

# **Fundamental rights: Council approves its general approach on the Fundamental Rights Agency**



The Council today approved a general approach on the regulation amending the regulation establishing the EU Agency for Fundamental Rights. This text aims to enhance the agency's mandate and improve its functioning through more efficient procedures.

The compromise text includes in the remit of the agency the area of police cooperation and judicial cooperation in criminal matters, to align its mandate with the Lisbon treaty. It would maintain the current situation as regards the Common Foreign and Security Policy, which would remain outside the agency's remit. Finally, the current multiannual framework to define the work programme of the agency will be replaced with a more operational annual and multiannual programming.

## **Next steps**

The proposed text is a Council regulation based on Article 352 TFEU, which requires unanimity for adoption by the Council. In accordance to this special legislative procedure the adoption by the Council can only take place once the European Parliament has given its consent to the text.

## **Background**

The mandate of the EU Agency for Fundamental Rights is set out in a 2007 Council regulation. In June 2020 the Commission presented a proposal to adapt the mandate of the agency to the Lisbon Treaty and to bring the regulation in line with the common approach on decentralised agencies.

[Visit the meeting page](#)

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# **Digitalisation of justice: Council approves its mandate for negotiations on the e-CODEX system**

The Council today approved a general approach on the regulation on the e-CODEX system. The main aim of this system is to improve the efficiency of

cross-border communication between the competent judicial authorities and facilitate access to justice for citizens and businesses.



The COVID-19 pandemic has put the spotlight on the need to, among other, speed up the digitalisation and interoperability of our justice systems. Providing our judicial authorities with a sustainable, secure system to communicate in cross-border procedures is an important step in this direction.

*Francisca Van Dunem, Portuguese Minister of Justice*

Digitalisation of justice aims to facilitate access to justice, improve overall efficiency, and ensure the resilience of justice systems in times of crises, such as the COVID-19 pandemic. e-CODEX (e-Justice Communication via Online Data Exchange) is a key technological enabler for modernising, through digitalisation, the communication in the context of cross-border judicial proceedings.

e-CODEX allows for the interoperability between the IT systems used by judicial authorities. It enables different national e-justice systems to be interconnected in order to carry out cross-border procedures in civil and criminal matters.

e-CODEX consists of a package of software components that enables the connectivity between national systems. It allows its users (competent judicial authorities, legal practitioners and citizens) to electronically send and receive documents, legal forms, evidence or other information in a swift and secure manner. In this way, e-CODEX allows the establishment of interoperable and secure decentralised communication networks between national IT systems supporting cross-border civil and criminal proceedings. For instance, e CODEX is already underpinning the e-Evidence Digital Exchange System, supports the exchanges in relation to European Investigation Orders and Mutual Legal Assistance in the area of judicial cooperation in criminal matters.

This system has been in development for a number of years through a consortium of member states, who are in charge of managing/ it until 2024. The draft regulation aims to provide a sustainable, long-term legal framework for the system, by handing over its management to eu-LISA. The approved compromise text introduces provisions protecting the independence of the judiciary and details the governance and management structure to be implemented within eu-LISA.

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# Assignments of claims: Council approves mandate for negotiations



The Council today approved its general approach on the proposal for a regulation on the law applicable to the third-party effects of assignments of claims. The draft regulation aims to ensure greater legal certainty for businesses and citizens when it comes to cross-border transfers of claims, thereby facilitating access to finance and promoting cross-border investment in the EU.

The assignment of a claim refers to a situation where a creditor transfers the right to claim a debt to another person in exchange for a payment. This system is used by companies, for instance, to obtain liquidity and access to credit. At the moment, there is not enough legal certainty as to which national law applies when determining who owns a claim after it has been assigned in a cross-border case because member states' substantive rules governing the third-party effects of assignments of claims are divergent.

By adopting uniform conflict-of-laws rules at EU level, the proposed regulation will eliminate legal risks and potential systemic consequences of cross-border transactions in claims, enabling cross-border investment, access to cheaper credit and further market integration. This will contribute to increasing legal certainty throughout the EU.

## **Applicable law**

In line with the Commission proposal, the law of the country where creditors ("assignors") have their habitual residence would apply regardless of which member state's courts or authorities examine the case, as it would lead to more predictability for third parties. Nevertheless, the Council concluded that for certain assignments set out in the text, such as the assignment of cash claims and claims in financial markets, the law of the assigned claim would be more suitable. The text keeps a choice of law between the two for securitisation.

In line with other EU conflict-of-law rules the scope of the draft regulation is universal, which means that the law designated as applicable by the regulation can be the law of an EU member state or the law of a third country.

## **Scope of the regulation**

The draft regulation concerns the third-party effects of the assignment of claims, which are assets in intangible form. This implies that the following matters are not included in the scope of the draft regulation: the transfer of financial instruments, including securities and derivatives; the transfer of crypto-assets; and the assignment of claims where the claims are not in

intangible form but incorporated in a certificate or represented by a book entry.

In order to make the draft regulation technologically future-proof and align it with the future market in crypto-assets regulation, the Council mandate includes within the scope of the regulation claims arising from all crypto-assets, with the exception of those arising out of crypto-assets that qualify as transferable securities, money-market instruments or units in a collective investment undertaking.

## Background

This proposal was presented by the Commission in March 2018 as part of the Capital Markets Union (CMU) launched in 2015. It supplements the rules in the Rome I regulation which deal with the law applicable to the contractual aspects of assignments of claims.

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## [EU- NATO cooperation: sixth progress report](#)



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# Media advisory – Press briefing ahead of the Environment Council on 10 June and of the Energy Council on 11 June



The press briefing ahead of these Councils will take place on **Monday, 7 June at 10.00**.

This briefing will be “off the record”.

Please note that this press briefing will take place remotely.

In order to participate and ask questions, EU accredited journalists should register using [this link](#).

Those who already registered for the previous meetings of Environment Council or Transport, Telecommunications and Energy Council do not need to do it again.

**Deadline for the registration: Monday, 7 June at 9.00**

Further instructions will be sent to all registered participants shortly after the deadline.

For more information, visit the [meeting page of Environment Council](#), 10 June 2021.

For more information, visit the [meeting page of Transport, Telecommunications and Energy Council \(Energy\)](#), 11 June 2021.