-LISA in accordance with Article 5(4) or Article 7(1) and which is operating **a** digital procedural **standard** as referred to in Article 4(3);

#### *Amendment*

(b) ‘authorised e-CODEX access point’ means an e-CODEX access point **authorised under national or Union law** which has been notified to eu-LISA **by the Commission or a Member State** in accordance with Article 5(4) or Article 7(1) and which is operating **one or more** digital procedural **standards** as referred to in Article 4(3).

Or. en

## Amendment 22

### Proposal for a regulation Article 3 – paragraph 1 – point b a (new)

*Text proposed by the Commission*

*Amendment*

**(ba) ‘e-CODEX correspondent’ means an entity designated by a Member State or the Commission as competent to request and receive technical support as referred to in point (f) of Article 6(2) from eu-LISA in relation to the e-CODEX system;**

Or. en

## **Amendment 23**

### **Proposal for a regulation**

#### **Article 3 – paragraph 1 – point c**

*Text proposed by the Commission*

(c) ‘entity operating an authorised e-CODEX access point’ means a Union institution, body or agency, **a national public authority or legal person** which is operating an authorised e-CODEX access point;

*Amendment*

(c) ‘entity operating an authorised e-CODEX access point’ means a Union institution, body, **office** or agency, a national public authority or legal person **authorised under the national law** which is operating an authorised e-CODEX access point;

Or. en

## **Amendment 24**

### **Proposal for a regulation**

#### **Article 3 – paragraph 1 – point g a (new)**

*Text proposed by the Commission*

*Amendment*

**(ga) ‘digital procedural standard’ means the technical specifications on business process models and the data schemas based on the Union e-Justice Core Vocabulary defining the electronic structure of the data exchanged in the context of the e-CODEX system.**

Or. en

## Amendment 25

### Proposal for a regulation Article 4 – paragraph 3

*Text proposed by the Commission*

3. A digital procedural standard shall consist of the business process models **and the templates** defining the electronic format of the documents used in the context of the procedures laid down by legal acts **listed in Annex I**.

*Amendment*

3. A digital procedural standard shall consist of the business process models defining the electronic format of the documents used in the context of the procedures laid down by legal acts ***referred to in Article 2 and shall be developed by eu-LISA and set up by the Commission in implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 17(2).***

Or. en

## Amendment 26

### Proposal for a regulation Article 5 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***3a. The Commission is empowered to adopt delegated acts in accordance with Article 17a to supplement this Regulation by extending the judicial procedures covered by the e-CODEX system.***

Or. en

## Amendment 27

### Proposal for a regulation Article 5 – paragraph 4

*Text proposed by the Commission*

*Amendment*

4. The Commission shall maintain a

4. The Commission shall maintain a

list of authorised e-CODEX access points which are operated by Union institutions, bodies and agencies, and the cross-border civil and criminal **procedures** as well as **forms** which each access point is authorised to **apply**. It shall notify the changes to eu-LISA without delay, without prejudice to the annual notification provided for in Article 14.

list of authorised e-CODEX access points which are operated by Union institutions, bodies, **offices** and agencies, and the cross-border civil and criminal **matters** as well as **the digital procedural standards with** which each access point is authorised to **operate**. It shall notify the changes to eu-LISA without delay, without prejudice to the annual notification provided for in Article 14.

Or. en

## Amendment 28

### Proposal for a regulation Article 6 – paragraph 1

#### *Text proposed by the Commission*

1. eu-LISA shall be responsible for the operational management of the components of the e-CODEX system referred to in Article 4(2)(b) and (3) and of the supporting software listed in Annex II.

#### *Amendment*

1. eu-LISA shall be responsible for the operational management of the components of the e-CODEX system referred to in Article 4(2)(b) and (3) **and Article 10** and of the supporting software listed in Annex II.

Or. en

## Amendment 29

### Proposal for a regulation Article 6 – paragraph 2 – point g

#### *Text proposed by the Commission*

(g) maintenance and distribution to the authorised e-CODEX access points of the **business process models, of the templates** defining the electronic format of **documents** referred to in Article 4(3) and of the underlying pre-defined collection of data models;

#### *Amendment*

(g) maintenance and distribution to the authorised e-CODEX access points of the **digital procedural standards** defining the electronic format of **data** referred to in Article 4(3) and of the underlying pre-defined collection of data models;

Or. en

## Amendment 30

### Proposal for a regulation

#### Article 6 – paragraph 2 – point j

*Text proposed by the Commission*

(j) preparation and distribution to the authorised e-CODEX access points of new ***business process models and templates defining the electronic format of documents referred to in Article 4(3)***, including by organising and facilitating workshops with the e-CODEX correspondents.

*Amendment*

(j) preparation and distribution to the authorised e-CODEX access points of new ***digital procedural standards***, including by organising and facilitating workshops with the e-CODEX correspondents.

Or. en

## Amendment 31

### Proposal for a regulation

#### Article 6 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***4a. eu-LISA and the Commission shall conclude a memorandum of understanding in order to ensure coherence between the exercise of their respective responsibilities in relation to the components of the e-CODEX system referred to in Article 4(2).***

Or. en

## Amendment 32

### Proposal for a regulation

#### Article 7 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Member States shall maintain a list of authorised e-CODEX access points,

1. Member States shall maintain a list of authorised e-CODEX access points,

operated within their territory, and the cross-border civil and criminal procedures as well as **forms** which each access point is authorised to apply. They shall notify the changes to eu-LISA without delay, without prejudice to the annual notification provided for in Article 14.

operated within their territory, and the cross-border civil and criminal procedures as well as **the digital procedural standards** which each access point is authorised to apply. **All authorised e-CODEX access points in one Member State shall apply all the digital procedural standards adopted under this Regulation.** They shall notify the changes to eu-LISA without delay, without prejudice to the annual notification provided for in Article 14.

Or. en

## Amendment 33

### Proposal for a regulation Article 7 – paragraph 2

#### *Text proposed by the Commission*

2. Each Member State shall designate up to **five** e-CODEX correspondents. Only those correspondents shall be entitled to request and receive the technical support referred to in Article 6(2)(f).

#### *Amendment*

2. Each Member State shall designate up to **ten** e-CODEX correspondents. Only those correspondents shall be entitled to request and receive the technical support referred to in Article 6(2)(f). **Each Member State shall communicate a list of its designated e-CODEX correspondents and any modification thereto to eu-LISA.**

Or. en

## Amendment 34

### Proposal for a regulation Article 8 – paragraph 1

#### *Text proposed by the Commission*

1. The entity operating an authorised e-CODEX access point shall be responsible for its secure set-up and operation. This responsibility shall include the necessary adaptations to the connector referred to in Article 4(2)(b) to make it compatible with

#### *Amendment*

1. The entity operating an authorised e-CODEX access point shall be responsible for its secure set-up and operation. This responsibility shall include the necessary adaptations to the connector referred to in Article 4(2)(b) to make it compatible with

any connected systems and any other necessary technical adaptations to its connected systems.

any **relevant** connected systems and any other necessary technical adaptations to its connected systems.

Or. en

## Amendment 35

### Proposal for a regulation Article 8 – paragraph 2

#### *Text proposed by the Commission*

2. The entity operating an authorised e-CODEX access point shall provide for a mechanism in its connected system(s) allowing for the retrieval of relevant data on the use of cross-border civil and criminal procedures in accordance with the relevant provisions of the legal acts **listed in Annex I**.

#### *Amendment*

2. The entity operating an authorised e-CODEX access point shall provide for a mechanism in its connected system(s) allowing for the retrieval of relevant data on the use of cross-border civil and criminal procedures in accordance with the relevant provisions of the legal acts **referred to in Article 2**.

Or. en

## Amendment 36

### Proposal for a regulation Article 8 – paragraph 3

#### *Text proposed by the Commission*

3. The responsibility for any damage resulting from the operation of an authorised e-CODEX access point and any connected systems shall be borne by the entity operating that authorised e-CODEX access point.

#### *Amendment*

3. The responsibility for any damage resulting from the operation of an authorised e-CODEX access point and any connected systems shall be borne by the entity operating that authorised e-CODEX access point, **which can reclaim the damage from a responsible third person or entity**.

Or. en



## Amendment 37

### Proposal for a regulation Article 12 – paragraph 2

*Text proposed by the Commission*

2. The Programme Management Board shall be composed of eight members appointed by the Management Board, the Chair of the Advisory Group referred to in Article 11 and one member appointed by the Commission. The Management Board shall ensure that the members it appoints to the Programme Management Board have the necessary experience and expertise regarding the e-CODEX system.

*Amendment*

2. The Programme Management Board shall be composed of eight members appointed by the Management Board **from among its members**, the Chair of the Advisory Group referred to in Article 11 and one member appointed by the Commission. The Management Board shall ensure that the members it appoints to the Programme Management Board have the necessary experience and expertise regarding the e-CODEX system.

Or. en

## Amendment 38

### Proposal for a regulation Article 12 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a. The term of office of the members of the Programme Management Board and their alternates shall be four years and shall be renewable.**

Or. en

## Amendment 39

### Proposal for a regulation Article 12 – paragraph 3

*Text proposed by the Commission*

3. eu-LISA shall participate in the work of the Programme Management Board. To that end, **representatives** of eu-

*Amendment*

3. eu-LISA shall participate in the work of the Programme Management Board. To that end, **one representative** of

LISA shall attend the meetings of the Programme Management Board in order to report on work regarding the e-CODEX system and on any other related work and activities.

eu-LISA shall attend the meetings of the Programme Management Board in order to report on work regarding the e-CODEX system and on any other related work and activities.

Or. en

## Amendment 40

### Proposal for a regulation Article 12 – paragraph 4

#### *Text proposed by the Commission*

4. The Programme Management Board shall meet at least once every three months, and more often when necessary. It shall ensure the adequate management of the e-CODEX system, in particular during the handover/takeover process and with regard to the implementation of the acts adopted pursuant to Article 5(2). The Programme Management Board shall submit written reports regularly and ***if possible every second month*** to the Management Board of eu-LISA on ***the progress of the project***. The Programme Management Board shall have no decision-making power nor any mandate to represent the members of the Management Board.

#### *Amendment*

4. The Programme Management Board shall meet at least once every three months, and more often when necessary. It shall ensure the adequate management of the e-CODEX system, in particular during the handover/takeover process and with regard to the implementation of the acts adopted pursuant to Article 5(2). The Programme Management Board shall submit written reports regularly and ***at least after every official meeting*** to the Management Board of eu-LISA on ***the status of the e-CODEX system***. The Programme Management Board shall have no decision-making power nor any mandate to represent the members of the Management Board.

Or. en

## Amendment 41

### Proposal for a regulation Article 12 – paragraph 5 – point a

#### *Text proposed by the Commission*

(a) choice of the ***chair***;

#### *Amendment*

(a) choice of the ***chairperson and of the deputy chairperson and their terms of office***;

## Amendment 42

### Proposal for a regulation

#### Article 12 – paragraph 5 – point d

##### *Text proposed by the Commission*

(d) admission of experts to the meetings, including professional organisations **and** other stakeholders, participating in the management of the e-CODEX system at the moment of its handover;

##### *Amendment*

(d) admission of experts to the meetings, including professional organisations **or** other **relevant** stakeholders participating in the management of the e-CODEX system at the moment of its handover;

Or. en

## Amendment 43

### Proposal for a regulation

#### Article 12 – paragraph 7

##### *Text proposed by the Commission*

7. All travel and subsistence expenses incurred by the members of the Programme Management Board shall be paid by eu-LISA. Article 10 of the eu-LISA Rules of Procedure shall apply mutatis mutandis.

##### *Amendment*

7. All travel and subsistence expenses incurred by the members of the Programme Management Board shall be **reasonable and proportionate and be** paid by eu-LISA. Article 10 of the eu-LISA Rules of Procedure shall apply mutatis mutandis.

Or. en

## Amendment 44

### Proposal for a regulation

#### Article 12 a (new)

##### *Text proposed by the Commission*

##### *Amendment*

##### *Article 12a*

##### *Separation of powers and independence*

*of the judiciary*

*When carrying out their responsibilities under this Regulation, all entities shall respect the principle of the separation of powers and ensure that their decisions and actions respect the principle of the independence of the judiciary.*

Or. en

## **Amendment 45**

### **Proposal for a regulation**

#### **Article 14 – paragraph 1 – point c**

*Text proposed by the Commission*

(c) the number of messages sent and received by each authorised e-CODEX access point operating within their territory, grouped by corresponding authorised e-CODEX access point and cross-border civil and criminal procedure;

*Amendment*

(c) the number of **official** messages sent and received by each authorised e-CODEX access point operating within their territory, grouped by corresponding authorised e-CODEX access point and cross-border civil and criminal procedure;

Or. en

## **Amendment 46**

### **Proposal for a regulation**

#### **Article 616 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 16a**

##### ***Exercise of the delegation***

***1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.***

***2. The power to adopt delegated acts referred to in Article 5(3a) shall be conferred on the Commission for an indeterminate period of time from ... [date of entry into force of this Regulation].***

*3. The delegation of power referred to in Article 5(3a) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*

*4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.*

*5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*

*6. A delegated act adopted pursuant to Article 5(3a) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.*

Or. en

## **Amendment 47**

### **Proposal for a regulation Annex I**

*Text proposed by the Commission*

*Amendment*

**[...]**

***deleted***

Or. en

## EXPLANATORY STATEMENT

The Rapporteurs will present hereafter the main reasons for the amendments presented in the draft report on the proposal for a Regulation of the European Parliament and of the Council on a computerised system for communication in cross-border civil proceedings and in criminal proceedings (e-Justice Communication via Online Data Exchange – e-CODEX system), and amending the Regulation (EU) 2018/1726 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA).

### Introduction

E-Justice is one of the cornerstones of the efficient functioning of judicial systems in the Member States and at the European level. It is an essential instrument to facilitate the access to justice and provide legal protection to European citizens and companies in the digital era. It is thus important that appropriate channels are developed to ensure that justice systems can efficiently cooperate in a digital way.

The Commission's Communication on the digitalisation of justice, *A toolbox of opportunities*, of 2 December 2020, sets out a new approach to the digitalization of justice based on a comprehensive set of financial and IT legal instruments to be used by various actors in the judicial systems. The Commission also presented the “Proposal for a Regulation on a computerised system for communication in cross-border civil and criminal proceedings (e-CODEX system)”, the e-CODEX Regulation.

On 29 April 2021 it was announced that the file shall be dealt with jointly by two committees - the Civil Liberties, Justice and Home Affairs Committee (LIBE), and the Legal Affairs Committee (JURI). MEP Emil Radev (JURI) and MEP Nuno Melo (LIBE) were appointed rapporteurs for the referred Regulation.

E-CODEX is a golden standard/key technological enabler for modernising, through digitalisation, the communication in the context of cross-border judicial proceedings. Since the start of the project in December 2010, e-CODEX has transformed from an ambitious project to an operational Digital Service Infrastructure (DSI) in the judicial domain. Currently, the focus lies on the transition of the e-CODEX project towards a long-term sustainable and secure solution for the maintenance of e-CODEX.

The Rapporteurs believe that this Regulation, as an instrument which is directly applicable in all Member States and binding in its entirety, will guarantee a uniform application of the rules on e-CODEX across the EU and their entry into force at the same time. They welcome the aim to offer legal certainty by avoiding divergent interpretations in the Member States, thus preventing legal fragmentation. By establishing the e-CODEX system, the adoption of the Regulation will contribute to the uptake of e-CODEX by more Member States for procedures in which the system is already used as well as for future ones.

The E-CODEX project aims to improve the cross-border access of citizens and businesses to justice in European Union as well as to improve the interoperability between judicial authorities within the European Union. It is designed as a decentralized system based on a distributed architecture that enables connectivity between national systems.

The rapporteurs believe that the e-CODEX system should be seen as a preferred solution for the establishment of interoperable and secure decentralised communication networks between national IT systems in cross-border judicial cooperation in civil and criminal matters.

The Proposal aims to entrust the further development and maintenance of e-CODEX to the European Union Agency for the Operational Management of Large-Scale IT Systems in the

Area of Freedom, Security and Justice (eu-LISA) as of July 2023.

## **1. Scope**

The scope of this Regulation is the electronic exchange of data in the context of cross-border judicial cooperation in civil and criminal matters (Article 2).

The e-CODEX system should be viewed as the preferred solution for an interoperable, secure and decentralised communication network between national IT systems in this field.

The rapporteurs are of the opinion that Annex I, containing a list of instruments providing for judicial procedures subject to eCodex, should be deleted. The scope of the Regulation should instead be established by reference to the judicial cooperation in civil and criminal matters (Article 2). This allows for avoiding any risk of leaving out of the scope judicial procedures for which it is appropriate to foresee the possibility to use e-Codex.

Moreover, a simple reference to Article 81 and 82 TFEU would have not been sufficient as instruments predating the Lisbon Treaty would not have been covered.

Finally, the Regulation should only deal with the use of e-Codex for procedures in civil and criminal matters. Other uses of e-Codex that may be established by future legislative acts should not be addressed by this Regulation as they would require adaptations that cannot be foreseen at present (Recital 11; Article 2).

## **2. Definitions**

The Commission proposal does not contain clear and concrete provisions regarding the operating conditions of access points.

The rapporteurs further developed the terminology of e-Codex to give more clarity to the following expressions: “*authorised e-Codex Access point*”, “*e-Codex correspondents*” and “*digital procedural standards*” (Article 3).

## **3. Allocation of responsibilities**

It is necessary to ensure the long-term sustainability of the e-CODEX system and the efficiency of its governance while ensuring the independence of the national judiciaries; therefore, an appropriate entity for the operational management of the system is to be designated. The proposal provides for the creation of an e-CODEX Advisory Group and a Programme Management Board for e-CODEX (Article 12).

Safeguards have been introduced for the independence of the judiciary that shall never be negatively impacted on by the e-CODEX system (recitals 7 and 9; Article 12a new).

For a sound and clear operation of the eCodex system, further amendments have been tabled to precisely delineate the roles of the Commission, the Member States and eu-Lisa (Recitals 5, 12, 15, 21; Articles 3(1)b, 3(1)ba new, 6(4)a new, 7, and 16a new).

## **4. Optimisation of the e-CODEX system**

The rapporteurs introduced, for the sake of efficiency of e-Codex, some specifications on the authorized access points and on the designation of correspondents by Member States (Article 3(1)b, Article 3(1)ba new and Article 7).

## **5. Delegation of powers to COM**

Since the scope of the eCodex Regulation should be limited to the judicial cooperation in civil and criminal matters, but given that in the future it could be appropriate to make other procedures subject to the eCodex system, the two Rapporteurs are of the view that a certain flexibility is needed when it comes to the scoping of the Regulation itself. This is why provisions on delegated acts have been introduced. These provisions allow for further



expanding the operation of eCodex while fully preserving the prerogatives of the Parliament on the scoping of the Regulation (Article 5(3a) new and 16a new).

In the Commission Financial Statement, reference is made to the expansion of the eCodex system to other procedures via implementing acts (point 2.2.3). This would be neither desirable nor legally appropriate. However, since the Financial Statement cannot be amended by the co-legislators, the insertion of the provisions empowering the Commission to adopt delegated acts is sufficient to keep parliamentary scrutiny intact.

## **6. Private entities operating the access points and data protection**

Judicial authorities and public prosecutors in many Member States usually have recourse to the services of contractors. Therefore, providing for the involvement of private entities and limiting it to the functioning of the e-Codex system does not set a dangerous precedent.

However, safeguards should be in place given the sensitivity of the administration of justice and of the data and information dealt with by judicial authorities.

This is the reason why the two Rapporteurs have foreseen that private entities can operate the access points only if authorised by Member States and provided that they fully comply, like public authorities possibly charged with that same task, with existing legislation on data protection (Recital 15, 15a new, 17; Article 12a new).

## **7. e-Justice Core Vocabulary**

With a view to strongly and thoroughly encourage judicial cooperation and mutual trust, interoperability should be ensured not only as regards Information and Communication Technology, but also in relation to terminology. Otherwise, even the most efficient system of interconnection would not be sufficient to make judicial authorities, legal practitioners, citizens, businesses and stakeholders properly understand each other.

It is in the light of this that the two rapporteurs have chosen to insert the reference to the e-Justice Core Vocabulary in the definition of the “*digital procedural standard*” (Article 3, paragraph 1, point ga, new).

## **Conclusion**

The two rapporteurs find that the proposal put forward by the Commission goes in the right direction by putting the question of interoperability at the heart of the EU efforts to stimulate and enhance the judicial cooperation across the continent.

The proposal itself can be considerably improved to find a delicate and vital balance between interoperability and judicial independence, efficiency and data protection, speed and fundamental rights, technology and the rule of law.