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General Secretariat

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WORKING PAPER

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WORKING DOCUMENT

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| From: | Presidency |
| To: | Delegations |
| N° prev. doc.: | WK 1362/2020 |
| Subject: | Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters – Preparation of the second technical meeting and the second trialogue with the European Parliament |

In preparation of the JHA Counsellors meeting on 2 March 2020, delegations will find attached the 4-column table setting out the positions that the Presidency suggests to present at the second technical meeting with the European Parliament that will take place on 5 March 2020 and the second trialogue with the European Parliament on 10 March 2020

| <i>Row</i> | COMMISSION PROPOSAL COM(2018)0378 FINAL | EP TEXT | COUNCIL TEXT | CONSOLIDATED TEXT / COMPROMISE PROPOSALS / COMMENTS |
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| 1 | THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, | THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, | THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, | |
| 2 | Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81 thereof, | Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81 thereof, | Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81 thereof, | |
| 3 | Having regard to the proposal from the European Commission, | Having regard to the proposal from the European Commission, | Having regard to the proposal from the European Commission, | |
| 4 | After transmission of the draft legislative act to the national parliaments, | After transmission of the draft legislative act to the national parliaments, | After transmission of the draft legislative act to the national parliaments, | |
| 5 | Having regard to the opinion of the European Economic and Social Committee ¹ , | Having regard to the opinion of the European Economic and Social Committee ¹ , | Having regard to the opinion of the European Economic and Social Committee ¹ , | |
| 6 | Acting in accordance with the ordinary legislative procedure, | Acting in accordance with the ordinary legislative procedure ² , | Acting in accordance with the ordinary legislative procedure, | |
| 7 | Whereas: | Whereas: | Whereas: | |

¹ OJ C , , p. .

² *Position of the European Parliament of 13 February 2019.*

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| 8 | (1) In the interests of the proper functioning of the internal market, it is necessary to further improve and expedite cooperation between courts in the taking of evidence. | (1) In the interests of the proper functioning of the internal market and the development of a European area of civil justice governed by the principle of mutual trust and mutual recognition of judgments , it is necessary to further improve and expedite cooperation between courts in the Member States in relation to the taking of evidence. | (1) In the interests of the proper functioning of the internal market, it is necessary to further improve and expedite cooperation between courts in the taking of evidence. | In principle acceptable. |
| 9 | (2) Council Regulation (EC) No 1206/2001 ² lays down rules on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters. | (2) Council Regulation (EC) No 1206/2001 ² lays down rules on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters. | (2) Council Regulation (EC) No 1206/2001 ² lays down rules on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters. | Identical. |
| 10 | | <i>(2a) For the purposes of this Regulation, the term ‘court’ should be given a broad meaning so as to cover not only courts in the strict sense of the word, that exercise judicial functions, but also other bodies or authorities which are competent under national law to</i> | <u>(2a) For the purposes of this Regulation, the term ‘court’ should mean also other authorities exercising judicial functions or acting pursuant to a delegation of power by a judicial authority or acting under the control of a judicial authority</u> | Maintain the general approach. |

² Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (OJ L 174, 27.6.2001, p. 1).

³ **Council Regulation (EU) No 2019/1111 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (OJ L 178, 2.7.2019, p. 1).**

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| | | <i>take evidence in accordance with this Regulation, such as enforcement authorities or notaries in certain Member States and in specific situations.</i> | <u>which are competent to take evidence according to national law for the purposes of judicial proceedings in civil and commercial matters, in particular authorities qualified as court under other Union law instruments, such as Council Regulation (EU) No 2019/1111³, Regulation (EU) No 1215/2012 of the European Parliament and of the Council⁴ and Regulation (EU) No 650/2012 of the European Parliament and of the Council⁵.</u> | |
| 11 | | <i>(2b) It is essential that effective means of obtaining, preserving and presenting evidence are available, and that due regard is given to the rights of defence and the need for protection of confidential information. In this context, it is important to encourage the use of</i> | | In principle acceptable. |

⁴ Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1).

⁵ Regulation (EU) No 650/2012 of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession (OJ L 201, 27.7.2012, p. 107).

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| | | <i>modern technology.</i> | | |
| 12 | (3) In order to ensure speedy transmission of requests and communications, all appropriate means of modern communication technology should be used. Therefore, as a rule, all communication and exchanges of documents should be carried out through a decentralised IT system composed of national IT systems. | (3) In order to <i>effectively</i> ensure <i>direct and</i> speedy transmission of requests and communications, all appropriate means of modern communication technology should be used, <i>and in that regard the constant development of such technology should be taken into account.</i> Therefore, as a rule, all communication and exchanges of documents should be carried out through a decentralised IT system composed of national IT systems. | (3) In order to ensure speedy transmission of requests and communications, all appropriate means of modern communication technology should be used. <u>Therefore, as a rule, all</u> communication and exchanges of documents should be carried out through <u>a secure</u> decentralised IT system composed of national IT systems. <u>For that purpose, such a decentralised IT system for data exchanges in accordance with this Regulation should be established. The decentralised nature of this system means that it will exclusively enable data exchanges from one Member State to another, without involvement of any of the Union institutions in those exchanges.</u> | Presidency suggestion: Identical solution is suggested in the SoD proposal. 'Therefore, as a rule, all communication and exchanges of documents should be carried out through a secure decentralised IT system composed of national IT systems <u>and preferably based on an (existing) interoperable solution such as eCODEX.</u> ' |
| 13 | | <i>(3a) The decentralised IT system should be based on the e-CODEX system and should be managed by eu-LISA. Adequate resources</i> | <u>(3a) The competent authority or authorities under the law of the Member State should be responsible as controllers for</u> | Council text - maintain the general approach. |

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| | | <p><i>should be made available to eu-LISA so that such a system can be introduced and kept operational, as well as to provide technical support in the event of problems in the operation of the system. The Commission should submit, as soon as possible, and in any event before the end of 2019, a proposal for a Regulation on cross-border communication in judicial proceedings (e-CODEX).</i></p> | <p><u>the processing of personal data that they carry out under this Regulation for the transmission of requests and other communications between Member States. The Commission, or any other Union institution, is not involved in any personal data processing carried out within the decentralised IT system established by this Regulation.</u></p> | |
| 14 | | | <p><u>(3b) The Commission should be responsible for the creation, maintenance and future development of a reference implementation software which Member States may choose to apply instead of a national IT system. The reference implementation software should be designed, developed and maintained in compliance with the data protection requirements and principles</u></p> | Maintain the general approach. |

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| | | | <u>laid down in Regulation (EU) 2018/1725⁶ and Regulation (EU) 2016/679⁷, in particular the principles of data protection by design and by default. It should also implement appropriate technical measures and enable the necessary organisational measures in order to ensure a level of security and interoperability which is appropriate for the exchanges of information in the area of taking of evidence.</u> | |
| 15 | | | <u>(3c) Transmission through the decentralised IT system could be impossible due to a disruption of the system or the nature of evidence, for example when transmitting DNA or blood samples. Other means of</u> | Maintain the general approach. |

⁶ **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).**

⁷ **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).**

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| | | | <p><u>communication could be more appropriate also in exceptional circumstances, which could include a situation where converting voluminous documentation to electronic form would impose a disproportionate administrative burden on the competent authorities or where the original document in paper format is needed to assess its authenticity. When the decentralised IT system would not be used, transmission should be carried out by the most appropriate means. This would mean, inter alia, that transmission should be performed as swiftly as possible and in a secure manner by other secure electronic means or by post.</u></p> | |
| 16 | (4) In order to ensure mutual recognition of digital evidence such evidence taken in a Member State in accordance with its law should not be denied recognition as evidence in other Member | (4) In order to ensure mutual recognition of digital evidence such evidence taken in a Member State in accordance with its law should not be denied recognition as evidence in other Member States only because of | (4) In order to ensure mutual recognition of enhance cross-border electronic transmissions digital evidence such evidence taken in a Member State in accordance with its <u>law the</u> | <p>Maintain the general approach.</p> <p>EP text, in principle acceptable, subject to redrafting.</p> <p>EP to explain "level of quality" and the "value of evidence".</p> |

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| | States only because of its digital nature. | its digital nature. <i>That principle should be without prejudice to determining, in accordance with national law, the level of quality and the value of evidence, regardless of its digital or non-digital nature.</i> | <u>documents transmitted through the decentralised IT system</u> should not be denied <u>legal effect and admissibility as evidence in the proceedings solely on the grounds that they are in an electronic form</u> recognition as evidence in other Member States only because of its digital nature. <u>However, this principle should not otherwise affect the competence of the court seised with the proceedings to assess legal effects of such documents or their admissibility as evidence. It should also be without prejudice to requirements of national law on conversion of documents.</u> | |
| 17 | (5) Regulation (EC) No 1206/2001 should be without prejudice to the possibility for authorities to exchange information under systems established by other Union | (5) Regulation (EC) No 1206/2001 should be without prejudice to the possibility for authorities to exchange information under systems established by other Union instruments, such as Council | (5) Regulation (EC) No 1206/2001 should be without prejudice to the possibility for authorities to exchange information under systems established by other Union | Juriste-linguiste matter. |

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| | instruments, such as Council Regulation (EC) No 2201/2003 ³ or Council Regulation (EC) No 4/2009 ⁴ , even where that information has evidentiary value, thus leaving the choice of the most suitable method to the requesting authority. | Regulation (EC) No 2201/2003 ³ or Council Regulation (EC) No 4/2009 ⁴ , even where that information has evidentiary value, thus leaving the choice of the most suitable method to the requesting authority. | instruments, such as Council Regulation (EC) No 2201/2003³ (EU) No 2019/1111 or Council Regulation (EC) No 4/2009 ⁴⁸ , even where that information has evidentiary value, thus leaving the choice of the most suitable method to the requesting authority. | |
| 18 | | <i>(5a) The procedures for taking, preserving and presenting evidence should ensure that the procedural rights of the parties, as well as the protection, integrity and confidentiality of personal data and privacy, are protected in accordance with Union law.</i> | | Reject EP text. "Procedures for taking, preserving and presenting evidence" is regulated in national law. |
| 19 | (6) Modern communications technology, in particular videoconferencing which is an important means to simplify and accelerate the taking of evidence, is currently not used to its full potential. Where evidence is to be taken by hearing a person | (6) Modern communications technology, in particular videoconferencing which is an important and direct means to simplify and accelerate the taking of evidence, is currently not used to its full potential. Where evidence is to be taken by hearing a person | (6) Modern communications technology, in particular for example videoconferencing which is an important means to simplify and accelerate the taking of evidence, is currently not used to its full potential. Where evidence is to be taken by hearing a person | Maintain the general approach. |

³ ~~Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ L 338, 23.12.2003, p. 1).~~

⁴ Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ L 7, 10.1.2009, p. 1).

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| | domiciled in another Member State as witness, party or expert, the court should take that evidence directly via videoconference, if available to the respective courts, where it deems the use of such technology appropriate on account of the specific circumstances of the case. | domiciled in another Member State as witness, party or expert, the court should take that evidence directly via videoconference, if <i>or via any other appropriate distance communication technology</i> available to the respective courts, where it deems the use of such technology appropriate <i>unless</i> , on account of the specific circumstances of the case, <i>the use of such technology is deemed inappropriate for the fair conduct of the proceedings. The rules on the use of such means of communication should be technology-neutral and cater for future communication solutions. Where required by the national law of the Member State concerned, the use of such technology should be subject to the consent of the person to be heard.</i> | domiciled <u>present</u> in another Member State, the <u>requesting</u> court should take that evidence directly via videoconference <u>or other distance communication technology</u> , if available to the respective courts, where it deems the use of such technology appropriate on account of the specific circumstances of the case. <u>Videoconference could also be used to hear a child as provided by Council Regulation (EU) No 2019/1111. However, direct taking of evidence should be done, if necessary, under conditions determined by the central body or competent authority of the requested Member State according to the national law of that Member State and may be refused wholly or partially if it is contrary to fundamental principles of its law.</u> | |
| 20 | (7) In order to facilitate the taking of evidence by diplomatic officers or consular agents, such | (7) In order to facilitate the taking of evidence by diplomatic officers <i>staff</i> or consular agents, such persons | (7) In order to facilitate the taking of evidence by diplomatic officers or consular agents, <u>each Member</u> | Maintain the general approach. Staff is a too broad term. |

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| | <p>persons may, in the territory of another Member State and within the area where they exercise their functions, take evidence without the need for a prior request by hearing nationals of the Member State which they represent without compulsion in the context of proceedings pending in the courts of the Member State which they represent.</p> | <p>may, in the territory of another Member State and within the area where they exercise their functions are accredited, take evidence at the premises of their diplomatic mission or consulate without the need for a prior request by hearing nationals of the Member State which they represent without compulsion in the context of for proceedings pending in the courts of the Member State which they represent, provided that the person to be heard voluntarily cooperates in the taking of evidence.</p> | <p><u>State should be free to use</u> such persons may, in the territory of another Member State and within the area where they are accredited exercise their functions, to take evidence without the need for a prior request by hearing nationals of the Member State which they represent without compulsion in the context of proceedings pending in the courts of the Member State which they represent. <u>However, it is left to the discretion of the Member State whether its diplomatic officers or consular agents have the power to take evidence as part of their functions.</u></p> | |
| 21 | | <p><i>(7a) It is important to ensure that this Regulation is applied in compliance with Union data protection law and that it respects the protection of privacy as enshrined in the Charter of Fundamental Rights of the European Union. It is also important to ensure that any processing of the personal data of</i></p> | | <p>In principle acceptable, subject to redrafting.</p> |

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| | | <p><i>natural persons under this Regulation is undertaken in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council⁵ and Directive 2002/58/EC of the European Parliament and of the Council⁶. Personal data under this Regulation should be processed only for the specific purposes set out in this Regulation.</i></p> | | |
| 22 | <p>(8) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States and can rather, by reason of the creation of a legal framework ensuring the speedy transmission of requests and communications concerning the performance of taking of evidence, be better achieved at Union level, the Union may adopt measures, in</p> | <p>(8) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States and can rather, by reason of the creation of a <i>simplified</i> legal framework ensuring the <i>direct, effective and</i> speedy transmission of requests and communications concerning the performance of taking of evidence, be better achieved at Union level, the Union may adopt measures, in</p> | <p>(8) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States and can rather, by reason of the creation of a legal framework ensuring the speedy transmission of requests and communications concerning the performance of taking of evidence, be better achieved at Union level, the Union may adopt measures, in</p> | <p>In principle acceptable.</p> |

⁵ *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).*

⁶ *Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).*

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| | accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective. | accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective. | accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective. | |
| 23 | | <i>(8a) This Regulation seeks to improve the efficacy and speed of judicial proceedings by simplifying and streamlining the mechanisms for cooperation in the taking of evidence in cross-border proceedings, while at the same time helping to reduce delays and costs for individuals and businesses. In addition, greater legal certainty, coupled with simpler, streamlined and digitalised procedures can encourage individuals and businesses to engage in cross-border transactions, thereby boosting trade within the Union and hence the functioning of the internal market.</i> | | In principle acceptable, subject to redrafting. Would be better with more concentrated text. |
| 24 | (9) In accordance with Article 3 | (9) In accordance with Article 3 and | (9) In accordance with Article | |

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| | and Article 4a(1) of protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, the [United Kingdom] [and] [Ireland] [have/has notified their/its wish to take part in the adoption and application of the present Regulation] [are/is not taking part in the adoption of this Regulation and is not bound by it or subject to its application]. | Article 4a(1) of protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, the [United Kingdom] [and] [Ireland] [have/has notified their/its wish to take part in the adoption and application of the present Regulation] [are/is not taking part in the adoption of this Regulation and is not bound by it or subject to its application]. | 3 and Article 4a(1) of protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, the [United Kingdom] [and] [Ireland] [have/has notified their/its wish to take part in the adoption and application of the present Regulation] [are/is not taking part in the adoption of this Regulation and is not bound by it or subject to its application]. | |
| 25 | | | <u>(9a) In accordance with Article 3 and Article 4a(1) of protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, the United Kingdom is not taking part in the adoption of this Regulation and is not</u> | |

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| | | | <u>bound by it or subject to its application.</u> | |
| 26 | (10) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. | (10) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. | (10) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. | Identical. |
| 27 | (11) In order to update the standard forms in the Annexes or to make technical changes to those forms, 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 amendments to the Annexes. 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 | (11) <i>In order to define the detailed arrangements for the functioning of the decentralised IT system and in order to establish the minimum technical standards and requirements for the use of videoconference, 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. Such delegated acts should guarantee an effective, reliable and smooth transmission of the relevant information through the decentralised IT system, and should ensure that the videoconferencing</i> | (11) In order to update the standard forms in the Annexes or to make technical changes to those forms, 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 amendments to the Annexes. 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 | Delegated acts. |

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| | laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making*. 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. | <i>session guarantees high quality communication and real time interaction. Furthermore,</i> in order to update the standard forms in the Annexes or to make technical changes to those forms, 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 amendments to the Annexes. 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 ⁷ . In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the | Agreement of 13 April 2016 on Better Law-Making ⁹ . 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. | |

* Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1.

⁷ OJ L 123, 12.5.2016, p. 1.

⁹ **OJ L 123, 12.5.2016, p. 1.**

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| | | 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. | | |
| 28 | (12) In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making, the Commission should evaluate this Regulation on the basis of information collected through specific monitoring arrangements in order to assess the actual effects of the Regulation and the need for any further action. | (12) In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making, the Commission should evaluate this Regulation on the basis of information collected through specific monitoring arrangements in order to assess the actual effects of the Regulation and the need for any further action. | (12) In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making, the Commission should evaluate this Regulation on the basis of information collected through specific monitoring arrangements in order to assess the actual effects of the Regulation and the need for any further action. <u>For the purposes of this monitoring, Member States should provide the Commission with available information on the numbers of transmitted and executed requests as well as the number of cases in which transmission was performed by other means than through the decentralised IT system. The national back-end system</u> | Maintain the general approach. |

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| | | | <u>or the reference implementation should, to the extent possible, facilitate the automated collection and reporting of data on the number of exchanges carried out through that system.</u> | |
| 29 | | | <u>(12a) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council and delivered an opinion on 13 September 2019¹⁰.</u> | Maintain the general approach. |
| 30 | (13) Regulation (EC) No 1206/2001 should therefore be amended accordingly, | (13) Regulation (EC) No 1206/2001 should therefore be amended accordingly, | (13) Regulation (EC) No 1206/2001 should therefore be amended accordingly, | Identical. |
| 31 | HAVE ADOPTED THIS REGULATION: | HAVE ADOPTED THIS REGULATION: | HAVE ADOPTED THIS REGULATION: | |
| 32 | Article 1 | Article 1 | Article 1 | |
| 33 | Regulation (EC) No 1206/2001 is amended as follows: | Regulation (EC) No 1206/2001 is amended as follows: | Regulation (EC) No 1206/2001 is amended as follows: | |
| 34 | (1) In Article 1, the following | (1) In Article 1, the following | (1) In Article 1, the following | |

¹⁰ OJ C 370, 31.10.2019, p. 24.

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| | paragraph 4 is added: | paragraph 4 is added: | paragraph 4 is added: paragraph 3 is replaced by: | |
| 35 | '4. In this Regulation, the term 'court' shall mean any judicial authority in a Member State which is competent for the performance of taking of evidence according to this Regulation.'; | "4. In this Regulation, the term 'court' shall mean any judicial authority in a Member State which is competent for the performance of taking of <i>under the laws of that Member State to take</i> evidence according to this Regulation."; | 3. In For the purposes of this Regulation, the following definitions shall apply: | Council text - Juriste-linguiste matter. EP text - to reject and maintain the Council general approach, in row 36. |
| 36 | | | (a) t The term 'court' means shall mean any judicial <u>courts and other authorities</u> in a Member States <u>as notified under the third subparagraph of Article 22 exercising judicial functions or acting pursuant to a delegation of power by a judicial authority or acting under the control of a judicial authority which, according to national law, are</u> is competent <u>to take evidence for the purposes of judicial proceedings in civil and commercial matters</u> for the performance of taking of evidence according to this | EP to discuss internally. |

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| | | | Regulation. | |
| 37 | | | <u>(b) ‘decentralised IT system’ means a network of national IT systems and interoperable communication infrastructure access points, operating under the individual responsibility and management of each Member State enabling the secure and reliable cross-border exchange of information between the national IT systems.</u> | Taking into account the EDPS opinion. Tentative solution: (b) ‘decentralised IT system’ means a network of national IT systems and interoperable communication infrastructure access points, operating under the individual responsibility and management of each Member State enabling the secure and reliable cross-border exchange of information between the national IT systems. |
| 38 | (2) Article 6 is replaced by the following: | (2) Article 6 is replaced by the following: | (2) Article 6 is replaced by the following: | |
| 39 | ‘Article 6 Transmission of requests and other communications | “Article 6 Transmission of requests and other communications | ‘Article 6 Transmission of requests and other communications | |
| 40 | 1. Requests and communications pursuant to this Regulation shall be transmitted through a decentralised IT system composed | 1. Requests and communications pursuant to this Regulation shall be transmitted through a decentralised IT system composed of national IT | 1. Requests and communications pursuant to this Regulation shall be transmitted through a decentralised IT system composed | Tentative solution 1. Requests and communications pursuant to this Regulation shall be |

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| | of national IT systems interconnected by a communication infrastructure enabling the secure and reliable cross-border exchange of information between the national IT systems. | systems interconnected by a communication infrastructure <i>and</i> enabling the <i>safe</i> , secure and reliable cross-border exchange of information, <i>including in real time</i> , between the national IT systems, <i>with due respect for fundamental rights and freedoms. That decentralised IT system shall be based on e-CODEX.</i> | of national IT systems interconnected by a communication infrastructure enabling the secure and reliable cross-border exchange of information between the national IT systems. | transmitted through a decentralised IT system. Reference to rows 12 and 37. EP insists on 'including real time'. |
| 41 | 2. The general legal framework for the use of trust services set out in Council Regulation (EU) No 910/2014 ⁵ shall apply to the requests and communications transmitted through the decentralised IT system referred to in paragraph 1. | 2. The general legal framework for the use of <i>qualified</i> trust services set out in Council Regulation (EU) No 910/2014 of the European Parliament and of the Council ⁸ shall apply to the requests and communications transmitted through the decentralised IT system referred to in paragraph 1. | 2. The general legal framework for the use of trust services set out in Council Regulation (EU) No 910/2014 ¹¹ shall apply to the requests and communications transmitted through the decentralised IT system referred to in paragraph 1. | Cion to check if compatible with the IT system. |
| 42 | 3. Where requests and communications referred to in paragraph 1 require or feature a | 3. Where requests and communications referred to in paragraph 1 require or feature a seal | 3. Where requests and communications referred to in paragraph 1 require or feature a | EP accepted "or": seal or handwritten signature, 'qualified electronic seals' and |

⁵ 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 and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

⁸ 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 and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

¹¹ 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 and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73)

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| | seal or handwritten signature, 'qualified electronic seals' and 'qualified electronic signatures' as defined in Regulation (EU) No 910/2014 of the European Parliament and of the Council may be used instead. | or handwritten signature, 'qualified electronic seals' and 'qualified electronic signatures' as defined in Regulation (EU) No 910/2014 may be used instead, <i>provided that it is fully ensured that the persons involved have obtained knowledge of such documents in sufficient time and in a lawful manner.</i> | seal or handwritten signature, 'qualified electronic seals' and <u>or</u> 'qualified electronic signatures' as defined in Regulation (EU) No 910/2014 of the European Parliament and of the Council may be used instead. | <u>or</u> 'qualified electronic signatures' |
| 43 | | <i>3a. The Commission is empowered to adopt delegated acts in accordance with Article 20 to supplement this Regulation by establishing the detailed arrangements for the functioning of the decentralised IT system. When exercising that power, the Commission shall ensure that the system guarantees an effective, reliable and smooth exchange of the relevant information, as well as a high level of security in the transmission and the protection of privacy and personal data in line with Regulation (EU) 2016/679 and Directive 2002/58/EC.</i> | | Delegated acts. |
| 44 | 4. If transmission in accordance with paragraph 1 is not possible due to an unforeseen and | 4. If transmission in accordance with paragraph 1 is not possible due to an unforeseen and exceptional | 4. If <u>Where</u> transmission in accordance with paragraph 1 is not possible due to an unforeseen | Tentative solution: Where transmission in accordance with paragraph 1 |

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| | exceptional disruption of the decentralised IT system or where such transmission is not possible in other exceptional cases, transmission shall be carried out by the swiftest possible means, which the requested Member State has indicated it can accept. | disruption of the decentralised IT system or where such transmission is not possible in other exceptional cases, transmission shall be carried out by the swiftest possible means, which <i>that</i> the requested Member State has indicated it can accept <i>to be acceptable.</i> "; | and exceptional disruption of the decentralised IT system or, <u>the nature of evidence or there are exceptional circumstances</u> where such transmission is not possible in other exceptional cases, transmission shall be carried out by <u>the most appropriate</u> swiftest possible means, which the requested Member State has indicated it can accept. | is not possible due to an unforeseen and exceptional disruption of the decentralised IT system or, the nature of evidence or there are exceptional circumstances where such transmission is not possible in other exceptional cases, transmission shall be carried out by the <u>swiftest</u> most <u>appropriate</u> swiftest possible means, which the requested Member State has indicated it can accept. |
| 45 | | | <u>5. The competent authority or authorities under the law of the Member State shall be regarded as controllers with respect to personal data processing under this Regulation, in compliance with Regulation (EU) 2016/679.</u> | Taking into account the EDPS opinion. EP accepts: 5. The competent authority or authorities under the law of the Member State shall be regarded as controllers with respect to personal data processing under this Regulation, in compliance with Regulation (EU) 2016/679.' |
| 46 | | | <u>(2a) the following Article 6b is</u> | |

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| | | | <u>inserted:</u> | |
| 47 | | | <u>“Article 6b Legal effects of electronic documents</u> | Article 18a of the Commission proposal. |
| 48 | | | <u>The documents that are transmitted through the decentralised IT system shall not be denied legal effect and admissibility as evidence in the proceedings solely on the grounds that they are in an electronic form.’”;</u> | Article 18a of the Commission proposal. EP to consider. |
| 49 | (3) Article 17 is amended as follows: | (3) Article 17 is amended as follows: | (3) <u>In</u> Article 17, is amended as follows: | |
| 50 | (a) paragraph 2 is deleted; | (a) paragraph 2 is deleted; | (a) paragraph 2 is deleted; | EP to consider. |
| 51 | (b) in paragraph 4, the third subparagraph is replaced by the following: | (b) in paragraph 4, the third subparagraph is replaced by the following: | (b) in paragraph 4, the third subparagraph is replaced by the following: | Identical. |
| 52 | ‘Where within 30 days of sending the request, the requesting court has not received information as to whether the request has been accepted, the request shall be considered to have been accepted.’; | “Where within 30 days of sending the request, the requesting court has not received information as to whether the request has been accepted, the request shall be considered to have been accepted.”; | <u>‘The central body or the competent authority may assign a court of its Member State to provide practical assistance in the taking of evidence.’;</u> | EP to consider. |
| 53 | (4) the following Article 17a is | (4) the following Article 17a is | (4) the following Article 17a is | |

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| | inserted: | inserted: | inserted: | |
| 54 | Article 17a Direct taking of evidence by videoconference | Article 17a Direct taking of evidence by videoconference distance communication technology | Article 17a Direct taking of evidence by videoconference or other distance communication technology | EP accepts: Direct taking of evidence by videoconference or other distance communication technology |
| 55 | 1. Where evidence is to be taken by hearing a person domiciled in another Member State as witness, party or expert and the court does not request the competent court of another Member State to take evidence in accordance with Article 1(1)(a), the court shall take evidence directly in accordance with Article 17 via videoconference, if available to the respective courts, where it deems the use of such technology appropriate on account of the specific circumstances of the case. | 1. Where evidence is to be taken by hearing a person domiciled in another Member State as witness, party or expert and the court does not request the competent court of another Member State to take evidence in accordance with Article 1(1)(a), the court shall take evidence directly in accordance with Article 17 via videoconference or via any other appropriate distance communication technology , if available to the respective courts, where it deems the use of such technology appropriate unless , on account of the specific circumstances of the case, the use of such technology is deemed inappropriate for the fair conduct of the proceedings. | 1. Where evidence is to be taken by hearing a person domiciled present in another Member State as witness, party or expert and the court does not request the competent court of another Member State to take evidence directly in accordance with Article 17 17 1(1)(a), the requesting court shall take evidence directly directly in accordance with Article 17 via videoconference or other distance communication technology , if available to the respective courts, where it deems the use of such technology appropriate on account of the specific circumstances of the case. | Presidency suggestion: 1. Where evidence is to be taken by hearing a person domiciled present in another Member State as witness, party or expert and the court does not request the competent court of another Member State to take evidence directly in accordance with Article 17 1(1)(a), the requesting court shall take evidence directly in accordance with Article 17 via videoconference or other distance communication technology, if available to the respective courts, unless , on account of the specific circumstances of the case, the use of such technology |

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| | | | | <u>is deemed inappropriate for the fair conduct of the proceedings.</u> |
| 56 | | <i>1a. Where required by the national law of the requesting Member State, the use of videoconference or any other appropriate distance communication technology shall be subject to the consent of the person to be heard.</i> | | EP to consider. |
| 57 | 2. Where a request for direct taking of evidence via videoconference is made, the hearing shall be held in the premises of a court. The requesting court and the central body or the competent authority referred to in Article 3(3) or the court on whose premises the hearing is to be held shall agree on the practical arrangements for the videoconference. | 2. Where a request for direct taking of evidence via videoconference <i>or via any other appropriate distance communication technology</i> is made, the hearing shall be held in the premises of a court. The requesting court and the central body or the competent authority referred to in Article 3(3) or the court on whose premises the hearing is to be held shall agree on the practical arrangements for the videoconference. <i>Those arrangements shall be in line with the minimum technical standards and requirements for the use of videoconference that are defined in accordance with paragraph 3a.</i> | 2. Where a request for direct taking of evidence via videoconference <u>or other distance communication technology</u> is made, the hearing shall be held in the premises of a court. The requesting court and the central body or the competent authority referred to in Article 3(3) or the court <u>assigned to provide practical assistance in the taking of evidence</u> on whose premises the hearing, is to be held shall agree on the practical arrangements for the <u>hearing</u> videoconference. <u>Upon request the requesting court may be</u> | Both institutions to cross-read. |

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| | | | <u>provided with assistance in finding an interpreter.</u> | |
| 58 | | <i>2a. Any electronic system for the taking of evidence shall ensure that professional secrecy and legal professional privilege are protected.</i> | | EP to consider to delete. |
| 59 | 3. Where evidence is taken by videoconference: | 3. Where evidence is taken by videoconference <i>or any other available communications technology</i> : | 3. Where evidence is taken by videoconference: | EP to consider to accept the GA. |
| 60 | (a) the central body or the competent authority referred to in Article 3(3) in the requested Member State may assign a court to take part in the performance of the taking of evidence in order to ensure respect for the fundamental principles of the law of the requested Member State; | (a) the central body or the competent authority referred to in Article 3(3) in the requested Member State may assign a court to take part in the performance of the taking of evidence in order to ensure respect for the fundamental principles of the law of the requested Member State; | (a) the central body or the competent authority referred to in Article 3(3) in the requested Member State may assign a court to take part in the performance of the taking of evidence in order to ensure respect for the fundamental principles of the law of the requested Member State; | Already in Article 17(4) in the current Regulation. |
| 61 | (b) if necessary, at the request of the requesting court, the person to be heard or the judge in the requested Member State participating in the hearing, the central body or the competent authority referred to in Article 3(3) shall ensure that the person to be heard or the judge are | (b) if necessary, at the request of the requesting court, the person to be heard or the judge in the requested Member State participating in the hearing, the central body or the competent authority referred to in Article 3(3) shall ensure that the person to be heard or the judge are assisted by an <i>a qualified</i> interpreter. | (b) if necessary, at the request of the requesting court, the person to be heard or the judge in the requested Member State participating in the hearing, the central body, or the competent authority referred to in Article 3(3) shall ensure that the person to be heard or the judge are | Maintain the general approach. Already set out in row 57. |

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| | assisted by an interpreter. '; | | assisted by an interpreter. '; | |
| 62 | | <p><i>3a. The Commission is empowered to adopt delegated acts in accordance with Article 20 supplementing this Regulation by establishing the minimum standards and requirements for the use of videoconference.</i></p> <p><i>When exercising that power, the Commission shall ensure that the videoconferencing session guarantees high quality communication and real time interaction. The Commission shall also ensure, with regard to the transmission of the information, a high level of security and the protection of privacy and of personal data in line with Regulation (EU) 2016/679 and Directive 2002/58/EC.</i></p> | | Delegated acts. |
| 63 | | <p><i>3b. The court shall notify the person to be heard, the parties, including their respective legal representatives, of the date, time and place of, and the conditions for participation in, the hearing via videoconference or via any other appropriate distance</i></p> | | EP to consider. |

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| | | <i>communication technology. The parties and their legal representatives shall be provided, by the relevant court, with instructions as to the procedure for presenting documents or other material during the hearing via videoconference or via any other appropriate distance communication technology.”;</i> | | |
| 64 | (5) the following Article 17b is inserted: | (5) the following Article 17b is inserted | (5) the following Article 17b is inserted: | |
| 65 | Article 17b Taking of evidence by diplomatic officers or consular agents | Article 17b Taking of evidence by diplomatic officers <i>staff</i> or consular agents | Article 17b Taking of evidence by diplomatic officers or consular agents | Ask jurist-linguists to check the correct wording, following the terminology of the Hague Conventions or the Vienna Treaties. |
| 66 | Diplomatic officers or consular agents of a Member State may, in the territory of another Member State and within the area where they exercise their functions, take evidence without the need for a prior request pursuant to Article 17(1), by hearing nationals of the Member State which they represent without compulsion in the context of proceedings pending in the courts of the Member State which they | Diplomatic officers <i>staff</i> or consular agents of a Member State may, in the territory of another Member State and within the area where they exercise their functions <i>are accredited</i> , take evidence <i>at the premises of the diplomatic mission or consulate</i> without the need for a prior request pursuant to Article 17(1), by hearing nationals of the Member State which they represent without compulsion in the context of <i>for</i> proceedings pending in the courts | <u>Member States may provide in national law the possibility for their courts to request their</u> D diplomatic officers or consular agents of a Member State may, in the territory of another Member State and within the area where they <u>are accredited</u> exercise their functions, <u>to</u> take evidence without the need for a prior request pursuant to Article 17(1), by hearing nationals of | Presidency suggestion: Member States may provide in national law the possibility for their courts to request their D diplomatic officers or consular agents in the territory of another Member State and within the area where they are accredited to take evidence <u>at the premises of the diplomatic mission or</u> |

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| | represent.’; | of the Member State which they represent. <i>Such taking of evidence may only take place with the voluntary cooperation of the person to be heard. The taking of evidence shall be performed under the supervision of the requesting court, in accordance with its national law.”;</i> | the Member State which they represent without compulsion in the context of proceedings pending in the courts of the Member State which they represent.’; | consulate without the need for a prior request pursuant to Article 17(1), by hearing nationals of the Member State which they represent without compulsion in the context of proceedings pending in the courts of the Member State which they represent. |
| 67 | (6) the following Section 6 is inserted after Article 18: | (6) the following Section 6 is inserted after Article 18: | (6) the following Section 6 is inserted after Article 18 | |
| 68 | ‘Section 6 Mutual recognition | ‘Section 6 Mutual recognition | ‘Section 6 Mutual recognition | |
| 69 | Article 18a | Article 18a | Article 18a | |
| 70 | Digital evidence taken in a Member State in accordance with its law shall not be denied the quality of evidence in other Member States solely due to its digital nature.’; | <i>The digital nature of</i> evidence taken in a Member State in accordance with its law shall not be denied <i>used as a reason to deny</i> the quality of evidence in other Member States solely due to its digital nature. <i>The question of whether the evidence is digital or non-digital in nature shall not be a factor in determining the level of quality and the value of such evidence.”;</i> | Digital evidence taken in a Member State in accordance with its law shall not be denied the quality of evidence in other Member States solely due to its digital nature.’; | EP to consider to accept the text of the GA. Depends on row 47 and 48. |
| 71 | | <i>(6a) the following Section 6a is</i> | | |

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| | | <i>inserted after Article 18:</i> | | |
| 72 | | <i>“Section 6a Processing of personal data</i> | | |
| 73 | | <i>Article 18b</i> | | |
| 74 | | <i>Any processing of personal data carried out pursuant to this Regulation, including the exchange or transmission of personal data by the competent authorities, shall be in conformity with Regulation (EU) 2016/679. Any exchange or transmission of information by competent authorities at Union level shall be undertaken in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council*. Personal data which are not relevant for the handling of a specific case shall be immediately deleted.</i> | | For jurist-linguists to decide the appropriate place for this Article. |
| 75 | (7) in Article 19, paragraph 2 is replaced by the following: | (7) in Article 19, paragraph 2 is replaced by the following: | (7) in Article 19, paragraph 2 is replaced by the following: | |
| 76 | ‘2. The Commission is empowered to adopt delegated | “2. The Commission is empowered to adopt delegated acts in accordance | ‘2. The Commission is empowered to adopt delegated | Identical. |

* *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).”;*

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| | acts in accordance with Article 20 to amend the Annexes to update the standard forms or to make technical changes to those forms.’; | with Article 20 to amend the Annexes to update the standard forms or to make technical changes to those forms.’; | acts in accordance with Article 20 to amend the Annexes to update the standard forms or to make technical changes to those forms.’; | |
| 77 | (8) Article 20 is replaced by the following: | (8) Article 20 is replaced by the following: | (8) Article 20 is replaced by the following: | |
| 78 | Article 20 Exercise of the delegation | Article 20 Exercise of the delegation | Article 20 Exercise of the delegation | |
| 79 | 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article. | 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article. | 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article. | Identical |
| 80 | 2. The power to adopt delegated acts referred to in Article 19(2) shall be conferred on the Commission for an indeterminate period of time from ... [date of entry into force of this Regulation]. | 2. The power to adopt delegated acts referred to in Article 6(3a), in Article 17a(3a) and in Article 19(2) shall be conferred on the Commission for an indeterminate a period of time from five years from ... [date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, | 2. The power to adopt delegated acts referred to in Article 19(2) shall be conferred on the Commission for an indeterminate period of five years time from ... [the date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five- | Delegated acts. EP accepted the latter part of the GA: ‘The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the |

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| | | <i>unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.</i> | <u>year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.</u> | Council opposes such extension not later than three months before the end of each period.' |
| 81 | 3. The delegation of power referred to in Article 19(2) 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. | 3. The delegation of power referred to <i>in Article 6(3a), Article 17a(3a)</i> and in Article 19(2) 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. | 3. The delegation of power referred to in Article 19(2) 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. | Delegated acts. |
| 82 | 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 | 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 | 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 | Identical. |

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| | April 2016 on Better Law-Making ⁶ . | Better Law-Making. | April 2016 on Better Law-Making ⁶ . | |
| 83 | 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council. | 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council. | 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council. | Identical |
| 84 | (9) A delegated act adopted pursuant to Article 19(2) 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.’ | 6. A delegated act adopted pursuant to Article 6(3a), Article 17a(3a) or Article 19(2) 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 three 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.”; | 6.(9) A delegated act adopted pursuant to Article 19(2) 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 | Delegated acts. EP to consider the time frame. |

⁶ OJ L 123, 12.5.2016, p. 1.

⁶ OJ L 123, 12.5.2016, p. 1.

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| | | | the Council.´; | |
| 85 | | | <u>(8a) the following Articles 20a, 20b and 20c are inserted:</u> | |
| 86 | | | <u>´Article 20a Costs of the decentralised IT system</u> | Maintain the general approach. |
| 87 | | | <u>1. Each Member State shall bear the costs of the installation, operation and maintenance of its communication infrastructure access points interconnecting the national IT systems in the context of the decentralised IT system.</u> | |
| 88 | | | <u>2. Each Member State shall bear the costs of establishing and adjusting its national IT systems to make them interoperable with the communication infrastructure, as well as the costs of administering, operating and maintaining those systems.</u> | |
| 89 | | | <u>3. Paragraphs 1 and 2 shall be without prejudice to the possibility to apply for grants to support activities referred to</u> | |

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| | | | <u>in those paragraphs under the Union's financial programmes.</u> | |
| 90 | | | <u>4. The Commission shall be responsible for the creation, maintenance and future development of a reference implementation software which Member States may choose to apply as their back-end system instead of a national IT system. The creation, maintenance and future development of the reference implementation software shall be financed from the general budget of the Union.</u> | |
| 91 | | | <u>5. The Commission shall provide, maintain and support a free of charge implementation of the software components underlying the communication infrastructure access points.</u> | |
| 92 | | | <u>Article 20b</u> <u>Adoption of implementing acts by the Commission</u> | Implementing acts. |
| 93 | | | <u>1. The Commission shall adopt implementing acts</u> | Cion to come up with additional wording. |

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| | | | <p><u>establishing the decentralised IT system.</u></p> <p><u>By means of implementing acts, the Commission shall adopt the following:</u></p> | |
| 94 | | | <p><u>(a) the technical specification defining the methods of communication by electronic means for the purpose of the decentralised IT system;</u></p> | |
| 95 | | | <p><u>(b) the technical specification of the communication protocols;</u></p> | |
| 96 | | | <p><u>(c) the information security objectives and relevant technical measures ensuring the minimum information security standards for the processing and communication of information within the decentralised IT system;</u></p> | |
| 97 | | | <p><u>(d) the minimum availability objectives and possible technical requirements in this regard for the services provided by the decentralised IT system;</u></p> | |
| 98 | | | <p><u>(e) the relevant data protection responsibilities and the technical</u></p> | |

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| | | | <u>measures necessary for ensuring the IT system's compliance with Regulation (EU) 2016/679 and Regulation (EU) 2018/1725;</u> | |
| 99 | | | <u>(f) the establishment of a steering committee composed of representatives of the Member States to ensure the operation and maintenance of the decentralised IT system in order to meet the objective of this Regulation.</u> | |
| 100 | | | <u>2. The implementing acts referred to in paragraph 1 shall be adopted by two years from the date of entry into force of this Regulation in accordance with the examination procedure referred to in Article 20c(2).</u> | |
| 101 | | | <i><u>Article 20c</u></i> <i><u>Committee procedure</u></i> | |
| 102 | | | <u>1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.</u> | Implementing acts. |

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| 103 | | | <u>2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.</u> ”; | |
| 104 | | | <u>(8b) the following Article 21a is inserted:</u> | |
| 105 | | | <u>‘Article 21a Relationship with other acts</u> | Maintain the general approach. |
| 107 | | | <u>This Regulation shall be without prejudice to Regulation (EU) 2016/679 (General Data Protection Regulation) and Directive 2002/58/EC (Directive on privacy and electronic communications).</u> ’ | |
| 108 | | | <u>(8c) in Article 22, third and fourth subparagraphs are inserted:</u> | |
| 109 | | | <u>‘Each Member State shall communicate to the Commission the other authorities competent to take evidence for the purposes of judicial proceedings in civil and commercial matters pursuant to Article 1(3)(a). Member States shall inform the Commission of any subsequent</u> | |

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| | | | <u>changes to this information.</u> | |
| 110 | | | <u>Member States may notify the Commission if they are in a position to operate the decentralised IT system earlier than required by this Regulation. The Commission shall make such information available electronically, in particular via the European e-Justice Portal’;</u> | |
| 111 | (10) The following Article 22a is inserted: | (9) The following Article 22a is inserted: | (9) The following Article 22a is inserted: | |
| 112 | ‘Article 22a Monitoring | ‘Article 22a Monitoring | ‘Article 22a Monitoring | |
| 113 | 1. By <i>[two years after the date of application]</i> at the latest, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Regulation. | 1. By ... [two years one year after the date of application entry into force] at the latest, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Regulation. | 1. By <i>[two years after the date of application]</i> at the latest, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Regulation. | Transposition period. |
| 114 | 2. The monitoring programme shall set out the means by which and the intervals at which the data and other necessary evidence are to be collected. It shall specify the action to be taken by the Commission and by the Member | 2. The monitoring programme shall set out the means by which and the intervals at which the data and other necessary evidence are to be collected. It shall specify the action to be taken by the Commission and by the Member States in collecting | 2. The monitoring programme shall set out the means by which and the intervals at which the data and other necessary evidence are to be collected. It shall specify the action to be taken by the Commission and | Maintain the general approach. |

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| | States in collecting and analysing the data and other evidence. | and analysing the data and other evidence | by the Member States <u>to monitor the outputs, results and impacts of this Regulation</u> in collecting and analysing the data and other evidence. <u>It shall set out when, at the latest four years after the date of application of this Regulation, and at what further intervals the data referred to in paragraph 3 are to be collected.</u> | |
| 115 | 3. Member States shall provide the Commission with the data and other evidence necessary for the monitoring. | 3. Member States shall provide the Commission with the data and other evidence necessary for the monitoring. | 3. Member States shall provide the Commission, <u>where available,</u> with the <u>following</u> data and other evidence necessary for the <u>purposes of</u> monitoring:. | |
| 116 | | | (a) the number of requests for the taking of evidence transmitted in accordance with Article 6(1) and 17(1) respectively; | |
| 117 | | | (b) the number of requests for the taking of evidence executed in accordance with Article 10 and 17(6) respectively; | |
| 118 | | | (c) the number of cases in which the request for the | |

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| | | | taking of evidence was transmitted by other means than through the decentralised IT system in accordance with Article 6(4).'; | |
| | | | | Cion suggestion: (4) The national back-end system or the reference implementation shall programmatically collect the data referred to in paragraph 3(a, b and d) and automatically transmit them to the Commission on a regular basis. |
| 119 | (11) Article 23 is replaced by the following: | (10) Article 23 is replaced by the following: | (104) Article 23 is replaced by the following: | |
| 120 | 'Article 23 Evaluation | 'Article 23 Evaluation | 'Article 23 Evaluation | |
| 121 | 1. No sooner than [<i>five years after the date of application of this Regulation</i>], the Commission shall carry out an evaluation of this Regulation and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee. | 1. No sooner later than ... [five four years after the date of application of this Regulation], the Commission shall carry out an evaluation of this Regulation and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee, accompanied, where appropriate, by a legislative | 1. No sooner than [<i>five years after the date of application of this Regulation</i>], the Commission shall carry out an evaluation of this Regulation and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee. | Transposition period. No later than (8 or 10 years) or "by (Fixed year or period (8 years) Presidency suggestion: '... the Commission shall carry out an evaluation of this Regulation and present a report on the main findings |

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| | | <i>proposal.</i> | | to the European Parliament, the Council and the European Economic and Social Committee, <u>accompanied, where appropriate, by a legislative proposal.</u> |
| 122 | 2. Member States shall provide the Commission with the information necessary for the preparation of that report.' | 2. Member States shall provide the Commission with the information necessary for the preparation of that report.' | 2. Member States shall provide the Commission with the information necessary for the preparation of that report.' | Identical. |
| 123 | Article 2 | Article 2 | Article 2 | |
| 124 | This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> . | This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> . | This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> . | |
| 125 | It shall apply from [...]. | It shall apply from [...]. | It shall apply from [... <u>18 months after the entry into force of the Regulation</u>]. | |
| 126 | However, point 2 of Article 1 shall apply from ... [24 months after the entry into force]. | However, point 2 of Article 1 shall apply from ... [24 months after the entry into force]. | However, <u>point 8c of Article 1 regarding the new third subparagraph of Article 22 shall apply [first day of the month corresponding to the month following the period of 15 months after the entry into force of this Regulation]; and</u> | Maintain the general approach. |

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| | | | <p>point 2 of Article 1 <u>regarding paragraphs 1–4 of Article 6</u> shall apply from ... [<u>the first day of the month corresponding to the month following the period of five years after the entry into force of the implementing acts referred to in Article 20b²⁴</u> <i>months after the entry into force</i>].</p> | |

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| 127 | This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties. | This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties. | This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties. | |
