

**Ongoing study on Insolvency Regulation: further digitalization.  
Operation of the Insolvency Regulation towards the Land Registry issues,  
today and in the future. An overview based on 94th Meeting of the  
Contact Points – Insolvency Regulation – 20 and 21 March 2024, Brussels.**

**ELRN Seminar, Valetta 21st June 2024**

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## **European Judicial Network in Civil and Commercial Matters 94th Meeting of the Contact Points – Insolvency Regulation – 20 and 21 March 2024, Brussels**

The meeting took place on 20 and 21 March in Brussels, 119 participants from all EU Member States attended the meeting.

Substantively this meeting was mainly dedicated to:

1. Regulation (EU) No 2015/848 of the European Parliament and of the Council of 20th May 2015 on insolvency proceedings (recast version);
2. Directive of the European Parliament and of the Council (EU) 2019/1023 of 30th June 2019 on the framework for preventive restructuring, debt relief and operating bans and on measures to increase the efficiency of proceedings relating to restructuring, insolvency and debt relief, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency).

**There were few very interesting topics, e.g.**

- presentation of the EU Study on Forum Shopping,
- presentation of the EU Study on Assets Tracing,
- Info Point from the Commission on the UNCITRAL work in the field of insolvency law,
- Overview on the recent case law of the CJEU on the Insolvency Regulation (C-723/20 Galapagos (international jurisdiction), C-73/20 Oeltrans (applicable law), C-250/17 Tarrago da Silveira (applicable law) and C-25/20 Alpine Bau (applicable law))

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Among many crucial topics one is especially important in terms of LRs, the main features of the recent Digitalisation Regulation in relation to the Insolvency Regulation were explained by Ms Haldi Koit, DG JUST A2 European Commission in presentation „*Digitalisation of judicial cooperation Regulation (EU) 2023/2844 & Directive (EU) 2023/2843*”

The intention of this speech was also to answer on the interconnection of insolvency registers matters: Where do we stand?

The system interconnecting national registers of insolvency publicly available on the e-Justice Portal for 20 Member States was presented to the participants.

It was concentrated on so called Digitalisation Package (Regulation (EU) 2023/2844 & Directive (EU) 2023/2843) formally adopted in December 2023.

It will be partly adopted from 1st May 2025 and it covers at least 4 objectives:

- **improve the efficiency of transnational cooperation,**
- reduce administrative burdens, increase legal certainty, protection of procedural rights,
- **improve access to justice of parties by giving the option of electronic communication with competent authorities and establishing a legal basis for videoconferencing hearings**

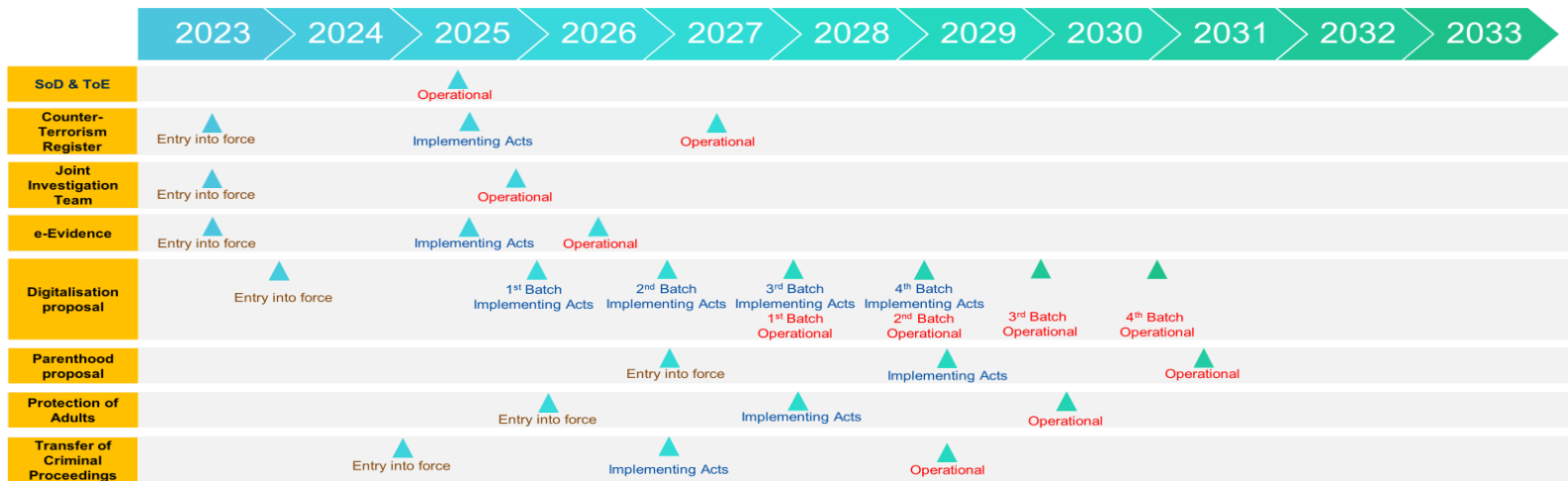
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- **Digitalisation Package in the area of Civil Law covers following instruments (13):**
  - Legal aid (2003/8/EC)
  - European Enforcement Order (805/2004)
  - European Order for Payment (1896/2006)
  - European Small Claims (861/2007)
  - Maintenance (4/2009)
  - **Successions (650/2012)**
  - Brussels Ia (1215/2012)
  - Civil protection measures (606/2013)
  - European Account Preservation Order (655/2014)
  - **Insolvency Regulation (2015/848)**
  - MPR and RPR (2016/1103 and 2016/1104)
  - Brussels IIb (2019/1111)

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Source of 5-10 slides: „Digitalisation of Judicial Cooperation (Regulation EU 2023/2844 & Directive EU 2023/2843” by Haidi Colt, EC DG Just, March 2024

## Roadmap for eEDES



**1st Batch:** European Order for Payment, Small Claims EAW, EIO, Freezing and Confiscation orders

**2nd Batch:** Legal Aid, EAPO, **Insolvency**, Protection measures (civil and criminal), Custodial sentences

**3rd Batch:** Successions, MPR, RPR, Freezing order, Financial penalties, Confiscation orders, Jurisdiction in criminal proceedings

**4th Batch:** EEO, Maintenance, Brussels Ia, Brussels IIb, Alternative sanctions, Supervision measures

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Merit content and scope of the Digitalisation Package:

- Cross-border scope – civil, commercial and criminal matters with cross-border implications
- Electronic communication - legal framework (doesn't concern: informal communications like direct judicial communications, EJM)
- Rules on:
  - Videoconferencing (including domestic civil cases where party or representative is abroad),
  - Recognition of electronic signatures/seals,
  - Validity of electronic documents,
  - Electronic payment of (court) fees,
- Amendments are made to many instruments: Succession and Insolvency between them and + SoD

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### I. National competent authorities (organs) interconnection and decentralisation:

- decentralised IT system is working between national competent authorities – e.g. courts, central authorities, but also notaries, bailiffs etc. (competency under the underlying legal acts) - recital 13:

*Where insolvency practitioners are competent under national law to receive claims lodged by a foreign creditor in insolvency proceedings under Regulation (EU) 2015/848 of the European Parliament and of the Council, they should be considered to be competent authorities within the meaning of this Regulation.*

- Three options for MS / other actors: national system, reference implementation, mix.
- Rule – mandatory use of the decentralised IT system.
- Exceptions: disruption of the IT system, nature of transmitted material or vis maior.
- Alternative: swiftest and most appropriate means that ensure a secure and reliable exchange of information

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II. Natural and legal persons communication to competent authorities (civil& commercial matters):

- Establishment of European electronic access point (EEAP), which will be used in case for insolvency: the lodging of a claim by a foreign creditor in insolvency proceedings is possible under Article 53 of Regulation (EU) 2015/848,
- Only in civil matters with cross-border implications,
- Provides a possibility for natural or legal persons (and their legal and authorised representatives) to lodge a claim or communicate with authorities electronically (including service),
- Traditional means are always possible,
- MSs are obliged to accept such communication.



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It is a field to interconnection of LR systems as well based on referral to eIDAS Regulation.

Trust levels:

- Communication between authorities - qualified electronic signatures and/or seals.
- Communication of natural and legal persons with the authorities –
  - a) electronic identification with a high assurance level; or
  - b) a qualified electronic signature.

MSs to make possible electronic payment of fees – accessible through the ***e-Justice Portal***.

**THANK YOU FOR YOUR ATTENTION**

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